



**Second Supplement to the  
First Report of  
KSV Kofman Inc.  
as Receiver of Certain Property of Generx  
(Byward Hall) Inc.**

October 12, 2017

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COURT FILE NO. CV-17-11832-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

BETWEEN:

KINGSETT MORTGAGE CORPORATION

APPLICANT

- AND -

GENERX (BYWARD HALL) INC.

RESPONDENT

SECOND SUPPLEMENT TO THE FIRST REPORT OF  
KSV KOFMAN INC.  
AS RECEIVER

OCTOBER 12, 2017

## 1.0 Introduction

1. This report supplements the Receiver's First Report dated October 5, 2017 (the "First Report") and the Supplement to the First Report dated October 10, 2017 (the "Supplement").

### 1.1 Defined Terms

1. Capitalized terms have the meaning provided to them in the First Report and the Supplement unless otherwise defined herein.

## 2.0 Background

1. The following is a summary of the present situation:
  - a) The Receiver entered into the Transaction on September 18, 2017.
  - b) The material terms of the Transaction are as follows:
    - i. the purchaser is 9840508 Canada Inc. ("984"), a newly incorporated affiliate of Ashcroft Homes;
    - ii. the purchase price is \$9.5 million;

- iii. a deposit in the amount of \$1.425 million, representing 15% of the purchase price has been paid by 984; and
  - iv. the offer is unconditional except for Court approval.
- c) During the afternoon of October 10, 2017, 259 submitted an offer for the Property (“Original Offer”).
- d) The material terms of Original Offer are as follows:
  - i. the purchase price in the Original Offer is \$12 million;
  - ii. the offer is unconditional except for Court approval; and
  - iii. an initial deposit of \$100,000 would be paid within two days of acceptance of the offer and a further \$900,000 would be paid within two days of October 18, 2017, provided the offer was approved by Court.
- e) Legal counsel to 259 further advised that it expected to receive the initial \$100,000 deposit shortly.
- f) On October 11, 2017, a motion was returnable to approve the Transaction. The Court adjourned the motion. Pursuant to the Endorsement of Justice Myers made on October 11, 2017 (the “Endorsement”), the Receiver was “directed to take steps to clarify the terms and attractiveness of the new offer as if it has been received on time and to report those results to the parties and the Court without changing its recommendation”. A copy of the Endorsement is attached as Appendix “A”.
- g) Immediately following the attendance at Court, the Receiver spoke with Mintz, who the Receiver understands is the principal of 259. The Receiver advised Mintz that:
  - i. it had been directed by the Court to clarify the terms and attractiveness of the Original Offer;
  - ii. 984’s offer was submitted in accordance with the Sale Process and the Receiver remains bound to the Transaction with 984 unless the Court decides not to approve it;
  - iii. key issues in respect of the Original Offer include: (a) evidence of 259’s ability to close a transaction, (b) an increase in a deposit to 15% of the purchase price and (c) background regarding 259 and its source of capital; and
  - iv. there are various drafting issues with the Original Offer.
- h) In the discussion between the Receiver and Mintz, Mintz advised that his proposed financier, CISG, approached him about this opportunity. Mintz did not know how CISG learned of this opportunity.

- i) In order to address the drafting issues referred to above, the Receiver requested that 259 re-submit its offer using the Receiver's form of APS so that it would be consistent with the Purchaser's APS. 259 agreed to do so.
- j) On October 12, 2017, the Receiver received an email from legal counsel to 259 appending a revised offer using the Receiver's form of APS (the "October 12<sup>th</sup> Email"). The revised APS is largely consistent with the Original Offer, except that the purchase price has been increased by \$500,000 to \$12.5 million and the deposit is \$1.5 million, representing 12% of the purchase price. 259 also extended the closing date by six days. The discussion around financing in the October 12<sup>th</sup> Email is unclear with the exception that 259's legal counsel has not yet received the deposit. A copy of the October 12<sup>th</sup> Email, including the attachments, is provided in Appendix "B".
- k) The Receiver has asked for but has not received any substantive information concerning CISG (except to the extent provided in certain of the attachments in Appendix "B"). Additionally, it remains unclear to the Receiver how CISG learned of this opportunity and why it and/or 259 failed to participate in the Sale Process. The Receiver is unaware of any diligence performed by CISG, which is unusual in the context of an unconditional offer.

\* \* \*

All of which is respectfully submitted,



**KSV KOFMAN INC.  
IN ITS CAPACITY AS RECEIVER OF CERTAIN PROPERTY OF  
GENERX (BYWARD HALL) INC.  
AND NOT IN ITS PERSONAL CAPACITY**

## **Appendix “A”**

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

Oct. 11, 2017

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. 1996, c. c. 43, AS AMENDED

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

Oct 11/17

A late offer has been received for 33% more than the existing offer. Whether that reflects a problem with the efficiency of the sales process might be in issue. Generally late offers are not warmly welcomed for important systemic reasons that underline our whole Securities out-of-court approach. But here there is no prejudice to a late offer as there is no prejudice to a late offer to allow the parties to understand better what is potentially on the table. The Receiver is directed to take steps to clarify the terms and attractiveness of the new offer as if it had been received on time and to report those results to the parties and to the Court without changing its remuneration.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

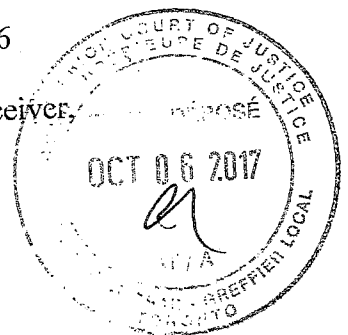
Proceeding commenced at Toronto

MOTION RECORD  
(Returnable October 11, 2017)

BENNETT JONES LLP  
3400 One First Canadian Place  
P.O. Box 130  
Toronto ON M5X 1A4

Sean Zweig (LSUC#573071)  
Tel: (416) 777-6254  
Fax: (416) 863-1716

Counsel for the Receiver,  
KSV Kofman Inc.



12

The existing "successful" bidder should understand  
 that this is due diligence only and does  
 not reflect any move away from Sundar.  
 If an interested party wishes to argue  
 for the new offer on Friday, I will hear  
 them out. Those who support the existing  
 Recomer's recommendation then.  
 Refound to 9:30 on Oct  
 13, 2017, before me.

M. J.

## **Appendix “B”**

## Noah Goldstein

---

**To:** Sean Zweig; Bobby Kofman  
**Cc:** John van Gent  
**Subject:** RE: 2599160 Ontario Inc. (the "Purchaser") Offer to Purchase 256 Rideau Street and 211 Besserer Street, Ottawa ON (the "Property") from KSV Kofman (the "Receiver")

---

**From:** Bernie Gropper [<mailto:bgropper@gropperlaw.com>]

**Sent:** 12 October 2017 4:19 PM

**To:** John van Gent <[vanGentJ@bennettjones.com](mailto:vanGentJ@bennettjones.com)>

**Cc:** Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Sean Zweig <[ZweigS@bennettjones.com](mailto:ZweigS@bennettjones.com)>; 'Don Mintz ([DonARHA@aol.com](mailto:DonARHA@aol.com))' <[DonARHA@aol.com](mailto:DonARHA@aol.com)>

**Subject:** RE: 2599160 Ontario Inc. (the "Purchaser") Offer to Purchase 256 Rideau Street and 211 Besserer Street, Ottawa ON (the "Property") from KSV Kofman (the "Receiver")

As per your email, I have replaced the Schedules to the Agreement so as to conform with those of the original form of Agreement (save and except for the inclusion of the \$200K Kingsett Charge as an Instrument to be deleted). Otherwise, there have no changes to the Agreement sent to you earlier. You are to use the Agreement attached in place of the signed Agreement sent to you earlier.

While my client has made every effort to provide funds for the Deposit in time for closing, its lender is in Europe and obtaining funds in time has been problematic. However, I can at this time provide you with:

- a. a letter from the Lender, Collective Intelligence Solutions Group AG ("CISG"), confirming that they will advance funds to my trust account sufficient to close the transaction once the Agreement is firm; and
- b. a Proof of Funds document (the Private, Privileged & Confidential document attached) confirming that CISG is a 20% participant in a program funding, being a cash account at Deutsche Bank of 9,800,000,000 Euros.

I am also in possession of evidence of the wire transfer funding the Deutsche Bank Cash Account, and can have that document produced in Court tomorrow morning (my client is not authorized to email or distribute same).

Suite 300 - 261 Davenport Road  
Toronto ON M5R 1K3

Tel: 416.962.3000  
Fax: 416.487.3002  
Email: [bgropper@gropperlaw.com](mailto:bgropper@gropperlaw.com)

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---

**From:** John van Gent [<mailto:vanGentJ@bennettjones.com>]  
**Sent:** Thursday, October 12, 2017 2:59 PM  
**To:** Bernie Gropper <[bgropper@gropperlaw.com](mailto:bgropper@gropperlaw.com)>  
**Cc:** Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Sean Zweig <[ZweigS@bennettjones.com](mailto:ZweigS@bennettjones.com)>; John van Gent <[vanGentJ@bennettjones.com](mailto:vanGentJ@bennettjones.com)>  
**Subject:** RE: 2599160 Ontario Inc. (the "Purchaser") Offer to Purchase 256 Rideau Street and 211 Besserer Street, Ottawa ON (the "Property") from KSV Kofman (the "Receiver")

Bernie,

Thank you for the revised Agreement. I think there is some confusion with the Schedules.

Schedule "A" is the form of Approval and Vesting Order which also has a Sch. "A" (form of Receiver's Certificate), Sch. "B" (legal description which you deleted), Sch. "C" (Instruments to be deleted which you include as Sch. "B") and Sch. "D" (Permitted Encumbrances which you also tried to roll into Sch. "B").

Schedule "B" is the Permitted Encumbrances Schedule to the Agreement. You rolled this into Sch. "B" to the Approval and Vesting Order (Schedule "A" to the Agreement) and incorrectly included the General Permitted Encumbrances into Sch. "B" of the Approval and Vesting Order.

Schedule "C" is the Legal Description Schedule to the Agreement which you left alone.

Please revise the Agreement such that the Schedules revert to the original Form of Agreement of Purchase and Sale. I confirm that the table in Sch. "C" to the Approval and Vesting Order should add Instrument No. OC1929619 being the recent Charge in favour of KingSett.

Yours,



**John D. van Gent**  
Partner, Bennett Jones LLP

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E. [vangentj@bennettjones.com](mailto:vangentj@bennettjones.com)  
[BennettJones.com](http://BennettJones.com)

---

**From:** Bernie Gropper [<mailto:bgropper@gropperlaw.com>]  
**Sent:** 12 October 2017 12:37 PM  
**To:** John van Gent <[vanGentJ@bennettjones.com](mailto:vanGentJ@bennettjones.com)>; Sean Zweig <[ZweigS@bennettjones.com](mailto:ZweigS@bennettjones.com)>  
**Cc:** mintz <[dmintz@rogers.com](mailto:dmintz@rogers.com)>  
**Subject:** 2599160 Ontario Inc. (the "Purchaser") Offer to Purchase 256 Rideau Street and 211 Besserer Street, Ottawa ON (the "Property") from KSV Kofman (the "Receiver")



I attach a revised Agreement of Purchase and Sale (the "Agreement") for the Property, to replace the previous Offers from the Purchaser in respect of the Property.

Please note that this Agreement is on the same form as that of the other offer for the Property, being the form provided by you as Receiver's counsel. For your convenience, I also attach a blackline of the Agreement, showing changes from your form.

You should also note that the Purchase Price and Deposit have been increased (to \$12.5 million and \$1.5 million respectively) from the Purchaser's previous Offer.

I have advised my client that funds are required to be deposited to my trust account on an urgent basis for tomorrow's Hearing.

**BERNARD GROPPER**  
GROPPER LAW PROFESSIONAL CORPORATION  
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Toronto ON M5R 1K3

 Tel: 416.962.3000  
 Fax: 416.487.3002  
 Email: [bgropper@gropperlaw.com](mailto:bgropper@gropperlaw.com)

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**AGREEMENT OF PURCHASE AND SALE**

**BETWEEN**

**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

- and -

**2599160 ONTARIO INC.**

**Dated: October 12, 2017**

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## AGREEMENT OF PURCHASE AND SALE

**THIS AGREEMENT** made this 12<sup>th</sup> day of October, 2017.

### **BETWEEN:**

**KSV KOFMAN INC. ("KSV")**, 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

(in such capacity, the "**Receiver**")

- and -

**2599160 ONTARIO INC.**

(the "**Purchaser**")

### **RECITALS**

- A. **WHEREAS** pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") issued on June 27, 2017 (the "**Receivership Order**"), the Receiver was appointed as the court-appointed receiver of all of the lands and premises municipally described as 256 Rideau Street and 211 Besserer Street, Ottawa, Ontario (collectively, the "**Lands**") and all of the present and after-acquired assets, undertaking and properties of Generx (Byward Hall) Inc. (formerly known as Textbook (256 Rideau Street) Inc.) (the "**Debtor**") acquired for or used in relation to the Lands (collectively, together with the Lands, the "**Property**");
- B. **AND WHEREAS** pursuant to the Receivership Order the Receiver was authorized to, among other things, market the Purchased Assets (as defined hereafter) and apply for an order of the Court approving the sale of the Purchased Assets and vesting in and to a purchaser all the Debtor's right, title and interest in and to the Purchased Assets;
- C. **AND WHEREAS** pursuant to the Receivership Order a strategic process was approved by the Court and implemented by the Receiver;
- D. **AND WHEREAS** the Purchaser wishes to purchase and the Receiver wishes to sell the Purchased Assets upon the terms and subject to the conditions set out herein;

**NOW THEREFORE**, in consideration of the promises, mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are each hereby acknowledged by the Parties (as defined hereafter), the Parties agree as follows:

**ARTICLE 1**  
**DEFINED TERMS**

**1.1 Definitions**

In this Agreement:

**"Acceptance Date"** means the date that this Agreement is executed by and delivered to all Parties hereunder;

**"Accounts Payable"** means all amounts relating to the Business owing to any Person which are incurred in connection with the purchase of goods or services in the ordinary course of business;

**"Agreement"** means this agreement of purchase and sale, including all schedules and all amendments or restatements, as permitted, and references to **"article"**, **"section"** or **"schedule"** mean the specified article, section of, or schedule to this Agreement and the expressions **"hereof"**, **"herein"**, **"hereto"**, **"hereunder"**, **"hereby"** and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement;

**"Applicable Law"** means, with respect to any Person, property, transaction, event or other matter, all applicable laws, statutes, regulations, rules, by-laws, ordinances, protocols, regulatory policies, codes, guidelines, official directives, orders, rulings, judgments and decrees of any Governmental Authority;

**"Approval and Vesting Order"** means the approval and vesting order issued by the Court approving this Agreement and the transactions contemplated by this Agreement, and authorizing and directing the Receiver to complete the Transaction and conveying to the Purchaser all of each of the Receiver's and the Debtor's right, title and interest, if any, in and to the Purchased Assets free and clear of all Encumbrances other than the Permitted Encumbrances, and which order shall be in a form substantively similar to the draft order attached as Schedule "A" hereto;

**"Books and Records"** means the files, documents, instruments, surveys, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise) pertaining to the Purchased Assets that have been or will be delivered by the Receiver to the Purchaser at or before Closing; provided, however, that "Books and Records" shall not include any bank or accounting records;

**"Business"** means the business carried on by the Debtor with respect to the Property;

**"Business Day"** means a day on which banks are open for business in the City of Toronto but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario;

**"Claims"** means any and all claims, demands, complaints, grievances, actions, applications, suits, causes of action, orders, charges, indictments, prosecutions or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including solicitor and client costs and disbursements, and all costs incurred in investigating or pursuing any of the

foregoing or any proceeding relating to any of the foregoing, related to the Debtor or the Real Property, and "**Claim**" means any one of them;

"**Closing**" means the successful completion of the Transaction;

"**Closing Date**" means the first Business Day which is Twenty (20) days after receipt of the Approval and Vesting Order, or such earlier Business Day as the Parties may agree upon;

"**Closing Time**" means 4:00 p.m. (Toronto time) on the Closing Date or such other time as agreed in writing by the Parties;

"**Confidential Information**" has the meaning given in Section 6.1 herein;

"**Contracts**" means all of the contracts, licences, leases, agreements, obligations, promises, undertakings, understandings, arrangements, documents, commitments, entitlements and engagements to which the Debtor is a party and which relate to the Business, provided that the Unit Purchase Agreements shall not be included as Contracts;

"**Court**" has the meaning set out in the recitals hereof;

"**Debtor**" has the meaning set out in the recitals hereof;

"**Deposit**" has the meaning given in Section 4.2 herein;

"**Encumbrances**" means all liens, charges, security interests (whether contractual, statutory or otherwise), pledges, leases, offers to lease, title retention agreements, mortgages, restrictions on use, development or similar agreements, easements, rights-of-way, title defects, options or adverse claims or encumbrances of any kind or character whatsoever;

"**ETA**" means the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended;

"**Execution Date**" means the date of execution of this Agreement by all parties;

"**Excluded Assets**" means the Receiver's and the Debtor's right, title and interest in and to any asset of the Receiver and the Debtor other than the Purchased Assets, which Excluded Assets include the Receiver's and the Debtor's right, title and interest in and to the following:

- (a) original tax records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Debtor that do not relate exclusively or primarily to any of the Purchased Assets;
- (b) the benefit of any refundable Taxes payable or paid by the Debtor in respect of the Purchased Assets and applicable to the period prior to the Closing Date net of any amounts withheld by any taxing authority, and any claim or right of the Debtor to any refund, rebate, or credit of Taxes for the period prior to the Closing Date; and
- (c) the Contracts;

"**Excluded Liabilities**" has the meaning given in Section 3.3 herein;

"**Governmental Authority**" means governments, regulatory authorities, governmental departments, agencies, 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, republic, territory, state or other geographic or political subdivision thereof; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power, and "**Governmental Authority**" means any one of them;

"**HST**" means harmonized sales tax imposed under Part IX of the ETA;

"**ITA**" means the *Income Tax Act*, R.S.C. 1985, c.1, as amended;

"**Lands**" has the meaning set out in the recitals hereof, the legal descriptions of which Lands are attached as Schedule "C" hereto, and includes all rights and benefits appurtenant thereto;

"**LRO**" means the Land Registry Office for the Land Titles Division of Ottawa-Carlton (No. 4);

"**Notice**" has the meaning given in Section 16.3 herein;

"**Parties**" means the Receiver and the Purchaser;

"**Permits**" means all the authorizations, registrations, permits, certificates of approval, approvals, consents, commitments, rights or privileges issued, granted or required by any Governmental Authority in respect of the Real Property;

"**Permitted Encumbrances**" means all those Encumbrances described in Schedule "B" hereto;

"**Person**" means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted;

"**Plans**" means all plans, designs and specification in connection with the Real Property which are in the possession or control of the Receiver (it being acknowledged that the Receiver is under no obligation to incur additional expense to obtain such plans, designs and specifications);

"**Property**" has the meaning set out in the recitals hereof;

"**Purchase Price**" has the meaning set out in Section 4.1 herein;

"**Purchased Assets**" means all of the Receiver's and the Debtor's right, title and interest in and to the following:

- (a) the full benefit of all prepaid expenses and all deposits with any Person, public utility or Governmental Authority relating to the Real Property;

- (b) the Real Property;
- (c) the Plans;
- (d) the Permits, but only to the extent transferable to the Purchaser or the Purchaser's permitted assignees; and
- (e) all intellectual property, if any, owned by the Debtor with respect to the development to be completed on the Lands,

provided, however, that the Purchased Assets shall not include the Excluded Assets or the Excluded Liabilities;

**"Purchaser"** means 2599160 ONTARIO INC.;

**"Purchaser Representatives"** has the meaning given in Section 6.1 herein;

**"Real Property"** means the Lands, together with all buildings, improvements and structures thereon (including without limitation the sales presentation centre) and the fixtures affixed thereto, the furniture, appliances, and audio/visual equipment within the sales presentation centre, as well as all plans, designs and specifications in connection therewith;

**"Receiver"** has the meaning set out in the recitals hereof;

**"Receivership Order"** has the meaning set out in the recitals hereof;

**"Receiver's Solicitors"** means Bennett Jones LLP;

**"Rights"** has the meaning given in Section 3.1(c) herein, but only has such meaning in such Section;

**"Taxes"** means all taxes, HST, land transfer taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, excise, real property and personal property taxes, and any related interest, fines and penalties, imposed by any Governmental Authority, and whether disputed or not;

**"Transaction"** means the transaction of purchase and sale contemplated by this Agreement;

**ARTICLE 2**  
**SCHEDULES**

**2.1 Schedules**

The following schedules are incorporated in and form part of this Agreement:

<b><u>Schedule</u></b>	<b><u>Description</u></b>
Schedule A	Approval and Vesting Order

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Schedule B  
Schedule C

Permitted Encumbrances  
Legal Description of Lands

**ARTICLE 3**  
**AGREEMENT TO PURCHASE**

**3.1 Purchase and Sale of Purchased Assets**

- (a) Relying on the representations and warranties herein, the Receiver hereby agrees to sell, assign, convey and transfer to the Purchaser, and the Purchaser hereby agrees to purchase, all right, title and interest of the Receiver and the Debtor in and to the Purchased Assets free and clear of all Encumbrances, other than the Permitted Encumbrances.
- (b) Subject to the Closing, the Receiver hereby remises, releases and forever discharges to, and in favour of, the Purchaser, all of its rights, claims and demands whatsoever in the Purchased Assets.
- (c) This Agreement or any document delivered in connection with this Agreement shall not constitute an assignment of any rights, benefits or remedies (in this Section 3.1(c), collectively, the "**Rights**") under any Permits that form part of the Purchased Assets and which are not assignable by the Receiver to the Purchaser without the required consent of the other party or parties thereto (collectively, the "**Third Party**"). To the extent any such consent is required and not obtained by the Receiver prior to the Closing Date, then, to the extent permitted by Applicable Law:
  - (i) the Receiver will, at the request, direction and cost of the Purchaser, acting reasonably, assist the Purchaser, in a timely manner and using commercially reasonable efforts, in applying for and obtaining all consents or approvals required under the Permits in a form satisfactory to the Receiver and the Purchaser, acting reasonably;
  - (ii) the Receiver will only deal with or make use of such Rights in accordance with the directions of the Purchaser;
  - (iii) at the Purchaser's cost, the Receiver will use its commercially reasonable efforts to take such actions and do such things as may be reasonably and lawfully designed to provide the benefits of the Permits to the Purchaser, including holding those Permits in trust for the benefit of the Purchaser or acting as agent for the Purchaser pending such assignment; and
  - (iv) in the event that the Receiver receives funds with respect to those Permits, the Receiver will promptly pay over to the Purchaser all such funds collected by the Receiver, net of any outstanding costs directly related to the assignment in respect of such Permits.

The provisions of this Section 3.1 shall not merge but shall survive the completion of the Transaction. Notwithstanding the forgoing, nothing herein shall prohibit the Receiver, in its sole, absolute and unfettered discretion, from seeking to be discharged as receiver of the Debtor at any time after Closing. The parties hereto hereby acknowledge and agree that the covenants of the Receiver contained in this Section 3.1 shall terminate concurrently with the discharge of the Receiver as receiver of the Debtor.

### **3.2 Excluded Assets**

Notwithstanding anything else in this Agreement, the Purchased Assets shall not include the Excluded Assets.

### **3.3 Excluded Liabilities**

The Purchaser is not assuming, and shall not be deemed to have assumed any liabilities, obligations or commitments of the Debtor or the Receiver or of any other Person, whether known or unknown, fixed or contingent or otherwise, including any debts, obligations, sureties, positive or negative covenants or other liabilities directly or indirectly arising out of or resulting from the conduct or operation of the Business or the Debtor's ownership or interest therein, whether pursuant to this Agreement or as a result of the Transaction (collectively, the "Excluded Liabilities"). For greater certainty, the Excluded Liabilities shall include, but not be limited to, the following:

- (a) except as otherwise agreed in this Agreement, all Taxes payable by the Debtor arising with respect to any period prior to the Closing Date and all Taxes payable relating to any matters or assets other than the Purchased Assets arising with respect to the period from and after the Closing Date;
- (b) any liability, obligation or commitment associated with: (i) the Accounts Payable and incurred prior to Closing; or (ii) any employees of the Debtor;
- (c) any liability, obligation or commitment resulting from an Encumbrance that is not a Permitted Encumbrance;
- (d) any liability, obligation or commitment associated with any of the Excluded Assets; and
- (e) any liability, obligation or commitment in respect to Claims arising from or in relation to any facts, circumstances, events or occurrences existing or arising prior to the Closing Date.

## **ARTICLE 4**

### **PURCHASE PRICE AND SATISFACTION OF PURCHASE PRICE**

#### **4.1 Purchase Price**

The purchase price for the Purchased Assets shall be the aggregate of TWELVE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$12,500,000.00) dollars (the "Purchase Price").

#### **4.2 Deposit**

Within two (2) Business Days after the Acceptance Date, the Purchaser shall pay to the Receiver's Solicitors, in trust, a deposit by wire or certified cheque of ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00) (the "**Deposit**"), which Deposit shall be held in accordance with the provisions of this Agreement pending completion or other termination of this Agreement and shall be applied against and towards the Purchase Price due on completion of the Transaction on the Closing Date.

#### **4.3 Satisfaction of Purchase Price**

The Purchaser shall indefeasibly pay and satisfy the Purchase Price as follows:

- (a) the Deposit shall be applied against the Purchase Price; and
- (b) the balance of the Purchase Price, subject to adjustments contained in this Agreement, shall be paid by wire or certified cheque on Closing by the Purchaser to the Receiver's Solicitors or as the Receiver's Solicitors may otherwise direct in writing.

#### **4.4 Allocation of Purchase Price**

The Parties, acting reasonably and in good faith, covenant to use best efforts to agree to allocate the Purchase Price among the Purchased Assets in a mutually agreeable manner on or prior to the Closing Time, provided that failure of the Parties to agree upon an allocation shall not result in the termination of this Agreement but rather shall result in the nullity of the application of this Section 4.4 of the Agreement such that each Party shall be free to make its own reasonable allocation.

#### **4.5 Adjustment of Purchase Price**

- (a) The Purchase Price shall be adjusted as of the Closing Time for any realty taxes and local improvement rates and charges (including interest thereon), utilities and any other items which are usually adjusted in purchase transactions involving assets similar to the Purchased Assets in the context of a receivership sale. The Receiver shall prepare a statement of adjustments and deliver same with all supporting documentation to the Purchaser for its approval no later than five (5) 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 agreed upon 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. Notwithstanding any other term in this Agreement, in no event shall the Purchaser be responsible for any charges, fees, Taxes, costs or other adjustments in any way relating to the period prior to the Closing Date or relating to the Excluded Liabilities or to any matters or assets other than the Purchased Assets for the period from and after the Closing Date.

- (b) Other than as provided for in this Section 4.5, there shall be no adjustments to the Purchase Price.

**ARTICLE 5**  
**TAXES**

**5.1 Taxes**

The Purchaser shall be responsible for all federal and provincial sales taxes, land transfer tax, goods and services, HST and other similar taxes and duties and all registration fees payable upon or in connection with the conveyance or transfer of the Purchased Assets to the Purchaser. If the sale of the Purchased Assets is subject to HST, then such tax shall be in addition to the Purchase Price. The Receiver will not collect HST if the Purchaser provides to the Receiver a warranty that it is registered under the ETA, together with a copy of the required ETA registration at least five (5) Business Days prior to Closing, a warranty that the Purchaser shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Receiver in respect of any HST payable. The foregoing warranties shall not merge but shall survive the completion of the Transaction.

**ARTICLE 6**  
**ACCESS AND CONFIDENTIALITY**

**6.1 Confidentiality**

Prior to Closing, the Purchaser shall maintain in confidence and not disclose to any Person this Agreement or the terms thereof or any information or documentation obtained, prepared or summarized by the Purchaser or its representatives (collectively, the "**Confidential Information**"), except, on a need to know basis, to those individuals employed by the Purchaser, its professional consultants, including the Purchaser's legal counsel, and to those Persons who have agreed in writing in favour of the Receiver and Purchaser not to disclose any Confidential Information (collectively, the "**Purchaser Representatives**"). The Purchaser will ensure that each Purchaser Representative treats the Confidential Information as confidential and any failure of a Purchaser Representative to do so will be a breach of this Agreement by the Purchaser.

**6.2 Authorizations**

Upon request, the Receiver shall provide the Purchaser with authorizations executed by the Receiver and addressed to the appropriate municipal building department, zoning department and fire department and to any other Governmental Authority, authorizing the release of any and all information on file in respect of the Purchased Assets, but such authorization shall not authorize any inspections by any Governmental Authority.

## ARTICLE 7

### CLOSING ARRANGEMENTS

#### 7.1 Closing

Closing shall take place at the Closing Time at the offices of the Receiver's lawyers, Bennett Jones LLP, located in Toronto, Ontario, or at such other time or at such other place as the Parties may agree in writing.

#### 7.2 Tender

Any tender of documents or money under this Agreement may be made upon the Parties or their respective lawyers, and money shall be tendered by wire transfer of immediately available funds to the account specified by the receiving Party. The Receiver and the Purchaser acknowledge and agree that insofar as the tender of any documents to be electronically registered is concerned, the tender of same will be deemed to be effective and proper when the solicitor for the party tendering has completed all steps required by Teraview in order to complete the Transaction that can be performed or undertaken by the tendering party's solicitor without the cooperation or participation of the other party's solicitor, and specifically when the tendering party's solicitor has electronically "signed" the transfer/deed and any other Closing document, if any, to be electronically registered for completeness and granted access to the other party's solicitor to same, but without the necessity of the tendering party's solicitor actually releasing such document(s) to the other party's solicitor for registration.

#### 7.3 Receiver's Closing Deliverables

The Receiver covenants to execute, where applicable, and deliver the following to the Purchaser at Closing or on such other date as expressly provided herein:

- (a) a copy of the issued and entered Approval and Vesting Order and the attached Receiver's Certificate;
- (b) a statement of adjustments prepared in accordance with Section 4.5 hereof, to be delivered not less than five (5) Business Days prior to Closing;
- (c) to the extent applicable, an assignment and assumption agreement with respect to all Permits and to the extent not assignable, an agreement that the Receiver will hold same in trust for the Purchaser in accordance with the provisions of Section 3.1(c);
- (d) a certificate signed by a senior officer of the Receiver confirming that the Receiver is not a non-resident of Canada within the meaning of section 116 of the ITA and that, to the best of the Receiver's knowledge, the Debtor is not a non-resident of Canada within the meaning of the said section 116;
- (e) a certificate from the Receiver, dated as of the Closing Date, certifying:

- (i) that, except as disclosed in the certificate, the Receiver has not been served with any notice of appeal with respect to the Approval and Vesting Order, or any notice of any application, motion or proceedings seeking to set aside or vary the Approval and Vesting Order or to enjoin, restrict or prohibit the Transaction; and
- (ii) that all representations, warranties and covenants of the Receiver contained in this Agreement are true as of the Closing Time, with the same effect as though made on and as of the Closing Time;
- (f) an acknowledgement, dated as of the Closing Date, that each of the conditions in Section 8.1 hereof have been fulfilled, performed or waived as of the Closing Time; and
- (g) such further documentation relating to the completion of the Transaction as shall be otherwise referred to herein or required by the Purchaser, acting reasonably, or by Applicable Law or any Governmental Authority.

#### **7.4 Purchaser's Closing Deliverables**

The Purchaser covenants to execute, where applicable, and deliver the following to the Receiver at Closing or on such other date as expressly provided herein:

- (a) the indefeasible payment and satisfaction in full of the Purchase Price according to Section 4.3 hereof;
- (b) an assignment and assumption agreement with respect to all Permits pertaining to the Real Property (to the extent assignable) and to the extent not assignable, an agreement that the Receiver will hold same in trust for the Purchaser in accordance with the provisions of Section 3.1(c);
- (c) a certificate from the Purchaser, dated as of the Closing Date, certifying that all representations, warranties and covenants of the Purchaser contained in Article 10 are true as of the Closing Time, with the same effect as though made on and as of the Closing Time;
- (d) if necessary, payment or evidence of payment of HST applicable to the Purchased Assets or, if applicable, appropriate tax exemption certificates with respect to HST in accordance with Article 5 hereof;
- (e) if desired, a direction directing the Receiver to convey title to any of the Purchased Assets to an entity other than the Purchaser; and
- (f) such further documentation relating to the completion of the Transaction as shall be otherwise referred to herein or required by the Receiver, acting reasonably, or by Applicable Law or any Governmental Authority.

## **7.5 Receiver's Certificate**

Upon receipt of written confirmation from the Purchaser that all of the conditions contained in Section 8.3 have been satisfied or waived by the Purchaser, and upon satisfaction or waiver by the Receiver of all of the conditions contained in Section 8.1, the Receiver shall forthwith deliver to the Purchaser the Receiver's Certificate comprising Schedule "A" of the Approval and Vesting Order, and shall file same with the Court.

## **ARTICLE 8** **CONDITIONS PRECEDENT TO CLOSING**

### **8.1 Conditions in Favour of the Receiver**

The obligation of the Receiver to complete the Transaction is subject and conditional to the satisfaction of the following conditions on or before the Closing Date:

- (a) all the representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects on the Closing Date;
- (b) all the covenants of the Purchaser contained in Article 10 to be performed on or before the Closing Date shall have been duly performed by the Purchaser;
- (c) there shall be no order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets enjoining, preventing or restraining the completion of the Transaction; and
- (d) the Court shall have issued the Approval and Vesting Order.

### **8.2 Conditions in Favour of Receiver Not Fulfilled**

If any of the conditions contained in Section 8.1 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the Receiver, then the Receiver may, at its sole discretion (other than as stipulated below), and without limiting any rights or remedies available to it at law or in equity:

- (a) terminate this Agreement by notice to the Purchaser, in which event the Receiver shall be released from its obligations under this Agreement to complete the Transaction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

### **8.3 Conditions in Favour of the Purchaser**

The obligation of the Purchaser to complete the Transaction is subject and conditional to the satisfaction of the following conditions on or before the Closing Date, which conditions are inserted for the sole benefit of the Purchaser and may be waived in whole or in part at the Purchaser's sole option:

- (a) all the representations and warranties of the Receiver contained in this Agreement shall be true and correct in all material respects on the Closing Date;
- (b) all the covenants of the Receiver under this Agreement to be performed on or before the Closing Date shall have been duly performed by the Receiver;
- (c) there shall be no order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets enjoining, preventing or restraining the completion of the Transaction;
- (d) from the Acceptance Date to Closing, there shall have been no new work orders, deficiency notices, notices of violation or non-compliance or similar orders, and no new Encumbrances registered on title to the Lands or matters affecting the title to the Lands arising or registered after the Acceptance Date, in each case which are not otherwise vested-out pursuant to the Approval and Vesting Order;
- (e) from the Acceptance Date to Closing, there shall not have been any emission, release, discharge, disposal, or other deposit of a hazardous substance occurring on or which has migrated onto the Lands which has a material adverse effect on the Lands, and there shall not have been any material adverse change in the condition or operation of the Lands; and
- (f) the Court shall have issued the Approval and Vesting Order.

#### **8.4 Conditions in Favour of Purchaser Not Fulfilled**

If any of the conditions contained in Section 8.3 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the Purchaser, then the Purchaser may, in its sole discretion and without limiting its rights or remedies available at law or in equity:

- (a) terminate this Agreement by notice to the Receiver, in which event the Purchaser and the Receiver shall be released from their obligations under this Agreement to complete the Transaction and the Deposit and all interest accrued thereon shall be immediately returned to the Purchaser without deduction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

### **ARTICLE 9** **REPRESENTATIONS & WARRANTIES OF THE RECEIVER**

The Receiver represents and warrants to the Purchaser as follows, with the knowledge and expectation that the Purchaser is placing complete reliance thereon and, but for such representations and warranties, the Purchaser would not have entered into this Agreement:

- (a) the Receiver has all necessary power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this

Agreement and the consummation of the Transaction have been duly authorized by all necessary action on the part of the Receiver, subject to the Approval and Vesting Order. This Agreement is a valid and binding obligation of the Receiver enforceable in accordance with its terms;

- (b) the Receiver has been duly appointed as the receiver of the Real Property by the Receivership Order and such Receivership Order is in full force and effect and has not been stayed, and the Receiver has the full right, power and authority to enter into this Agreement, perform its obligations hereunder and convey all right, title and interest of the Receiver and the Debtor in and to the Purchased Assets;
- (c) the Receiver is not a non-resident of Canada for the purposes of the ITA; and
- (d) subject to any charges created by the Receivership Order, the Receiver has done no act itself to encumber or dispose of the Purchased Assets and is not aware of any action or process pending or threatened against the Debtor that may affect its ability to convey any of the Purchased Assets as contemplated herein.

**ARTICLE 10**  
**REPRESENTATIONS & WARRANTIES OF THE PURCHASER**

The Purchaser represents and warrants to the Receiver as follows, with the knowledge and expectation that the Receiver is placing complete reliance thereon and, but for such representations and warranties, the Receiver would not have entered into this Agreement:

- (a) the Purchaser is a corporation duly formed and validly subsisting under the laws of the Province of Ontario;
- (b) the Purchaser has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. Neither the execution of this Agreement nor the performance by the Purchaser of the Transaction will violate the Purchaser's constating documents, any agreement to which the Purchaser is bound, any judgment or order of a court of competent jurisdiction or any Governmental Authority, or any Applicable Law. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary corporate action on the part of the Purchaser. This Agreement is a valid and binding obligation of the Purchaser enforceable in accordance with its terms;
- (c) the Purchaser is or will be a registrant under Part IX of the ETA on the Closing Date; and
- (d) the Purchaser has not committed an act of bankruptcy, is not insolvent, has not proposed a compromise or arrangement to its creditors generally, has not had any application for a bankruptcy order filed against it, has not taken any proceeding and no proceeding has been taken to have a receiver appointed over any of its assets, has not had an encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or levied against any of its property.

**ARTICLE 11**  
**COVENANTS**

**11.1 Mutual Covenants**

Each of the Receiver and the Purchaser hereby covenants and agrees that, from the date hereof until Closing, each shall take all such actions as are necessary to have the Transaction approved in the Approval and Vesting Order on substantially the same terms and conditions as are contained in this Agreement, and to take all commercially reasonable actions as are within its power to control, and to use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with each of the conditions set forth in Article 8 hereof.

**11.2 Receiver Covenants**

The Receiver hereby covenants and agrees that, from the date hereof until Closing, it shall use commercially reasonable efforts to provide to the Purchaser all necessary information in respect of the Debtor and the Purchased Assets reasonably required to complete the applicable tax elections in accordance with Article 5 hereof and to execute all necessary forms related thereto.

**ARTICLE 12**  
**POSSESSION AND ACCESS PRIOR TO CLOSING**

**12.1 Possession of Purchased Assets**

The Receiver shall remain in possession of the Purchased Assets until the Closing Time, at which time the Purchaser shall take possession of the Purchased Assets where situated. In no event shall the Purchased Assets be sold, assigned, conveyed or transferred to the Purchaser until all the conditions set out in this Agreement and the Approval and Vesting Order have been satisfied or waived and the Purchaser has satisfied or the Receiver has waived all the delivery requirements outlined in Section 8.1 hereof.

**12.2 Risk**

- (a) The Purchased Assets shall be and remain at the risk of the Receiver until Closing and at the risk of the Purchaser from and after Closing.
- (b) If, prior to Closing, the Purchased Assets are substantially damaged or destroyed by fire, casualty or otherwise, then, at its option, the Purchaser may decline to complete the Transaction. Such option shall be exercised within fifteen (15) calendar days after notification to the Purchaser by the Receiver of the occurrence of such damage or destruction (or prior to the Closing Date if such occurrence takes place within fifteen (15) calendar days of the Closing Date), in which event this Agreement shall be terminated automatically. If the Purchaser does not exercise such option, it shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such damage or destruction. Where any damage or destruction is not substantial, the Purchaser shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance

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referable to such damage or destruction. For the purposes of this Section 12.2(b), substantial damage or destruction shall be deemed to have occurred if the loss or damage to the Purchased Assets exceeds fifteen percent (15%) of the total Purchase Price (inclusive of the Deposit).

- (c) If, prior to the Closing Date, all or a material part of the Lands is expropriated or a notice of expropriation or intent to expropriate all or a material part of the Lands is issued by any Governmental Authority, the Receiver shall immediately advise the Purchaser thereof by Notice in writing. The Purchaser shall, by Notice in writing given within three (3) Business Days after the Purchaser receives Notice in writing from the Receiver of such expropriation, elect 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 Purchaser and all right, title and interest of the Receiver or Debtor to such amounts, if any, shall be assigned to the Purchaser on a without recourse basis; or (ii) terminate this Agreement and not complete the Transaction, in which case all rights and obligations of the Receiver and the Purchaser (except for those obligations which are expressly stated to survive the termination of this Agreement) shall terminate, and the Deposit shall be returned to the Purchaser forthwith.

**ARTICLE 13**  
**AS IS, WHERE IS**

**13.1 Condition of the Purchased Assets**

The Purchaser acknowledges that the Receiver is selling and the Purchaser is purchasing the Purchased Assets on an "*as is, where is*" and "*without recourse*" basis as the Purchased Assets shall exist on the Closing Date, including, without limitation, whatever defects, conditions, impediments, hazardous materials or deficiencies exist on the Closing Date, whether patent or latent. The Purchaser further acknowledges and agrees that it has entered into this Agreement on the basis that neither the Receiver nor the Debtor has guaranteed or will guarantee title to or marketability, use or quality of the Purchased Assets, that the Purchaser will conduct such inspections of the condition and title to the Purchased Assets as it deems appropriate and will satisfy itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose, environmental compliance, merchantability, condition or quality, or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Receiver to sell, assign, convey or transfer same, save and except as expressly provided in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act*, R.S.O. 1990, c. S.1, do not apply hereto and/or have been waived by the Purchaser. The description of the Purchased Assets contained in this Agreement is for the purpose of identification only and no representation, warranty or condition has or will be given by the Receiver concerning the accuracy of such description.

**ARTICLE 14**  
**POST-CLOSING MATTERS**

**14.1 Books and Records**

The Purchaser shall keep and maintain the Books and Records for a period of Two (2) years from the Closing Date, or for any longer period as may be required by Applicable Law or Governmental Authority or as requested by the Receiver. Upon reasonable advance notice, during such Two (2) year period after the Closing Date, the Purchaser will grant the Receiver and the Debtor and, in the event the Debtor is adjudged bankrupt, any trustee of the estate of the Debtor and their respective representatives, reasonable access during normal business hours to use and copy the Books and Records at the sole cost of the Receiver or bankruptcy trustee of the estate of the Debtor, as the case may be, and at no cost to the Purchaser.

**ARTICLE 15**  
**TERMINATION**

**15.1 Termination of this Agreement**

This Agreement may be validly terminated:

- (a) upon the mutual written agreement of the Parties;
- (b) pursuant to Section 8.2 hereof by the Receiver;
- (c) pursuant to Section 8.4 hereof by the Purchaser; or
- (d) pursuant to Section 12.2 hereof.

**15.2 Remedies for Breach of Agreement**

If this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Receiver, the Purchaser shall be entitled to the return of the Deposit without deduction, which shall be returned to the Purchaser forthwith, and this shall be the Purchaser's sole right and remedy pursuant to this Agreement or at law as a result of the Receiver's breach. If this Agreement is terminated as a result of a breach of a representation, warranty, covenant or obligation of the Purchaser, the Deposit shall be forfeited to the Receiver as liquidated damages and not as a penalty, which Deposit the Parties agree is a genuine estimate of the liquidated damages that the Receiver would suffer in such circumstances, and this shall be the Receiver's sole right and remedy pursuant to this Agreement or at law as a result of the Purchaser's breach.

**15.3 Termination If No Breach of Agreement**

If this Agreement is terminated other than as a result of a breach of a representation, warranty, covenant or obligation of a Party, then the parties hereto shall be released from all obligations and liabilities hereunder, other than their obligations under Article 6, and the Deposit shall be forthwith returned to the Purchaser without deduction.:

- (a) all obligations of each of the Receiver and the Purchaser hereunder shall end completely, except those that survive the termination of this Agreement;
- (b) the Purchaser shall be entitled to the return of the Deposit without deduction, which shall be returned to the Purchaser forthwith; and
- (c) neither Party shall have any right to specific performance, to recover damages or expenses or to any other remedy (legal or equitable) or relief other than as expressly provided herein.

**ARTICLE 16**  
**GENERAL CONTRACT PROVISIONS**

**16.1 Further Assurances**

From time to time after Closing, each of the Parties shall execute and deliver such further documents and instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and which are not inconsistent with the terms hereof, including, at the Purchaser's request and expense, the Receiver shall execute and deliver such additional conveyances, transfers and other assurances as may, in the opinion of the Parties or their counsel, acting reasonably, be reasonably required to effectually carry out the intent of this Agreement and transfer the Purchased Assets to the Purchaser.

**16.2 Survival Following Completion**

Notwithstanding any other provision of this Agreement, Article 9, Article 10, Section 15.2 and Section 15.3 shall survive the termination of this Agreement and the completion of the Transaction, provided, however, that upon the discharge of the Receiver, the Parties' respective obligations by reason of this Agreement shall end completely and they shall have no further or continuing obligations by reason thereof.

**16.3 Notice**

All notices, requests, demands, waivers, consents, agreements, approvals, communications or other writings required or permitted to be given hereunder or for the purposes hereof (each, a "Notice") shall be in writing and be sufficiently given if personally delivered, sent by prepaid registered mail or transmitted by email, addressed to the Party to whom it is given, as follows:

- (a) to the Receiver:

KSV Kofman Inc.  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

Attention: Robert Kofman and Noah Goldstein  
Tel: (416) 932-6228 / (416) 932-6207  
Email: [bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com) / [ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)

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and a copy to the Receiver's counsel to:

Bennett Jones LLP  
3400 One First Canadian Place  
Toronto, ON M5X 1A5

Attention: Sean Zweig and John van Gent  
Tel: (416) 777-6254 / (416) 777-6522  
Email: [zweigs@bennettjones.com](mailto:zweigs@bennettjones.com) / [vangentj@bennettjones.com](mailto:vangentj@bennettjones.com)

(b) to the Purchaser:

2599160 ONTARIO INC.

Attention: Don Mintz  
Tel: (416) 917-2033  
Email: [dmintz@rogers.com](mailto:dmintz@rogers.com)

and a copy to the Purchaser's counsel to:

Gropper Law Professional Corporation

Attention: Bernard Gropper  
Tel: (416) 962-3000  
Email: [bgropper@gropperlaw.com](mailto:bgropper@gropperlaw.com)

or such other address of which Notice has been given. Any Notice mailed as aforesaid will be deemed to have been given and received on the third (3<sup>rd</sup>) Business Day following the date of its mailing. Any Notice personally delivered will be deemed to have been given and received on the day it is personally delivered, provided that if such day is not a Business Day, the Notice will be deemed to have been given and received on the Business Day next following such day. Any Notice transmitted by email will be deemed given and received on the first (1<sup>st</sup>) Business Day after its transmission.

If a Notice is mailed and regular mail service is interrupted by strike or other irregularity on or before the fourth (4<sup>th</sup>) Business Day after the mailing thereof, such Notice will be deemed to have not been received unless otherwise personally delivered or transmitted by email.

#### **16.4 Waiver**

No Party will be deemed or taken to have waived any provision of this Agreement unless such waiver is in writing and such waiver will be limited to the circumstance set forth in such written waiver.

#### **16.5 Consent**

Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time limit or the requirement for such consent is not

required pursuant to the terms of the Approval and Vesting Order, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.

#### **16.6 Governing Law**

This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties irrevocably attorn to the jurisdiction of the courts of the Province of Ontario sitting in Toronto. The Parties consent to the exclusive jurisdiction and venue of the Court for the resolution of any disputes among them, regardless of whether or not such disputes arose under this Agreement.

#### **16.7 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings between the Parties. There are not and will not be any verbal statements, representations, warranties, undertakings or agreements between the Parties. This Agreement may not be amended or modified in any respect except by written instrument signed by the Parties. The recitals herein are true and accurate, both in substance and in fact.

#### **16.8 Time of the Essence**

Time will be of the essence, provided that if the Parties establish a new time for the performance of an obligation, time will again be of the essence of the new time established.

#### **16.9 Time Periods**

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

#### **16.10 Assignment**

This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, legal and personal administrators, successors and permitted assigns. The Purchaser may not assign this Agreement without the Receiver's prior written approval, which approval shall be in the Receiver's sole, absolute and unfettered discretion. Notwithstanding the foregoing, up until closing, the Purchaser shall have the right to direct that title to the Lands be taken in the name of another person, entity, joint venture, partnership or corporation (presently in existence or to be incorporated) that is an affiliate of the Purchaser, provided that the Purchaser shall not be released from any and all obligations and liabilities hereunder until after the Closing of the transaction. The foregoing right may only be exercised once by the Purchaser. Any other requested direction of title shall require the Receiver's prior written approval, which approval shall be in the Receiver's sole, absolute and unfettered discretion.

### **16.11 Expenses**

Except as otherwise set out in this Agreement, all costs and expenses (including, without limitation, the fees and disbursements of legal counsel) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses.

### **16.12 Severability**

If any portion of this Agreement is prohibited in whole or in part in any jurisdiction, such portion shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining portions of this Agreement and shall, as to such jurisdiction, be deemed to be severed from this Agreement to the extent of such prohibition.

### **16.13 No Strict Construction**

The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

### **16.14 Cumulative Remedies**

Unless otherwise expressly stated in this Agreement, no remedy conferred upon or reserved to one or both of the Parties is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to every other remedy conferred upon or reserved hereunder, whether such remedy shall be existing or hereafter existing, and whether such remedy shall become available under common law, equity or statute.

### **16.15 Currency**

All references to dollar amounts contained in this Agreement shall be deemed to refer to lawful currency of Canada.

### **16.16 Receiver's Capacity**

It is acknowledged by the Purchaser that the Receiver is entering into this Agreement solely in its capacity as Court-appointed receiver of the Property and that the Receiver shall have absolutely no personal or corporate liability under or as a result of this Agreement in any respect.

### **16.17 Planning Act**

This Agreement is to be effective only if the provisions of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, are complied with.

### **16.18 No Third Party Beneficiaries**

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns. No other person or entity shall be regarded as a third party beneficiary of this Agreement.

**16.19 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. Where the word "including" or "includes" is used in this Agreement, it means "including (or includes) without limitation".

**16.20 Counterparts**

This Agreement may be executed in counterparts and by facsimile or PDF, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

**16.21 Irrevocable by Purchaser**

The offer constituted by this Agreement is irrevocable by the Purchaser until 4:59 pm on October 16, 2017, after which time, if not accepted by the Receiver, this Agreement shall be null and void.

***[SIGNATURE PAGE FOLLOWS.]***

**IN WITNESS WHEREOF** the Purchaser has duly executed this Agreement as of the date first above written.

**2599160 ONTARIO INC.**

Per:  \_\_\_\_\_

Name: Bernard Gropper

Title: ASO

I have authority to bind the Corporation

**ACCEPTED** by the Receiver this \_\_\_\_ day of October, 2017

**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: Robert Kofman

Title: President and Managing Director



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

**ON READING** the <\*> Report and appendices thereto, and on hearing the submissions of counsel 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 <\*> sworn <\*>, 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

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.

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**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 <\*>, 2017, the Court approved the agreement of purchase and sale between the Receiver, as vendor, and <\*> (the "**Purchaser**"), as purchaser, dated <\*>, 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.

IV. 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)**

<b>Reg. No.</b>	<b>Date</b>	<b>Instrument Type</b>	<b>Amount</b>	<b>Parties From</b>	<b>Parties To</b>
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**

<b>Reg. No.</b>	<b>Date</b>	<b>Instrument Type</b>	<b>Amount</b>	<b>Parties From</b>	<b>Parties To</b>
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)**

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

**SCHEDULE B  
PERMITTED ENCUMBRANCES**

**PART I: GENERAL PERMITTED ENCUMBRANCES**

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates to the extent adjusted for under this Agreement;
2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes;
3. Registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including without limitation, subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements; provided same have been complied with or security has been posted to ensure compliance and completion as evidenced by a letter from the relevant Authority or regulated utility;
4. Any unregistered easement, right-of-way, agreements or other unregistered interest of claims not disclosed by registered title provided same does not materially impact the Purchaser's intended use of the Property;
5. Any encroachments or other discrepancies that might be revealed by an up-to-date plan of survey of the Property;
6. Such other minor encumbrances or defects in title which do not, individually or in the aggregate, materially affect the use, enjoyment or value of the Property or any part thereof, or materially impair the value thereof;
7. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute; and
8. The following exceptions and qualifications contained in Section 44(1) of the Land Titles Act: paragraphs 7, 8, 9, 10, 12 and 14.

**PART II: SPECIFIC PERMITTED ENCUMBRANCES**

**Assumed Encumbrances from PIN 04210-0004 (LT)**

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

**SCHEDULE C  
LEGAL DESCRIPTION OF LANDS**

**PIN 04210-0004 (LT)**

256 Rideau Street, Ottawa, Ontario

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

# COLLECTIVE INTELLIGENCE SOLUTION GROUP AG

**BERNARD GROPPER**  
**GROPPER LAW PROFESSION CORPORATION**  
Suite 300 - 261 Davenport Road  
Toronto ON MSR 1K3  
Canada

October 12, 2017

**256 Rideau Street. Ottawa, ON, Canada - First Advance under Loan.**

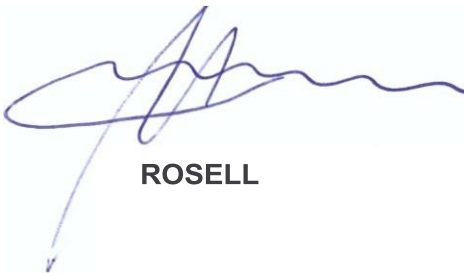
**Dear Mr. Gropper,**

Subject to the Court approving the Agreement of Purchase & Sale submitted by your client on October 10, 2017, we Collective Intelligence Solution Group AG is prepared to make the first advance under the loan which will allow your client to complete the purchase of the land.

Please be so kind as to forward documentation of the Court decision in order for us to complete the money transfer.

If you have any further enquiries please do not hesitate to contact us.

Sincerely yours  
**Collective Intelligence Solution Group AG**



**ROSELL**

DMG Security Code: DEUT997856743216  
KPL Security Code: KPL-ES-DMG-DB 9.8 B €-2017  
Transaction Code: PPP-DBDG9.8-CISG

**PRIVATE, PRIVILEGED & CONFIDENTIAL CONTENT  
DISTRIBUTION RESTRICTED**

**IRREVOCABLE INCOME PARTICIPATION FOR PROJECT FUNDING  
ALLOCATION AND DISTRIBUTION AGREEMENT AND DIRECTIVE**

Date : 3 March, 2017  
Underlying Transaction : Participation in Private Placement Trade Programs  
Transaction Code : As above noted  
Investor Code: : DEUT997856743216 Daniel Maurice Grivel  
Income Participant : Collective Intelligence Solution Group AG ("CISG")

This Irrevocable Income Participation for Project Funding Allocation and Distribution Sub-Agreement and Directive Agreement (the "DMG-CISG Income Participation Agreement") is made the day and date first written below by and between CISG as the below named Income Participant, for which Mr. Harald Rosell ("Rosell"), holder of Danish passport number 208172542, with expiry of 13 March 2025, is the principal fiduciary and signatory; and Mr. Daniel Maurice Grivel as Sole Income Participation Obligor and the principal fiduciary and signatory. Mr. Grivel ("DMG") is the holder of Swiss passport number X2809494, with expiry of 27 March 2024.

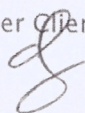
The Parties to this Irrevocable Income Participation for Project Funding Allocation and Distribution Sub-Agreement and Directive Agreement hereby jointly and severally execute this DMG-CISG Income Participation Agreement to memorialize and establish their agreement and understanding with regard to the allocation and distribution of certain future Income Participation Interests as created and confirmed hereunder.

This Agreement (the "DMG-CISG Income Participation Agreement") establishes the Income Participation by Collective Intelligence Solution Group AG under this Agreement with DMG for the entry into and income participation under a private placement trade program (the "PPP," or the "Program") with a private trade platform ("PTP"), which utilizes a certain Qualifying Financial Asset ("QFA") described below to be provided by and in the name of DMG to the above-referenced PTP.

**UNDERLYING QUALIFYING FINANCIAL ASSET (QFA): THAT CERTAIN QFA CONSISTING OF A DEMAND DEPOSIT CASH ACCOUNT HELD IN THE SOLE NAME OF DMG AT THE DEUTSCHE BANK AG ("DB"), FRANKFURT AM MAIN OFFICE (ALSO REFERRED TO AS THE "DB" DEPOSIT," IN THE AMOUNT OF NINE BILLION EIGHT HUNDRED MILLION EUROS (€9,800,000,000.00).**

Page 1 of 3

Master Client Initials:



HR Initials:



**DMG CO-VENTURE INCOME PARTICIPATION: CISG LEVEL.** UNDER THIS IRREVOCABLE INCOME PARTICIPATION FOR PROJECT FUNDING SUB-AGREEMENT AND DIRECTIVES BETWEEN DMG AND CISG, PERTAINING TO THE SAME QFA AND UNDERLYING TRANSACTION(S), DMG HAS CONTRACTED TO ALLOCATE TWENTY PERCENT (20%) OF ITS ABOVE REFERENCED PROGRAM INCOME NET SHARE (PINS) TO CISG. THE DMG SHARE OF PINS REMAINING AFTER THE AFORESAID CISG PARTICIPATION IS REFERRED TO HEREIN AS THE DMG PROGRAM INCOME NET RESIDUAL SHARE OR "PINRS."

**Confirmation of Master Paymaster Fiduciary and Bank.**

It is understood acknowledged, accepted, and agreed by and between the Parties that Rothschild Bank, Luxembourg City, Luxembourg, ("RB") shall serve as the Paymaster's Bank, and that the Buchanan Law Firm ("BLF") shall serve as the Master Paymaster Fiduciary for the subject PPP Transaction, whose appointment and designation is hereby ratified and confirmed in that status by each of the undersigned parties hereto, and which shall serve for the duration of this Agreement including all extensions hereunder.

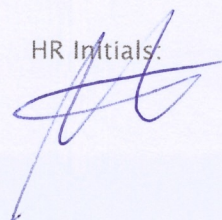
**Consent and Authority of DMG and CISG.**

The undersigned signatories of DMG and CISG do hereby confirm, respectively and with full personal responsibility and corporate authority, their agreement to unconditionally save and hold each other and the Master Paymaster and the Master Paymaster Bank aforesaid in connection with any claims or costs asserted by any party and/or by any third-party, arising in connection with any representation made by DMG and/or CISG hereunder, and/or any action taken by the Master Paymaster and the Master Paymaster Bank in connection herewith.

**Relation of the Parties; No Partnership; No Employer-Employee Relationship.**

The execution and delivery of this Agreement and any and all subsequent agreements with advises to the Master Paymaster by/or from DMG or CISG, and the receipt and/or distribution or re-distribution of any amount or element of any income interests hereunder shall not constitute or imply any type, or measure of partnership, employer-employee, client-advisor or agent-principal relationship by/or between the undersigned Parties, in any combination or combinations for any purpose. Each Party hereto is recognized and acknowledged as an independent fiduciary and income participant for a particular above-designated independent Income Participation entity, with the respective income rights of that entity derived from and under, and further allocated by the conditions, and understandings created and confirmed herein.

**Governing Law.**



DMG Security Code: DEUT997856743216

KPL Security Code: KPL-ES-DMG-DB 9.8 B €-2017

Transaction Code: PPP-DBDG9.8-CISG

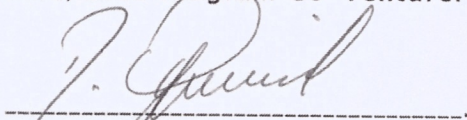
Any disputes between the Parties shall be governed by and construed under the laws of Great Britain, and any legal action thereunder must be filed in a court of original jurisdiction therein, if not otherwise first settled amicably through non-binding arbitration under the auspices of the International Chamber of Commerce, Paris, France ("ICC").

**Entire Agreement: Contingent Nature of Undertakings.**

This Agreement constitutes the full and entire agreement of the Parties with regard to the matters stated herein, and may only be altered or amended by prior written agreement of all Parties. It is expressly understood and agreed that the undertakings and obligations created and confirmed hereunder shall be expressly and entirely contingent upon the commencement of and receipt of net income distributions under the Transaction described above, as the "Underlying Transaction" in the absence of which no Party shall have any obligation or responsibility hereunder to its respective Distributees, to any other Party, or to any third parties. This Agreement is a confidential and proprietary document and shall not be disclosed, in whole or in part, to any third parties not named or otherwise referenced herein without the express prior written consent of the other Party.

This Agreement is made and confirmed this 3<sup>th</sup> day of March 2017, by the undersigned:

**DMG, Lead Program Co-Venturer**

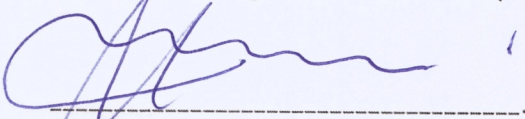


By: Daniel Maurice Grivel

Passport: Swiss / № X2809494

Expiry: 27 March 2024

**Collective Intelligence Solution Group AG ("CISG"), Income Participant**



By: Harald Rosell

Title: Chairman

Passport: Danish № 208172542

Expiry: 13 March 2025

Page 3 of 3      Master Client Initials:



HR Initials:

