

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

**IN THE MATTER OF SECTION 243 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**

BETWEEN:

**CALLIDUS CAPITAL CORPORATION**

Applicant

- and -

**JD NORMAN CANADA, ULC**

Respondent

**MOTION RECORD  
(Returnable January 21, 2022)**

January 14, 2022

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TO: **SERVICE LIST**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**IN THE MATTER OF SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
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- and -

**JD NORMAN CANADA, ULC**

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**SERVICE LIST  
(as of January 14, 2022)**

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**ONTARIO  
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# **TAB 1**



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**IN THE MATTER OF SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
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BETWEEN:

**CALLIDUS CAPITAL CORPORATION**

Applicant

- and -

**JD NORMAN CANADA, ULC**

Respondent

**NOTICE OF MOTION**

KSV Restructuring Inc., (“KSV”) in its capacity as the Court-appointed receiver (the “Receiver”) of the property, assets and undertakings of JD Norman Canada, ULC (the “Debtor”), will make a motion before a judge presiding over the Ontario Superior Court of Justice (Commercial List) on January 21, 2022 at 2:00 p.m., or as soon after that time as the motion can be heard, by judicial videoconference via Zoom at Toronto, Ontario due to the COVID-19 crisis.

**PROPOSED METHOD OF HEARING:** The motion is to be heard by videoconference.

**THE MOTION IS FOR:** an order (the “Approval, Vesting and Discharge Order”), *inter alia*:

- (a) if necessary, abridging the time for service and filing of this notice of motion and the motion record, or, in the alternative, dispensing with same;

- (b) approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver and Nexe Innovations Inc., on behalf of a company to be incorporated (the “**Purchaser**”), dated December 22, 2021 (as amended by the first amendment to agreement of purchase and sale dated December 23, 2021, the “**Sale Agreement**”) for the sale of the real property known as 6845 Hawthorne Drive, Windsor, Ontario (the “**Property**”) to the Purchaser;
- (c) vesting in the Purchaser the Debtor’s right, title and interest in and to the Property upon the delivery of the Receiver’s Certificate (as defined herein) to the Purchaser;
- (d) approving the Fourth Report of the Receiver dated January 14, 2022 (the “**Fourth Report**”) and the activities of the Receiver described therein, and the Receiver’s and its counsel’s fees and disbursements, as set out in the Fee Affidavits (as defined herein) appended to the Fourth Report and the Fee Accrual (as defined in the Fourth Report);
- (e) sealing the confidential appendices to the Fourth Report (the “**Confidential Appendices**”), pending completion of the Transaction;
- (f) discharging KSV as Receiver in accordance with the Fourth Report, subject to the Receiver filing a certificate (the “**Discharge Certificate**”) with the Court certifying it has completed all outstanding receivership matters as set out in the Fourth Report, and upon filing the Discharge Certificate, releasing and discharging KSV from any and all liability that KSV now has or may thereafter have by reason of, or in any way arising out of, the acts or omissions of KSV while acting in its capacity as

Receiver, save and except for any gross negligence or wilful misconduct on the Receiver's part; and

- (g) such further and other relief as counsel may request and this Honourable Court may grant.

**THE GROUNDS FOR THE MOTION ARE:**

***Background***

1. Until early February 2021, the Debtor carried on the business of manufacturing highly engineered metal components and supplying the components exclusively to General Motors Holdings LLC and its affiliates (“**GM**”) from its facility in Windsor, Ontario;
2. As a result of GM resourcing its supply to an alternative vendor, the Debtor discontinued its operations in early February 2021;
3. Pursuant to an Order made on February 12, 2021 (the “**Receivership Order**”), KSV was appointed Receiver to conduct a Court-supervised wind-down of the Debtor's business and assets, including all proceeds thereof, that maximizes value for stakeholders;

***Liquidation of the M&E Assets and Distribution of Proceeds***

4. On May 4, 2021, the Court, among other things, approved a Liquidation Services Agreement dated April 20, 2021 between Corporate Assets Inc. (the “**Liquidator**”) and the Receiver (the “**Liquidation Services Agreement**”);
5. The Liquidator conducted an auction of the Debtor's machinery and equipment (the “**M&E Assets**”) on June 9, 2021;

6. By the end of August 2021, the Liquidator removed all of the M&E Assets from the Property, relieving the Receiver and the Liquidator of their obligations pursuant to the Liquidation Services Agreement;
7. By motion returnable November 16, 2021, the Receiver sought and obtained an order (the “**Distribution Order**”) approving the proposed distribution by the Receiver of proceeds from the sale of the M&E Assets;
8. Pursuant to the Distribution Order, the Receiver was authorized and directed to make an interim distribution to Callidus Capital Corporation (“**Callidus**”) of \$300,000, representing a portion of the net proceeds generated from the liquidation of the M&E Assets, and further distributions to Callidus up to the amount owing by the Debtor to Callidus without further order of the Court;
9. Subject to this Court’s approval of the Transaction, the proceeds of the Transaction will be distributed to Callidus in accordance with the Distribution Order;

### ***Sale Process***

10. On April 19, 2021, the Receiver entered into a listing agreement with Colliers International London Ontario, Brokerage (“**Colliers**”) to market the Property for sale;
11. Based on Colliers’ recommendation, the Property was listed for sale on the Multiple Listing Service (“**MLS**”) for \$6 million, which was subsequently reduced to \$5.8 million in August 2021;
12. Colliers’ listing agreement expired on October 31, 2021 after limited activity generated during its term;

13. After consulting with Callidus, the Receiver engaged CBRE Limited – 273 (“**CBRE**”) to list the Property for sale on November 1, 2021;

14. The Receiver and CBRE took the following steps to market the Property: (i) assembled diligence information for the Property to be made available to interested parties including preparation of a marketing brochure (the “**Marketing Brochure**”), a confidentiality agreement (“**CA**”), and additional documents including environmental reports and detailed information on the Property and sale process (“**Property Information Summary**”); (ii) CBRE listed the Property for sale on MLS for \$4.5 million; and (iii) CBRE sent the Marketing Brochure to over 400 prospective purchasers and real estate professionals and discussed the transaction opportunity with over 50 prospective purchasers;

15. There were several interested parties in the Property, throughout both the terms of the Colliers listing period and the CBRE listing period, who executed a CA and performed diligence, including touring the premises and reviewing the environmental reports and the Property Information Summary;

16. On December 22, 2021, after consulting with Callidus, the Receiver entered into the Sale Agreement with the Purchaser, which was subsequently amended to provide the Purchaser until January 7, 2022 to satisfy or waive its due diligence condition;

17. On January 7, 2022, the Purchaser waived all conditions and, accordingly, the Transaction remains subject only to Court approval at this time;

### ***Proposed Transaction***

18. The Transaction provides for the greatest recovery available in the circumstances. The market was canvassed for over nine months using strategies commonly used to sell real property. In the Receiver's review, CBRE undertook a thorough and commercially reasonable marketing of the Property;

19. It is a condition of the Sale Agreement that the Receiver obtain the Approval, Vesting and Discharge Order;

20. Subject to Court approval, the Transaction is to close within 10 business days of the granting of the proposed Approval, Vesting and Discharge Order, unless the Closing Date (as defined in the Sale Agreement) is extended;

### ***Activities of the Receiver, Fees and Disbursements***

21. As part of the Approval, Vesting and Discharge Order, the Receiver seeks this Court's approval of its Fourth Report and all actions, conduct and activities of the Receiver as set out therein, including the Receiver's and its counsel's fees and disbursements incurred in respect of such activities, and a fee accrual of \$50,000 to cover further fees and disbursements of the Receiver and its counsel incurred or to be incurred until the filing of the Discharge Certificate, as more fully set out in the Fourth Report and the affidavit of David Sieradzki sworn January 14, 2022 (the "**Sieradzki Affidavit**") and the affidavit of Marc Wasserman sworn January 14, 2022 (the "**Wasserman Affidavit**", together with the Sieradzki Affidavit, the "**Fee Affidavits**");

***Sealing Order***

22. A sealing order is required in respect of the Confidential Appendices because the Confidential Appendices contain certain economic terms, the release of which may negatively impact realizations on the Property if the Transaction does not close. The salutary effects of the proposed sealing order therefore outweigh any deleterious effects that may exist;

***Discharge***

23. Upon the completion of the remaining activities as set out in the Fourth Report, the Receiver will have realized on the Property and completed its statutory duties as well as those duties set out in the Receivership Order, or subsequent orders of this Court;

24. The Receiver seeks an order discharging the Receiver upon filing the Discharge Certificate with the Court;

25. Upon filing the Discharge Certificate, the Receiver seeks an order releasing and discharging KSV from any and all liability that KSV has or may thereafter have by reason of, or in any way arising out of, the acts or omissions of KSV while acting in its capacity as Receiver, save and except for any gross negligence or wilful misconduct on the part of the Receiver;

***Other Grounds***

26. The other grounds set out in the Fourth Report;

27. Section 243 of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act*;

28. Rules 1.04, 1.05, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*;

29. The Consolidated Notice to the Profession, the Public and the Media Regarding Civil and Family Proceedings dated May 13, 2020;
30. Changes to Commercial List operations in light of COVID-19 dated March 16, 2020; and
31. Such further and other grounds as the lawyers may advise.

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

1. The Fourth Report and the appendices thereto, including the Fee Affidavits; and
2. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

January 14, 2022

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**TO: THE SERVICE LIST**



**CALLIDUS CAPITAL  
CORPORATION**

**JD NORMAN CANADA, ULC**

Court File No: CV-21-00656820-00CL

and

Applicant

Respondent

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

PROCEEDING COMMENCED AT: TORONTO

**NOTICE OF MOTION**  
**(Returnable January 21, 2022)**

**OSLER, HOSKIN & HARCOURT LLP**  
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# **TAB 2**



**Fourth Report of  
KSV Restructuring Inc.  
as Receiver of  
JD Norman Canada, ULC**

January 14, 2022

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COURT FILE NO: CV-21-00656820-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

CALLIDUS CAPITAL CORPORATION

APPLICANT

- AND -

JD NORMAN CANADA, ULC

RESPONDENT

FOURTH REPORT OF  
KSV RESTRUCTURING INC.  
AS RECEIVER

JANUARY 14, 2022

## 1.0 Introduction

1. This report (“Report”) is filed by KSV Restructuring Inc. (“KSV”) in its capacity as receiver (the “Receiver”) of the property, assets and undertakings of JD Norman Canada, ULC (the “Company”).
2. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the “Court”) made on February 12, 2021 (the “Receivership Order”), KSV was appointed Receiver. A copy of the Receivership Order is attached as Appendix “A”.
3. The principal purposes of these proceedings were to conduct a Court-supervised wind-down of the Company’s business and a liquidation of its assets that maximizes value for the Company’s stakeholders, including Callidus Capital Corporation (“Callidus”) and Bank of America, N.A. (“BoFA”), the Company’s principal secured creditors.

### 1.1 Purposes of this Report

1. The purposes of this Report are to:
  - a) provide background information about the Company and these proceedings;
  - b) summarize the results of a sale process (the “Sale Process”) carried out by the Receiver for the Company’s owned industrial real property in Windsor, Ontario (the “Windsor Property”);

- c) summarize a proposed transaction for the Windsor Property (the “Transaction”) with Nexe Innovations Inc., in trust for a company to be incorporated (the “Purchaser”), pursuant to an Agreement of Purchase and Sale between the Receiver and the Purchaser dated December 22, 2021 (as amended by the first amendment to agreement of purchase and sale dated December 23, 2021, the “APS”);
- d) set out the Receiver’s recommendations regarding approval of the Transaction, distributions of the net proceeds thereof and the need to seal the Confidential Appendices to this Report;
- e) provide an overview of the Receiver’s activities since the commencement of these proceedings;
- f) recommend that the Receiver be discharged of its duties and obligations under the Receivership Order upon filing a certificate with the Court confirming that all outstanding receivership matters have been completed (the “Discharge Certificate”);
- g) summarize the fees and disbursements of the Receiver and its counsel, Osler, Hoskin & Harcourt LLP (“Osler”), from the commencement of these proceedings to December 31, 2021 and November 16, 2021, respectively, plus an accrual of \$50,000 (the “Fee Accrual”) for fees incurred and to be incurred until the filing of the Discharge Certificate, and seek approval of same; and
- h) recommend that the Court issue an order:
  - i. approving the APS and the Transaction;
  - ii. authorizing and directing the Receiver to complete the Transaction and convey to the Purchaser the Windsor Property, and vesting the Windsor Property in the Purchaser on closing, free and clear of claims and encumbrances, upon execution and delivery of a certificate by the Receiver confirming completion of the Transaction;
  - iii. sealing the Confidential Appendices to this Report until completion of the Transaction;
  - iv. approving the fees and disbursements of the Receiver and Osler, as set out in the Fee Affidavits appended to this Report, and the Fee Accrual;
  - v. approving this Report and the Receiver’s activities detailed herein;
  - vi. discharging the Receiver upon the filing of the Discharge Certificate; and
  - vii. releasing the Receiver, upon the Receiver’s discharge, from any and all liability that KSV now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of KSV while acting as Receiver, save and except for its gross negligence or wilful misconduct.

## 1.2 Currency

1. All currency references in this Report are to Canadian dollars, unless otherwise noted.

## 1.3 Restrictions

1. In preparing this Report, the Receiver has relied upon financial and other information provided by the Company's former management team and/or information contained in the materials filed in support of the Receivership Order.
2. The Receiver has not performed an audit or other verification of such information. The Receiver expresses no opinion or other form of assurance with respect to the Company's financial or other information presented in this Report.

## 2.0 Background

1. The Company's parent company is JD Norman Industries, Inc. ("JDN"), a US based automotive parts manufacturer.
2. Until early February 2021, the Company carried on business from the Windsor Property as a manufacturer of highly engineered metal components for the automotive industry. The Company's entire business was dedicated to the supply of components for General Motors Holdings LLC and its affiliates ("GM").
3. As a result of GM's resourcing of its supply to an alternative vendor, the Company discontinued its operations in early February 2021. On or around February 5, 2021, the Company terminated its entire workforce, including 72 members of Unifor Local 195 (the "Union").
4. Callidus and BofA are JDN's principal secured creditors and the Company is an obligor under both the Callidus and BofA loan facilities. At the commencement of these proceedings, BofA was owed approximately US\$16.3 million (plus interest and costs which continue to accrue), secured by JDN's and the Company's accounts receivable and inventory. Callidus was owed approximately US\$146.4 million (plus interest and costs which continue to accrue), secured by JDN's and the Company's property, plant and equipment, including the Company's machinery and equipment (the "M&E Assets") and the Windsor Property.
5. Additional information about the Company and the issues leading to the Receiver's appointment are set out in the affidavit (the "Affidavit") of John Ho, Chief Financial Officer of Callidus, the Applicant in these proceedings, sworn February 8, 2021. Accordingly, that information is not repeated in this Report. Copies of Court materials filed in these proceedings, including the Affidavit, are available on the Receiver's website at <https://www.ksvadvisory.com/insolvency-cases/case/jd-norman-canada>.

## 2.1 The Union

1. As set out in the Affidavit, in the days prior to the granting of the Receivership Order, representatives of the Union barricaded the entrance to the Windsor Property which prevented the delivery of the final scheduled inventory shipments from that facility.
2. On February 17, 2021, the Receiver, the Union and BofA agreed to a consensual resolution of the dispute, resulting in the Union's removal of the barricade and allowing the Receiver to facilitate the final inventory shipments.
3. The Receiver has since collected the proceeds of those inventory shipments and remitted to the Union its agreed upon share of the realizations generated therefrom.
4. The Receiver has carried out its obligations under the *Wage Earner Protection Program Act* ("WEPPA"), including for the eligible members of the Union. As at the date of this Report, 64 eligible former employees have been paid their respective WEPPA entitlements by Service Canada. In August 2021, Service Canada confirmed that there are no priority amounts owing to any eligible former employee of the Company, including any Union members.

## 2.2 Liquidation of the M&E Assets

1. Pursuant to a Court order made on May 4, 2021, the Court, among other things, approved a Liquidation Services Agreement dated April 20, 2021 (the "LSA") between the Receiver and Corporate Assets Inc. (the "Liquidator"). The terms of the LSA were detailed in the Second Report of the Receiver dated April 27, 2021 (the "Second Report") and, accordingly, are not repeated in this Report.
2. As required under the LSA, the Liquidator remitted payment of the net minimum guarantee to the Receiver in the amount of \$450,000.
3. On June 9, 2021, the Liquidator conducted an auction of the M&E Assets from the Windsor Property. The Liquidator removed all of the M&E Assets from the Windsor Property by the end of August 2021. At that time, all of the Receiver's and the Liquidator's obligations under the LSA were completed.

## 2.3 Funding of these Proceedings

1. Callidus and BofA previously advanced \$37,500<sup>1</sup> and \$20,000, respectively, to contribute to the funding of these proceedings. The Receiver has since repaid Callidus' advances from the M&E Asset liquidation proceeds. At the beginning of the proceedings, BofA agreed to fund \$20,000 toward the cost of the receivership and, accordingly, there is no intention to repay that advance.

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<sup>1</sup> Includes US\$10,000 translated to Canadian currency at a rate of \$1.25 : \$1.00.



2. At the outset of these proceedings, BofA also funded \$166,000 to the Receiver as required under Paragraph 25 of the Receivership Order. These funds were held to satisfy priority employee claims under WEPPA or otherwise. At the conclusion of its WEPPA administration, Service Canada confirmed that there are no such priority employee claims. Accordingly, the advance of \$166,000 was repaid to BofA on August 3, 2021 in accordance with the Receivership Order.

## **3.0 Sale Process**

### **3.1 Overview**

1. On April 19, 2021, the Receiver entered into a listing agreement with Colliers International London Ontario, Brokerage (“Colliers”) to market the Windsor Property for sale.
2. Based on Colliers’ recommendation, the Windsor Property was listed for sale on the Multiple Listing Service (“MLS”) for \$6 million, which was subsequently reduced to \$5.8 million in August, 2021. There was limited activity generated during the term of the Colliers’ listing agreement.
3. Colliers’ listing agreement expired on October 31, 2021. After consulting with Callidus, on November 1, 2021, the Receiver engaged CBRE Limited – 273 (“CBRE”) to list the Windsor Property for sale.
4. A summary of the Sale Process conducted by CBRE is set out below.

#### **Pre-marketing Phase**

- a) The Receiver and CBRE assembled diligence information for the Windsor Property to be made available to interested parties. In this regard, CBRE, with the Receiver’s assistance, prepared:
  - a marketing brochure detailing the acquisition opportunity for the Windsor Property (the “Marketing Brochure”);
  - a confidentiality agreement (“CA”); and
  - additional relevant information, including copies of Phase I and II environmental reports commissioned by the Receiver and a property information summary which included more detailed information on the Windsor Property and the Sale Process (the “Property Information Summary”).

#### **Marketing**

- a) In early November, 2021, CBRE listed the Windsor Property on MLS for \$4.5 million;
- b) On November 10, 2021, CBRE sent the Marketing Brochure to over 400 prospective purchasers and real estate professionals, primarily in the Ontario region;

- c) Interested parties were required to sign the CA to obtain copies of the environmental reports and Property Information Summary;
- d) CBRE discussed the opportunity with over 50 prospective purchasers;
- e) CBRE placed “For Sale” signage on the Windsor Property; and
- f) Interested parties were requested to submit their offers using a standard form asset purchase agreement, and to blackline any changes in their offer against that form of agreement.

### 3.2 Sale Process Results

1. A summary of the results of the Sale Process is as follows:
  - a) during the term of the Colliers’ listing period (i.e. April 2021 to October 31, 2021), in excess of 15 parties executed a CA and performed diligence;
  - b) since November 1, 2021, six parties executed a CA with CBRE and performed diligence, including touring the premises and reviewing the environmental reports and Property Information Summary;
  - c) over the course of the Sale Process (including Colliers’ listing period), three offers were submitted. The Purchaser’s offer was for the highest value;
  - d) on December 22, 2021, after consulting with Callidus, the Receiver entered into the APS with the Purchaser, which was subsequently amended to provide the Purchaser until January 7, 2022 to satisfy or waive its due diligence condition; and
  - e) on January 7, 2022, the Purchaser waived all conditions and, accordingly, the Transaction remains subject only to Court approval at this time. A copy of the Purchaser’s waiver is attached as Appendix “B”.
2. The Receiver prepared a summary of offers submitted under the Sale Process (the “Offer Summary”), a copy of which is attached as Confidential Appendix “1”. The grounds for the Receiver’s recommendation that the Offer Summary should be sealed at this time are set out in Section 4.1 of this Report.

## 4.0 Transaction<sup>2</sup>

1. A summary of the Transaction is as follows:
  - a) **Purchaser:** Nexe Innovations Inc., in trust for a company to be incorporated. The Purchaser is an arm’s length party identified by CBRE during the Sale Process.

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<sup>2</sup> Defined terms in this section of the Report have the meanings provided to them in the APS.

- b) **Purchased Assets:** the Windsor Property, which is comprised of the Lands and Buildings.
  - c) **Purchase Price:** for the reasons provided in Section 4.1 of this Report, the Receiver is seeking to have the purchase price sealed pending completion of the Transaction.
  - d) **Deposit:** the Purchaser has paid a deposit of approximately 5% of the purchase price, which is on deposit in the receivership bank account.
  - e) **Excluded Assets:** the right, title and interest in any of the Company's assets, other than the Windsor Property.
  - f) **Permitted Registrations and Encumbrances:** as set out in Schedule "C" of the APS.
  - g) **Representations and Warranties:** consistent with the standard terms of an insolvency transaction, i.e. on an "as is, where is" basis, with limited representations and warranties.
  - h) **Closing Date:** subject to Court approval, the Transaction is to close within 10 Business Days of the granting of the proposed Approval and Vesting Order, unless the Closing Date is extended by mutual agreement between the parties.
  - i) **Material Conditions:** the only material condition precedent that has not been satisfied or waived is the Court's issuance of the proposed Approval and Vesting Order.
2. Prior to completion of the Transaction, the Purchaser requested to store a piece of its equipment at the Windsor Property. In order to accommodate the Purchaser's request, the Receiver worked with the Purchaser's legal counsel to negotiate an Equipment Storage Agreement dated January 11, 2022, a copy of which is attached as Appendix "C". Pursuant to this agreement, the Purchaser will pay the Receiver a storage fee and maintain insurance over the equipment. The Purchaser has also indemnified the Receiver for any issues/claims resulting from the storage arrangement other than those that may arise from the Receiver's negligence or wilful misconduct.
  3. A copy of the redacted version of the APS is attached as Appendix "D". An unredacted version of the APS is attached as Confidential Appendix "2".

#### 4.1 Sealing

1. The Receiver recommends that the Offer Summary and the unredacted version of the APS be filed with the Court on a confidential basis and remain sealed pending completion of the Transaction as the availability of such information to other parties may negatively impact any future sale process for the Windsor Property if the Transaction does not close. In addition, the Offer Summary contains sensitive information, including the identity of bidders and the value of other bids received for the Windsor Property, that similarly could adversely impact the future marketability of the Windsor Property should that become necessary.
2. The Receiver does not believe that any stakeholder will be prejudiced if the information is sealed or redacted. On the contrary, keeping this information sealed pending completion of the Transaction is beneficial to maximizing value in these circumstances and maintains the integrity of the Sale Process through to its completion.

#### 4.2 Sale Process Recommendation

1. For the following reasons, the Receiver recommends that the Court issue an order approving the Transaction:
  - a) the Sale Process was conducted in accordance with the Receivership Order, including engaging agents and marketing the Windsor Property for sale (being Paragraphs 3(e) and 3(j) of the Receivership Order, respectively);
  - b) the Transaction provides for the greatest recovery available in the circumstances;
  - c) the market was canvassed for over nine months using strategies commonly used to sell real property, including direct solicitation of investors and end-users, listing on the MLS system and by placing signage on the Windsor Property. In the Receiver's view, CBRE undertook a thorough and commercially reasonable marketing of the Windsor Property;
  - d) CBRE is of the view that the Transaction is the best available in the circumstances as set out in its letter to the Receiver dated January 12, 2022, a copy of which is attached as Appendix "E";
  - e) Callidus is projected to incur a substantial shortfall on its advances to the Company and has consented to the Transaction. Absent additional funding from Callidus, there is no funding available to continue to maintain the Windsor Property with no certainty of a transaction; and
  - f) notwithstanding the favourable Phase I and II Environmental Site Assessment ("ESA") reports issued by the Receiver's environmental consultant, which was a condition precedent to all offers received, further time marketing the Windsor Property enhances the risk of new issues arising and/or that further costs will need to be incurred for alternative or updated ESA reports.

## 5.0 Colliers' Holdover Listing

1. As noted above, upon the expiry of Colliers' listing agreement on October 31, 2021, the Receiver terminated Colliers' involvement in the Sale Process and engaged CBRE to list the Windsor Property for sale. The Colliers listing agreement provided for the standard "holdover period" clause such that Colliers would earn a commission if a transaction for the Windsor Property was completed with a party on Colliers' holdover listing within 120 days of the expiry of the listing agreement.
2. On or around October 31, 2021, Colliers delivered a broad listing of parties (the "Holdover Listing"), to which the Receiver objected. On October 29, 2021, Osler sent a letter to Colliers detailing the basis of the Receiver's objection to the Holdover Listing and confirming that Colliers would be served on any sale approval motion involving the Windsor Property. A copy of Osler's letter dated October 29, 2021 is attached as Appendix "F".
3. The Purchaser was not included on the Holdover Listing and, accordingly, the Receiver does not anticipate any issue in this regard. In any event, the Receiver will be serving Colliers with its Motion Record.

## 6.0 Assets Under Administration

1. Other than the Windsor Property, the only known asset subject to the receivership proceeding is the cash on deposit in the receivership account. As at the date of this Report, there is approximately \$33,000 in the Receiver's account (excluding the deposit funded by the Purchaser in accordance with the APS).
2. Attached as Appendix "G" is an interim statement of receipts and disbursements from the commencement of these proceedings to January 11, 2022.

## 7.0 Distributions in these Proceedings

1. Pursuant to a Court order made November 16, 2021 (the "Distribution Order"), the Receiver was authorized and directed to make distributions to Callidus up to the amount of the Company's indebtedness owing to Callidus. A copy of the Distribution Order is attached as Appendix "H".
2. Pursuant to the Distribution Order, on November 16, 2021, the Receiver made an interim distribution to Callidus of \$300,000, representing a portion of the net proceeds generated from the liquidation of the M&E Assets.
3. Subject to Court approval of the Transaction, the proceeds of the Transaction will be distributed to Callidus in accordance with the Distribution Order.

## 8.0 Receiver's Discharge

1. Prior to completing its administration of these receivership proceedings, the Receiver intends to:
  - a) work with the Purchaser and legal counsel to complete the Transaction, subject to Court approval;
  - b) pay any outstanding post-filing expenses, including insurance, utilities and professional fees accruing up to the closing date of the Transaction;
  - c) make distributions to Callidus in accordance with the Distribution Order;
  - d) prepare and file the Receiver's final report as required under Section 246 of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"); and
  - e) deal with any sundry issues not specified above.
2. Once the Receiver has completed its activities, it will file the Discharge Certificate as its duties and responsibilities under the Receivership Order and other orders made in these proceedings will have been completed.

## 9.0 Overview of the Receiver's Activities

1. The Receiver's activities since the commencement of these proceedings have included, *inter alia*, the following:

### General Receivership Activities

- corresponding extensively with Osler and Dickinson Wright PLLC ("Dickinson Wright"), Callidus' counsel, regarding all aspects of this mandate;
- drafting the Receiver's first report dated February 15, 2021, second report dated April 27, 2021 and the third report dated November 9, 2021;
- attending at Court on February 12, 2021, February 17, 2021, May 4, 2021 and November 16, 2021 for the hearing of the various motions in these proceedings;
- securing the Company's premises, including changing the locks at the Windsor Property;
- retaining a former employee of the Company to assist with the general upkeep and maintenance of the Windsor Property;
- opening a receivership bank account and paying post-filing expenses therefrom;
- drafting the Notice and Statement of the Receiver and an Interim Report of the Receiver pursuant to Sections 245(1) and 246(2) of the BIA;

- arranging for the general upkeep of the Windsor Property, including, *inter alia*, alarm monitoring, lawn maintenance, snow removal, and HVAC maintenance;
- negotiating with the Union and Dewart Gleason LLP, the Union's counsel, regarding the Union's barricade of the entrance to the Windsor Property and resolving the issues resulting therefrom;
- corresponding with BofA's legal counsel regarding, *inter alia*, the priority claims and reimbursement of the amount funded by BofA pursuant to the Receivership Order;
- corresponding with representatives of JDN, regarding, *inter alia*, the Company's books and records;
- corresponding with AON Parizeau, the Receiver's insurance broker, to place insurance coverage over the Windsor Property;
- carrying out the Receiver's administration in accordance with WEPPA
- corresponding with Canada Revenue Agency regarding the status of these proceedings and the Company's tax accounts; and
- preparing sales tax returns on a monthly basis.

### **Realization Processes**

- carrying out the Sale Process summarized in Section 3 of this Report;
- negotiating and finalizing a listing agreement dated April 19, 2021 with Colliers;
- corresponding with two environmental consultants to obtain proposals to perform Phase I and II ESA reports;
- corresponding extensively with EXP Services Inc. ("EXP"), the environmental consultant engaged by the Receiver, regarding its Phase I and II ESA reports;
- reviewing the Phase I and II ESA reports issued by EXP;
- carrying out a realization process for the M&E Assets, including corresponding extensively with the Liquidator in connection with its auction of the M&E Assets;
- reviewing and commenting on the form of asset purchase agreement used for the sale of the M&E Assets and corresponding with Dickinson Wright and Osler regarding same;
- negotiating and finalizing a listing agreement dated November 1, 2021 with CBRE;

- reviewing and commenting on the form of asset purchase agreement to be used by Colliers and CBRE in the Sale Process and corresponding with Dickinson Wright and Osler regarding same;
- reviewing and commenting on Colliers' and CBRE's marketing materials;
- corresponding extensively with Colliers and CBRE over the course of their respective mandates;
- negotiating the APS with the Purchaser's legal counsel;
- drafting this Report and reviewing all motion materials to be filed in connection with this sale approval and discharge motion; and
- dealing with all other matters pertaining to the administration of this mandate.

## 10.0 Professional Fees

1. The fees and disbursements (excluding HST) of the Receiver for the period February 1, 2021 to December 31, 2021 total approximately \$145,000. Detailed invoices in respect of the fees and disbursements of the Receiver are provided in the affidavit of David Sieradzki sworn January 14, 2022 (the "Sieradzki Affidavit"), attached as Appendix "I".
2. The fees and disbursements (excluding HST) of the Receiver's legal counsel, Osler, for the period February 9, 2021 to November 16, 2021 total approximately \$153,000. Detailed invoices in respect of the fees and disbursements of Osler are provided in the affidavit of Marc Wasserman sworn January 14, 2022 attached as Appendix "J" (the "Wasserman Affidavit", and together with the Sieradzki Affidavit, the "Fee Affidavits").
3. The average hourly rates for KSV and Osler for the referenced billing periods were \$486.60 and \$707.58, respectively.
4. The Receiver is requesting approval of the Fee Accrual of \$50,000 to cover further fees and disbursements of the Receiver and Osler incurred or to be incurred until the filing of the Discharge Certificate.
5. The Receiver is of the view that the hourly rates charged by Osler are consistent with the rates charged by corporate law firms practicing in the area of insolvency in the Toronto market and that the fees charged are reasonable and appropriate in the circumstances.
6. The Receiver is also of the view that the Fee Accrual is reasonable and appropriate in the circumstances as it provides for the estimated fees incurred or to be incurred by the Receiver and Osler prior to the filing of the Discharge Certificate. To the extent there is any surplus remaining from the Fee Accrual following the filing of the Discharge Certificate, the Receiver will distribute those funds to Callidus in accordance with the Distribution Order.



## 11.0 Conclusion and Recommendation

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1(1)(h) of this Report.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
SOLELY IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF  
JD NORMAN CANADA, ULC  
AND NOT IN ITS PERSONAL CAPACITY**

## Appendix “A”

Court File No. CV-21-00656820-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**



THE HONOURABLE  
JUSTICE HAINES

)  
)  
)

FRIDAY, THE 12<sup>TH</sup> DAY  
OF FEBRUARY, 2021

**IN THE MATTER OF SECTION 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**

BETWEEN:

**CALLIDUS CAPITAL CORPORATION**

Applicant

- and -

**JD NORMAN CANADA, ULC**

Respondent

**ORDER  
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “CJA”) appointing KSV Restructuring Inc. as receiver (the “Receiver”) without security, of all of the assets, undertakings and properties of the Respondent, JD Norman Canada, ULC (the “Debtor”) acquired for, or used in relation to a business carried on by the Debtor, was heard this day, via zoom videoconference due to the Covid-19 pandemic.

ON READING the Affidavit of John Ho sworn February 10, 2021 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, the Respondent, Bank of America, N.A., as agent ("**BofA**"), Unifor local 195, and KSV Restructuring Inc., no one else on the service list appearing, although served as appears from the Affidavit of Service of Jennifer Samuels sworn February 10, 2021 and on reading the consent of KSV Restructuring Inc. to act as the Receiver,

### **SERVICE**

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

### **APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV Restructuring Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, and all proceeds thereof (the "**Property**").

### **RECEIVER'S POWERS**

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to wind up the business of the Debtor, including the powers to enter into any agreements, incur any obligations, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, supplies, or other assets to facilitate the wind up of the Debtor's business or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor other than any indebtedness that is the Revolving Loan Priority Collateral (as defined in the Intercreditor Agreement dated as of July 10, 2018 between the Debtor, the Applicant and BofA), which may only be settled, extended or compromised with the consent of BofA;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in each such case, notice under subsection 63(4) of the *Ontario Personal Property Security Act* shall not be required;
- (l) without approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business in respect of any transaction not exceeding \$125,000.00, provided that the aggregate consideration for all such transactions does not exceed \$250,000.00; and
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.
- (t) and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

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

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due

to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.



**NO PROCEEDINGS AGAINST THE RECEIVER**

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver or the Receiver's employees, officers, directors, agents and representatives acting in such capacity, except with the written consent of the Receiver or with leave of this Court.

**NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

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

**NO EXERCISE OF RIGHTS OR REMEDIES**

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

**NO INTERFERENCE WITH THE RECEIVER**

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

## **CONTINUATION OF SERVICES**

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

## **RECEIVER TO HOLD FUNDS**

13. THIS COURT ORDERS that, subject to paragraph 25 below, all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## **EMPLOYEES**

14. THIS COURT ORDERS that all current employees of the Debtor actively providing services on the date hereof shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The employment of all other employees of the Debtor is hereby deemed terminated for all purposes

effective on the date hereof. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### **PIPEDA**

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations

thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER’S LIABILITY**

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

#### **RECEIVER’S ACCOUNTS**

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that, subject to paragraph 25, the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall, subject to paragraph 25, be at liberty from time to time to apply reasonable amounts, out of the

monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

**B of A RECEIVABLES**

25. **THIS COURT ORDERS** that the bank accounts held in the name of the Debtor (including without limitation those accounts that are the subject of any Deposit Account Control Agreement between the Debtor and BofA) into which the proceeds of any Revolving Loan Priority Collateral are paid or to be paid shall continue to operate, and be applied to obligations owing to BofA, in accordance with the terms of the Second Amended and Restated Loan and Security Agreement, dated as of July 10, 2018 between, among others, the Debtor and BofA (the "**BofA Loan Agreement**") and in accordance with the terms of the Loan Documents (as defined in the BofA Loan Agreement); provided, however, that \$166,000.00 or such other amount as the Receiver deems advisable of the current assets of the Debtor shall be segregated and held separate and apart in a trust account by the Receiver pending the determination of the amount of the BIA section 81.4 claims of the Debtor's employees, on consent of the Receiver and BofA or as otherwise ordered by the Court. In the event that any proceeds from the Revolving Loan Priority Collateral are delivered to an account of the Receiver or an account of the Debtor other than an account of the Debtor at Bank of America, such proceeds shall be delivered to a bank account of the Debtor at Bank of America to be applied in accordance with this paragraph 25 or otherwise as directed by BofA. Those certain existing deposit agreements between the Debtor and BofA (including any deposit account control agreements) shall continue to govern the cash management relationship between the Receiver and BofA, and all of the provisions of such agreements shall remain in full force and effect.

26. **THIS COURT ORDERS** that, except as set out in Paragraph 25 above, BofA shall not be required to process, honor, debit or pay any cheques, drafts, ACH transfers or other withdrawals in connection with the Debtor's accounts, whether made, drawn or issued prior to or after the date of this Order other than as identified by the Receiver to BofA in writing. BofA may rely on this Order and the representations of the Receiver regarding the foregoing, and BofA shall not have any liability to any party for relying on such representations by the Receiver or terms of this Order.

## SERVICE AND NOTICE

27. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: [www.ksvadvisory.com/insolvency-cases/case/jd-norman-canada](http://www.ksvadvisory.com/insolvency-cases/case/jd-norman-canada).

28. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor's and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## GENERAL

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

30. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor's.

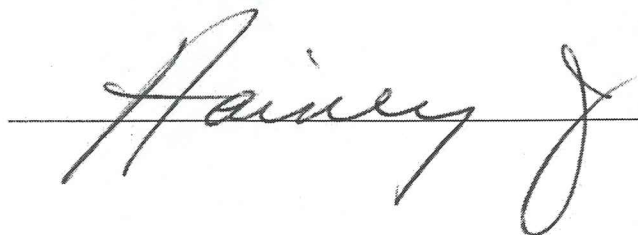
31. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this

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.

32. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. THIS COURT ORDERS that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

34. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



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

FEB 12 2021

PER / PAR:





**SCHEDULE "B"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties of JD Norman, ULC (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 12<sup>th</sup> day of February , 2021 (the "**Order**") made in an application having Court file number \_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the \_\_\_\_\_ day of each month after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 2021

KSV Restructuring Inc., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

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

Name:

Title:

**CALLIDUS CAPITAL CORPORATION**

Applicant

-and-

**JD NORMAN CANADA, ULC**

Respondent

Court File No. CV-21-00656820-00CL

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

**PROCEEDING COMMENCED AT  
TORONTO**

**ORDER**

**DICKINSON WRIGHT LLP**  
Barristers & Solicitors  
199 Bay Street  
Suite 2200, P.O. Box 447  
Commerce Court Postal Station  
Toronto, Ontario, M5L 1G4

**JOHN D. LESLIE (29956P)**  
Email: [jleslie@dickinsonwright.com](mailto:jleslie@dickinsonwright.com)  
Tel: (416) 646-4603

**LISA S. CORNE (27974M)**  
Email: [lcorne@dickinsonwright.com](mailto:lcorne@dickinsonwright.com)  
Tel: (416) 646-4608

Lawyers for the Applicant

## Appendix “B”

**PURCHASER'S WAIVER OF DUE DILIGENCE CONDITIONS**

**TO: KSV RESTRUCTURING INC. (the "Vendor") in its capacity as court-appointed Receiver, without security, of all of the assets, undertakings and properties of JD Norman Canada, ULC**

**RE: Acquisition by NEXE INNOVATIONS INC., on behalf of a company to be incorporated (the "Purchaser") of 6845 Hawthorne Drive, Windsor, Ontario pursuant to an Offer and Agreement of Purchase and Sale accepted by the Vendor as of December 22, 2021, as amended by an amending agreement dated December 23, 2021 (as amended, extended, restated, modified, assigned and supplemented from time to time, collectively, the "Purchase Agreement")**

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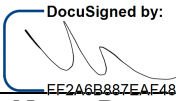
The undersigned hereby confirms that it has waived the Due Diligence Condition (as such term is defined in the Purchase Agreement) contained in Section 6(a) of the Purchase Agreement and this waiver constitutes notice for the purposes of Section 6(b)(ii) of the Purchase Agreement of such waiver.

All other terms and conditions of the Purchase Agreement remain in full force and effect, unamended, and time shall continue to be of the essence in all respects of the Purchase Agreement.

This Waiver may be executed (including by DocuSign) and transmitted by facsimile or electronic transmission which shall for all purposes be deemed an original and shall constitute an original and legally binding instrument.

**DATED** this 7<sup>th</sup> day of January, 2022.

**NEXE INNOVATIONS INC.**

Per:    
 DocuSigned by:  
EF2A6B887EAE483  
Name: Darren Footz  
Title: CEO

I/We have authority to bind the Corporation

## Appendix “C”

**EQUIPMENT STORAGE AGREEMENT**

**THIS EQUIPMENT STORAGE AGREEMENT ("AGREEMENT")** made as of the 11<sup>th</sup> day of January, 2022.

BETWEEN:

**NEXE INNOVATIONS INC.**, on behalf of a corporation to be incorporated ("**Nexe**")

AND:

**KSV RESTRUCTURING INC.** in its capacity as court-appointed receiver, without security, of all of the assets, undertakings and properties of JD Norman Canada, ULC (in such capacity, the "**Receiver**")

**RECITAL**

**WHEREAS** Nexe and the Receiver entered into an agreement of purchase and sale dated as of December 22, 2021, amended by and amending agreement dated December 23, 2021 (the "**Purchase Agreement**"), pursuant to which the Receiver sold and Nexe purchased the property municipally addressed as 6845 Hawthorne Drive, Windsor, Ontario (including all buildings constructed thereon, the "**Property**");

**THEREFORE**, In consideration of the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1. DEFINITIONS**

**1.1** For the purpose of this Agreement, the words set out below shall have the meanings herein ascribed to them:

"**Access Way**" means the currently existing way or ways of accessing the Property and the buildings constructed thereon from adjoining municipal roads;

"**Commencement Date**" means upon which the Equipment is delivered to the Property in accordance with Section 2.3; and

"**Term**" has the meaning set out in Section 3.1.

**2. TERMS OF USE OF THE PROPERTY**

**2.1** The Receiver hereby grants Nexe with access to the Property for the purpose of storing an injection molder machine (the "**Equipment**") for use in the operation of the business of Nexe.

Nexe will not, at any time during the Term, commit any waste upon the Property. Nexe will not at any time during the Term use, exercise or carry on or permit, in or upon the Property, or any part thereof, any noxious, noisome or offensive trade, business, occupation or calling. Nexe's access to the Property for the purpose of storing the Equipment shall be at its sole risk and expense.

**2.2** The Receiver does hereby:

- (a) grant to Nexe the right of use of the Property as contemplated herein; and
- (b) grant to Nexe the right of shared use of the Access Way as contemplated herein.

**2.3** Nexe shall provide the Receiver with one (1) business day's prior written notice of the delivery of the Equipment to the Property, and the Receiver shall use reasonable commercial efforts to facilitate Nexe's access to the Property for the purpose of delivering the Equipment at a date and time mutually agreeable to both parties, acting reasonably.

**2.4** In the event that Nexe requires access to the Property or the Equipment following the Commencement Date, it shall provide no less than two (2) business days' prior written notice to the Receiver, and the Receiver shall use reasonable commercial efforts to facilitate such access at a date and time mutually agreeable to both parties, acting reasonably.

**2.5** Nexe shall be liable for the cost to repair any damage to the Property directly caused by Nexe's transport of the Equipment into the Property and/or storage of the Equipment at the Property, unless such damage is caused by the negligence or willful misconduct of the Receiver.

**2.6** The Receiver shall use the same commercially reasonable efforts it has been throughout its appointment to ensure that the Property is secure and that no person, other than Nexe, its representatives, and the Receiver and its representatives in accordance with section 2.4 herein, are granted access to the Property during the Term.

### **3. TERM**

**3.1** This Agreement shall continue for and during a term beginning on the Commencement Date and ending on the date the Purchase Agreement has closed in accordance with its terms (the "**Term**").

**3.2** Either party shall have the right to terminate this Agreement upon twenty (**20**) days' written notice to the other party.

**3.3** Notwithstanding the foregoing, the Receiver agrees that Nexe shall have reasonable access to remove the Equipment from the Property upon termination of this Agreement or the Purchase Agreement, as the case may be, and Nexe shall have twenty (**20**) days from the termination of this Agreement to remove the Equipment from the Property, at its sole risk and expense.

### **4. STORAGE FEE**

**4.1** Nexe shall pay to the Receiver a storage fee in the amount of two thousand five hundred dollars (**\$2,500**), plus 13% harmonized sales tax, per month during the Term (the



"**Monthly Fee**"). Payment of the prorated portion of the the first Monthly Fee shall be due within two (2) business days of the Commencement Date, and thereafter the Monthly Fee shall be due on the last day of each month as payment for the following month. Any balancing remaining at the end of the term shall be promptly returned to Nexe.

**4.2** Under no circumstances shall Nexe be responsible for any property taxes related to the Property during the Term.

**4.3** Nexe shall make all payments hereunder in lawful money of Canada to the Receiver by wire.

## **5. NEXE'S GENERAL COVENANTS**

**5.1** Nexe covenants and agrees with the Receiver that it shall maintain insurance on and for the Equipment at all times throughout the Term and Nexe acknowledges that the Receiver does not and shall not be required to maintain insurance for the Equipment.

## **6. INDEMNITIES**

**6.1** Nexe shall indemnify and hold harmless the Receiver, and its affiliates, agents, including without limitation, CBRE Limited, from and against any claim, third-party claim, demand, loss, liability, cause of action, penalty, fine, cost, damage or expense suffered by or asserted against the Receiver in relation to the storage of the Equipment on the Property, unless such claim, third-party claim, demand, loss, liability, cause of action, penalty, fine, cost, damage or expense is caused by the negligence or wilful misconduct of the Receiver, its employees, agents or representatives.

## **7. GOVERNING LAW**

This Agreement will be deemed made in the Province of Ontario, Canada. The validity and interpretation of this Agreement will be governed by, and construed and enforced in accordance with, the laws of the Province of Ontario, Canada and the federal laws of Canada applicable therein.


## **8. COUNTERPARTS**

This Agreement may be executed in counterparts and by electronic communication, each of which shall conclusively be deemed to be an original and all such counterparts collectively shall be conclusively deemed to be one and the same.

*[Signature page follows]*

**IN WITNESS WHEREOF** the parties hereto have caused their duly authorized representatives to sign this Agreement on their behalf as of the day first above written.

**NEXE INNOVATIONS INC.**

Per:  ✓  
\_\_\_\_\_  
Name: Darren Footz  
Title: CEO

**KSV RESTRUCTURING INC.** in its capacity as court-appointed Receiver, without security, of all of the assets, undertakings and properties of JD Norman Canada, ULC

Per:   
\_\_\_\_\_  
Name: David Sieradzki  
Title: Managing Director

## Appendix “D”

## AGREEMENT OF PURCHASE AND SALE

6845 Hawthorne Drive, Windsor ON  
(PIN 01379-0091 (LT))

**TO: KSV RESTRUCTURING INC.** (the “**Vendor**” or “**Receiver**”) in its capacity as court-appointed Receiver, without security, of all of the assets, undertakings and properties of JD Norman Canada, ULC (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice dated February 12, 2021 in Court File No. CV-21-00656820-00CL at Toronto, (the “**Appointment Order**”), and not in its personal capacity or corporate capacity.

### 1. Offer to Purchase

The undersigned, **Nexe Innovations Inc.**, on behalf of a company to be incorporated (the “**Purchaser**”), hereby offers to purchase from and through the Vendor all of the right, title and interest in and to the Property (hereinafter defined) which the Vendor is entitled to sell pursuant to the Appointment Order at the purchase price set out herein and upon and subject to the terms hereof.

### 2. Definitions

In this Offer and the Agreement arising from the acceptance hereof, the following terms have the meanings respectively ascribed to them:

“**Agreement**”, “**the Agreement**” or “**this Agreement**” means the agreement of purchase and sale resulting from the acceptance of this Offer by the Vendor.

“**Appointment Order**” has the meaning ascribed thereto in the addressee line hereof.

“**Approval**” in relation to the Court means the making of an appropriate Order of the Court in respect of the particular matter submitted for approval approving the action or proposed action of the Vendor on terms satisfactory to the Vendor.

“**Buildings**” means the building(s), if any, situate on the Lands (as hereinafter defined) together with all other structures situate thereon, including all improvements thereto and all fixtures forming a part thereof.

“**Business Day**” means a day other than Saturday, Sunday or a statutory holiday in the Province of Ontario or any other day upon which the Vendor is not open for the transaction of business throughout normal business hours at its principal office.

“**Closing**” or “**Closing Date**” has the meaning ascribed thereto in Section 17 hereof.

“**Court**” means the Ontario Superior Court of Justice and includes a judge, master or registrar of that court and any appellate court judge having jurisdiction in any particular matter.

“**Deposit**” has the meaning ascribed thereto in Section 3(a) hereof.

“**Due Diligence Date**” means 5:00 p.m. (Toronto time) on the first Business Day next following the twelfth (12) day following the acceptance of this Offer.

“**Environmental Laws**” mean all requirements under or prescribed by common law and all federal, provincial, regional, municipal and local laws, rules, statutes, ordinances, regulations, guidelines, directives, notices and orders from time to time with respect to the discharge, generation, removal, storage or handling of any Hazardous Substances.

“**Hazardous Substances**” means any contaminant, pollutant, dangerous substance, potentially dangerous substances, noxious substance, toxic substance, hazardous waste, flammable material, explosive material, radioactive material, urea-formaldehyde foam insulation, asbestos, PCBs radiation and any other substance, material, effect, or thing declared or defined to be hazardous, toxic, a contaminant, or pollutant, in or pursuant to any Environmental Laws.

“**HST**” has the meaning ascribed thereto in Section 16 hereof.

“**Indemnitees**” has the meaning ascribed thereto in Section 24 hereof.

“**Lands**” means the lands legally described in Schedule “A” attached hereto.

“**Material Documents**” includes copies of all architectural drawings, site plans relating to the Property, existing plans of survey, if any, to the extent that such Material Documents are in the possession of the Vendor.

“**Offer**”, “**the Offer**” or “**this Offer**” means the offer to purchase the Property made by the Purchaser and contained in and comprised of this document.

“**Property**” means collectively, the Lands and Buildings.

“**Purchase Price**” has the meaning ascribed thereto in Section 3 hereof.

“**Receiver's Certificate**” means the certificate to be issued by the Receiver, substantially in the form appended as Schedule ● to the Vesting Order, certifying that the Closing has occurred in accordance with the terms of this Agreement and the Vesting Order.

“**TERS**” has the meaning ascribed thereto in Section 17 hereof.

“Vesting Order” has the meaning ascribed thereto in Section 6 hereof.

**3. Purchase Price**

The purchase price for the Property shall be [REDACTED] dollars payable in lawful money of Canada (the “Purchase Price”), subject to the adjustments hereinafter referred to in Section 8 hereof, and shall be paid by the Purchaser as follows:

- (a) a deposit of [REDACTED] (the “Deposit”), to be paid by the Purchaser three (3) Business Days after waiver of the Due Diligence Condition to the Vendor and held by the Vendor in trust; and,
- (b) the balance of the Purchase Price for the Property shall be paid, subject to the adjustments hereinafter referred to, to the Vendor on the Closing Date by electronic wire, certified cheque or bank draft payable to the Vendor (or as the Vendor may further direct) drawn on or issued by a Canadian chartered bank or trust company.

**4. Deposit**

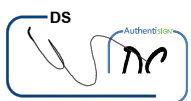
The Deposit is being held in trust by the Vendor and shall be:

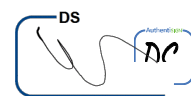
- (a) returned to the Purchaser without interest or deduction if the Vendor does not accept this Offer;
- (b) credited to the Purchaser as an adjustment against the Purchase Price on the Closing Date if the purchase and sale of the Property is completed pursuant to the Agreement;
- (c) returned to the Purchaser with interest and without deduction if the purchase and sale of the Property is not completed pursuant to the Agreement, provided that the Purchaser is not in default under this Offer or under the Agreement; or
- (d) retained by the Vendor as a genuine pre-estimate of liquidated damages and not as a penalty, in addition to any other rights and remedies that the Vendor may have under this Offer, the Agreement and at law, including offering the Property for sale to another person, if the purchase and sale of the Property is otherwise not completed pursuant to this Offer and the Agreement, as a result of the Purchaser’s breach hereunder.

## 5. Acceptance of Offer

The Purchaser agrees that no agreement for the purchase and sale of the Property shall result from this Offer unless and until this Offer has been accepted by the Vendor, Approval has been obtained from the Court in accordance with the provisions of Section 6 hereof, and the Purchaser is satisfied of the Due Diligence Conditions (defined herein). The Purchaser agrees that this Offer shall be irrevocable by the ~~Purchaser and open for acceptance by the Vendor~~ until 5:00 o'clock p.m. (Toronto time) on December 24, 2021, after which time, if not accepted ~~by the Vendor~~, this Offer shall be null and void and the Deposit shall be returned to the Purchaser in accordance with Section 4(a) hereof. The Vendor shall indicate the date on which it has accepted this Offer in the space provided on the execution of this Offer.

 DS  
Authentication

 DS  
Authentication

 DS  
Authentication

Vendor and open for acceptance by the Purchaser  
December 23, 2021

## 6. Due Diligence

- a) The Purchaser and will have a period commencing on the execution of this Offer by both parties and expiring on the Due Diligence Date to satisfy itself in its sole and absolute discretion in all respects as to the suitability and economic feasibility of the Property for its intended use, as well as with respect to all materials included in the Due Diligence Documents or otherwise made available to the Buyer and to satisfy itself with respect to all other aspects of the Property (the "**Due Diligence Condition**").
- b) During the Due Diligence Period, the Purchaser may elect to cancel this Agreement in accordance with the following terms:

### Cancellation during Due Diligence Period

- i) If the Purchaser is not satisfied, in its sole and absolute discretion, with its due diligence as provided for in this agreement, the Purchaser may elect to cancel this Agreement at any time during the Due Diligence Period by delivery of written notice from the Purchaser or its solicitors to the Vendor or the Vendor's Solicitors to this effect, without liability to the Purchaser for such termination save and except for its obligation to repair and indemnify pursuant to this agreement.
- ii) Upon delivery of a termination notice within the Due Diligence Period in accordance with this section, the Deposit, together with all interest earned or accrued thereon, will be immediately returned to the Purchaser without deduction or set-off, and the Buyer's termination will be without liability to the Purchaser. If the Purchaser is satisfied, in its sole and absolute discretion, with its due diligence or otherwise wishes to waive the condition, it will deliver written notice to the Seller or its solicitors to this effect on or before 5:00 p.m. (Toronto time) on the last day of the Due Diligence Period. If no such written

notice is delivered to the Seller on or before 5:00 p.m. (Toronto time) on the last day of the Due Diligence Period, the Purchaser will be deemed to have elected to terminate this Agreement and the Deposit, together with interest earned or accrued thereon, will be immediately returned to the Purchaser without deduction or set-off, and the Buyer's terminate will be without liability to the Purchaser.

## **7. Court Approval**

The Purchaser hereby acknowledges and agrees that the sale of the Property is by, and subject to, Approval of the Court. The Vendor shall, forthwith after the acceptance by the Vendor of the Offer, bring a motion to the Court for Approval of the Agreement and an order vesting title to the Property in the Purchaser, in form and substance satisfactory to the Purchaser (the “**Vesting Order**”). The Vendor shall diligently pursue such motion on notice to the Purchaser and shall promptly notify the Purchaser of the disposition thereof. The Purchaser, at its own expense, shall promptly provide to the Vendor all such information and assistance within the Purchaser’s power as the Vendor may reasonably require to obtain Approval of the Agreement and Vesting Order. If the Court shall not have granted Approval of the Agreement within forty five (45) Business Days of the Vendor’s acceptance of the Offer, the Agreement shall automatically be terminated, unless the parties otherwise agree in writing. If the Agreement is terminated under any provision of this Section, the Deposit and any interest earned thereon shall be returned to the Purchaser in accordance with Section 4(c) hereof and neither party shall have any further rights or liabilities hereunder.

## **8. Capacity of Receiver**

The Vendor, by acceptance of the Offer, is entering into the Agreement solely in its capacity as the Court-appointed receiver and manager of all of the Debtor’s assets, undertakings and properties and not in its personal, corporate or any other capacity. Any claim against the Receiver shall be limited to and only enforceable against the assets, undertakings and properties then held by or available to it in its said capacity and shall not apply to its personal property and/or any assets held by it in any other capacity. The Vendor shall have no personal or corporate liability of any kind, whether in contract or in tort or otherwise. The term “Vendor” as used in this Agreement shall have no inference or reference to the present registered owner of the Property.

## **9. Adjustments**

The Purchase Price for the Property shall be adjusted as of the Closing Date in respect of realty taxes, flat/fixed water and sewer rates and charges, utility deposits, if any, and all other items usually adjusted with respect to properties similar to the Property that apply.



Such adjustments shall be pro-rated where appropriate for the relevant period on the basis of the actual number of days elapsed during such period prior to the Closing Date itself to be apportioned to the Purchaser. There shall be no adjustment in respect of (a) prepaid rents, or, (b) rent or other moneys payable to the Vendor, if any, in respect of periods prior to the Closing which remain unpaid as at Closing.

#### **10. Termination of Agreement**

Notwithstanding anything to the contrary contained in this Agreement, if at any time or times prior to the Closing Date, the Vendor is unable to complete this Agreement as a result of any action taken by an encumbrancer, any action taken by the present registered owner, the refusal by the present registered owner, to take any action, the exercise of any right by the present registered owner or other party which is not terminated upon acceptance of this Agreement, a certificate of pending litigation is registered against the Property, a court judgment or order is made, or, if the Purchaser submits valid title requisition which the Vendor is unable or unwilling to satisfy prior to Closing, or if the sale of the Property is restrained at any time by a court of competent jurisdiction, or if the Property is occupied by the owner of the Property and the Vendor is unable to provide vacant possession on Closing, the Vendor may, in its sole and unfettered discretion, elect by written notice to the Purchaser, to terminate this Agreement, whereupon the Deposit and any interest earned thereon shall be returned to the Purchaser in accordance with Section 4(c) hereof, and neither party shall have any further rights or liabilities hereunder.

The obligation of the Vendor to complete the Agreement is subject to the satisfaction of the following terms and conditions on or prior to the Closing Date, which conditions are for the sole benefit of the Vendor and which may be waived by the Vendor in its sole discretion:

- (a) the representations and warranties of the Purchaser herein being true and accurate as of the Closing Date;
- (b) no action or proceeding at law or in equity shall be pending or threatened by any person, firm, government, government authority, regulatory body or agency to enjoin, restrict or prohibit the purchase and sale of the Property;
- (c) the Property shall not have been removed from the control of the Vendor by any means or process;
- (d) no party shall take any action to redeem the Property; and
- (e) the Court shall have granted Approval of this Agreement and shall have granted the Vesting Order.

## **11. Purchaser's Acknowledgements**

The Purchaser hereby acknowledges and agrees with, and to be subject to, the following:

- (a) it is responsible for conducting its own searches and investigations of the current and past uses of the Property;
- (b) the Vendor makes no representation or warranty of any kind that the present use or future intended use by the Purchaser of the Property is or will be lawful or permitted;
- (c) it is satisfied with the Property and all matters and things connected therewith or in any way related thereto;
- (d) it is relying entirely upon its own investigations and inspections in entering into this Agreement;
- (e) it is purchasing the Property on an "as is, where is" and "without recourse" basis including, without limitation, outstanding work orders, deficiency notices, compliance, requests, development fees, imposts, lot levies, sewer charges, zoning and building code violations and any outstanding requirements which have been or may be issued by any governmental authority having jurisdiction over the Property;
- (f) it relies entirely on its own judgment, inspection and investigation of the Property and acknowledges that any documentation relating to the Property obtained from the Vendor has been prepared or collected solely for the convenience of prospective purchasers and is not warranted to be complete or accurate and is not part of this Offer;
- (g) it will provide the Vendor with all requisite information and materials, including proof respecting source or funds, at any time or times within forty-eight (48) hours of request by the Vendor so that the Vendor may determine the creditworthiness of the Purchaser and any related parties thereto;
- (h) the Vendor shall have no liability or obligation with respect to the value, state or condition of the Property, whether or not the matter is within the knowledge or imputed knowledge of the Vendor, its officers, employees, directors, agents, representations and contractors;
- (i) the Vendor has made no representations or warranties with respect to or in any way related to the Property, including without limitation, the following: (i) the title, quality, quantity, marketability, zoning, fitness for any purpose, state, condition, encumbrances, description, present or future use, value, location or any other matter

- or thing whatsoever related to the Property, either stated or implied; and (ii) the environmental state of the Property, the existence, nature, kind, state or identity of any Hazardous Substances on, under, or about the Property (with the exception that to the best of the Vendor's knowledge and belief, without having made any inquiry, there are no Hazardous Substances on, under or about the Property), the existence, state, nature, kind, identity, extent and effect of any administrative order, control order, stop order, compliance order or any other orders, proceedings or actions under the *Environmental Protection Act* (Ontario), or any other statute, regulation, rule or provision of law now in existence (with the exception that to the best of the Vendor's knowledge without having made any inquiry, there are no outstanding administrative orders, control orders, stop orders, compliance orders or any other orders, proceedings, or actions under the *Environmental Protection Act* (Ontario) or any other statute, regulation, rule or provision of law relating to the Property), or the state, nature, kind, identity, extent and effect of any liability to fulfill any obligation to compensate any third party for any costs incurred in connection with or damages suffered as a result of any discharge of any Hazardous Substances whether on, under or about the Property or elsewhere (with the exception that to the best of the Vendor's knowledge without having made any inquiry, there is no such outstanding liability);
- (j) the Material Documents are being provided to the Purchaser merely as a courtesy and without any representations or warranties whatsoever with the exception that the Vendor has provided the Purchaser with all Material Documents;
- (k) it will ensure that any environmental and/or structural reports on behalf of the Purchaser shall also be addressed to the Vendor and a copy of each such report shall be delivered to the Vendor promptly after the completion thereof, regardless of whether the transaction contemplated by this Offer closes. If for any reason such transaction is not consummated, the Purchaser agrees to deliver promptly to the Vendor any and all reports and other data pertaining to the Property and any inspections or examinations conducted hereunder;
- (l) there is the potential of noxious emissions and/or odour emanating from the current or future uses of the Property; and
- (m) that it shall not make and shall be restricted from making any claim or taking any action in respect of the noxious emissions and/or odour emanating from the Property, this acknowledgment shall be a full estoppel to any claim in respect thereof, and this restriction shall be entered upon title to these Lands on or before closing.

## 12. Title to the Property

Provided that the title to the Property is good and free from all restrictions, charges, liens, claims and encumbrances, except as otherwise specifically provided in this Agreement, and save and except for:

- (a) any reservations, restrictions, rights of way, easements or covenants that run with the land;
- (b) any registered agreements with a municipality, region or supplier of utility service including, without limitations, electricity, water, sewage, gas, telephone or cable television or other telecommunication services;
- (c) all laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Property;
- (d) any minor easements for the supply of utility services or other services to the Lands or Buildings, if any, or adjacent properties;
- (e) encroachments disclosed by any error or omission in existing surveys of the Lands or neighbouring properties and any title defects, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Lands and survey of the Lands and survey matters generally;
- (f) the exceptions and qualifications set forth in *Land Titles Act* (Ontario), or amendments thereto, except paragraphs 11 and 14 or Section 44 of such act, and except provincial succession duties as of May 17, 1999;
- (g) any reservation(s) contained in the original grant from Crown;
- (h) the rights of any person who would, but for the *Land Titles Act* (Ontario) be entitled to the Lands or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention;
- (i) the right of any tenant, occupant, lessee or licensee to remove fixed equipment or other fixtures; and
- (j) those registrations set out in Schedule "C" attached hereto.

Notwithstanding the foregoing, the Vesting Order shall provide for the deletion of the instruments or registrations listed in Schedule "B" attached hereto, and for the deletion of

any filings registered under the *Personal Property Security Act* (Ontario), as they affect the Property.

**13. Authorizations**

The Purchaser shall assume, at its cost, complete responsibility for compliance with all municipal, provincial and federal laws insofar as the same apply to the Property and the use thereof by the Purchaser. It shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Purchaser of the Vendor's right, title and interest, if any, in the Property.

**14. Requisition Period**

The Purchaser shall be allowed until 5:00 o'clock p.m. (Toronto time) on the seventh Business Day following acceptance of this Offer to investigate the title to the Property and to satisfy itself that all present uses are the legal uses thereof or legal nonconforming uses which may be continued and that the Property may be insured against usual insurable risks, at the Purchaser's own expense. If within such time the Purchaser shall furnish the Vendor in writing with any valid objection to title to the Property, which the Vendor is unable or unwilling to remove, remedy or satisfy and which the Purchaser will not waive, then the Agreement shall be terminated, the Deposit and any interest earned thereon shall be returned to the Purchaser in accordance with Section 4(c) hereof and neither party shall have any further rights or liabilities hereunder. Save as to any valid objection made as aforesaid or which the law allows to be made and is made after expiry of the aforesaid period, the Purchaser shall be conclusively deemed to have accepted the title to the Property to be vested in the Purchaser on Closing in accordance with the Agreement, and to have accepted the Property subject to all applicable laws, by-laws, regulations, easements and covenants affecting its use and the Purchaser shall assume responsibility from and after the Closing Date for compliance therewith. The Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title to the Lands, except as are in the control or possession of the Vendor. The Vendor shall not be required to produce any other document or report to the Purchaser, unless it is expressly provided for by this Agreement. The description of the Property is believed by the Vendor to be correct but, if any statement, error or omission shall be found in the particulars thereof, the same shall not cancel the sale or entitle the Purchaser to be relieved of any obligation hereunder, nor shall any compensation be allowed to the Purchaser in respect thereof.

**15. Risk of Loss**

The Property shall be and remain until completion at the risk of the Vendor. The Property shall thereafter be at the risk of the Purchaser. Pending completion, the Vendor shall hold

all insurance policies, if any, and the proceeds thereof in trust for the parties as their interest may appear and in the event of substantial damage to the Property before the completion of the Agreement which damage gives rise to any insurance proceeds, the Purchaser may either terminate this Agreement and have the Deposit returned without interest or deduction or else take the proceeds of insurance and complete the transaction. Where any damage is not substantial, the Purchaser shall be obliged to complete the Agreement and be entitled to the proceeds of insurance referenced to such damage. The Purchaser agrees that all the insurance maintained by the Vendor shall be cancelled on the Closing Date and that the Purchaser shall be responsible for placing its own insurance thereafter.

#### **16. Planning Act**

This Agreement is subject to the express condition that if the provisions of Section 50 of the *Planning Act* (Ontario) apply to the sale and purchase of the Lands, then this Agreement shall be effective to create an interest in the Lands only if such provision is complied with.

#### **17. Harmonized Sales Tax**

The Purchaser hereby represents and warrants to the Vendor that it is or will become registered for the purposes of Part IX of the *Excise Tax Act* (Canada) in accordance with the requirements of Subdivision (d) of Division V thereof and it will continue to be so registered as of the Closing Date. The Purchaser covenants to deliver to the Vendor drafts not less than five (5) Business Days before the Closing Date and originals upon Closing of: (i) a notarial copy of the certificate evidencing its registration for purposes of the goods and services tax / harmonized sales tax (“HST”), including the registration number assigned to it; and (ii) a declaration and indemnity of the Purchaser confirming the accuracy, as at Closing, of the representations and warranties set out herein and agreeing to indemnify the Vendor for any amounts for which the Vendor may become liable as a result of any failure by the Purchaser to pay the HST payable in respect of the sale of the Property under Part IX of the *Excise Tax Act* (Canada) and that the Purchaser is buying for its own account and not as trustee or agent for any other party. Provided that the Purchaser delivers a notarial copy of the certificate and the declaration and indemnity as set out above, the Purchaser shall not be required to pay to the Vendor, nor shall the Vendor be required to collect from the Purchaser, the HST in respect of the Property. In the event that the Purchaser shall fail to deliver the notarial copy of the certificate and the declaration and indemnity as set out above, then the Purchaser shall pay to the Vendor, in addition to the Purchase Price, in pursuance of the Purchaser's obligation to pay and the Vendor's obligation to collect HST under the provisions of the *Excise Tax Act* (Canada), an amount equal to thirteen (13%) percent of the Purchase Price, or such rate due and owing at the time of Closing.

## **18. Closing**

Closing shall take place within ten (10) Business Days after the issuance of the Vesting Order by the Court, or such other date as the parties or their respective solicitors may mutually agree upon in writing (the “**Closing Date**” or “**Closing**”). Each party covenants and agrees to proceed expeditiously to complete the transaction of purchase and sale contemplated herein. Provided that the Vendor by written notice to the Purchaser or its solicitors may postpone the Closing Date from time to time, but in no event shall the date of Closing be postponed to a date more than one hundred and twenty days (120) after the Vendor has accepted this Offer. The Vendor and the Purchaser acknowledge that the Teraview Electronic Registration System (“**TERS**”) is operative and mandatory in the Land Titles Division for the Land Registry Office of Windsor (No. 12). The Purchaser and Vendor shall each retain legal counsel who are authorized TERS users and who are in good standing with The Law Society of Ontario. The Vendor and Purchaser shall each authorize their respective legal counsel to enter into a document registration agreement in the form as adopted by the joint LSO-CBAO Committee of documents and closing funds and the release thereof to the Vendor and Purchaser, as the case may be:

- (a) shall not occur contemporaneously with the registration of the Transfer/Deed of Land or Application to Register the Vesting Order, and Receiver’s Certificate required by the Vesting Order (and other registrable documentation, if any) to be registered by the Purchaser’s solicitor; and,
- (b) shall be governed by the document registration agreement pursuant to which legal counsel receiving any documents or funds will be required to hold same in escrow and will not be entitled to release except in strict accordance with provisions of the document registration agreement and the Purchaser shall be required to deliver the balance due on closing on the Closing Date to the Vendor’s solicitors, to be held in escrow by them, whereupon the Vendor’s solicitors shall after payment forthwith attend to have the signed Receiver’s Certificate filed with the Court, which signed and entered Receiver’s Certificate and Vesting Order shall form part of the Application to Register the Vesting Order, and which shall be delivered by the Vendor’s solicitors to the Purchaser’s solicitors for immediate registration by the Purchaser’s solicitors. Upon registration of the Application to Register the Vesting Order, the Vendor shall release possession of the Property to the Purchaser and the balance due on closing shall be released from escrow.

## **19. Vendor’s Closing Deliveries**

The Vendor shall execute and deliver or cause to be executed and delivered to the Purchaser on the Closing Date, against payment of the Purchase Price, the following:

- (a) a statement of adjustments;
- (b) a direction for the payment of the balance of the Purchase Price due on Closing;
- (c) an undertaking by the Vendor to readjust all items on the statement of adjustments within sixty (60) days from the date of Closing on written demand;
- (d) a certificate of the Vendor to the effect that it is not at the Closing Date a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act*;
- (e) a copy of the Vesting Order;
- (f) the signed Receiver's Certificate that has been entered by the Court;
- (g) any and all keys to the Property that may be in the possession of the Vendor, if any;
- (h) copies of all Material Documents, if not already in the possession of the Purchaser; and
- (i) any other documents relative to the completion of this Agreement as may reasonably be required by the Purchaser or its solicitors.

**20. Purchaser's Closing Deliveries**

The Purchaser shall execute and deliver to the Vendor on the Closing Date the following:

- (a) certified cheques or bank drafts of a Canadian chartered bank or trust company for the balance of the Purchase Price and any other monies required to be paid by the Purchaser pursuant to the Agreement, or the adjustments, including all applicable federal and provincial taxes, duties and registration fees unless the applicable exemption certificates in a form acceptable to the Vendor are presented to the Vendor on or before the Closing Date to exempt the Purchaser therefrom;
- (b) all certificates, indemnities, declarations and other evidences contemplated hereby in form and content satisfactory to the Vendor's solicitors, acting reasonably;
- (c) an undertaking by the Purchaser to readjust all items on the statement of adjustments;
- (d) a notarial copy of its HST registration and HST certificate and indemnity as required pursuant to this Agreement; and
- (e) any other documents relative to the completion of this Agreement as may reasonably be required by the Vendor or its solicitors.



**21. Inspection**

Without limitation, all of the Property shall be as it exists on the Closing Date with no adjustments to be allowed to the Purchaser for changes in conditions or qualities from the date hereof to the Closing Date. The Purchaser acknowledges and agrees that the Vendor is not required to inspect the Property or any part thereof and the Purchaser shall be deemed, at its own expense to have relied entirely on its own inspection and investigation. The Purchaser acknowledges that no warranties or conditions, expressed or implied, pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in other jurisdictions apply hereto and all of the same are hereby waived by the Purchaser.

**22. Encroachments**

The Purchaser agrees that the Vendor shall not be responsible for any matters relating to encroachments on or to the Lands or Buildings, if any, or encroachments of the Property onto adjoining lands, or to remove same, or for any matters relating to any applicable zoning regulations or by-laws in existence now or in the future affecting the Property.

**23. Purchaser's Warranties**

The Purchaser represents and warrants that:

- (a) if applicable, it is a corporation duly incorporated, organized and subsisting under the laws of Canada, Ontario or another province of Canada;
- (b) if applicable, it has the corporate power and authority to enter into and perform its obligations under the Agreement and all necessary actions and approvals have been taken or obtained by the Purchaser to authorize the creation, execution, delivery and performance of the Offer and resulting Agreement and the Offer has been duly executed and delivered by the Purchaser, and the resulting Agreement is enforceable against the Purchaser in accordance with its terms; and
- (c) it is not a non-Canadian for the purpose of the *Investment Canada Act* (Canada) and it is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

**24. Confidentiality**

The Purchaser agrees that all information and documents supplied by the Vendor or anyone on its behalf to the Purchaser or anyone on the Purchaser's behalf (including but not limited to information in the schedules hereto) shall, unless and until Closing occurs, be received and kept by the Purchaser and anyone acting on the Purchaser's behalf on a confidential basis and shall not without the Vendor's prior written consent be disclosed to any third

party. If for any reason Closing does not occur, all such documents (including without limitation, the Material Documents) shall forthwith be returned intact to the Vendor and no copies or details thereof shall be retained by the Purchaser or anyone acting on its behalf. The Purchaser further agrees that the Purchaser shall keep the terms of this Offer and Agreement confidential and shall not disclose the same to anyone except the Purchaser's solicitors, agents or lenders acting in connection herewith and then only on the basis that such persons also keep such terms confidential as aforesaid.

## **25. Indemnification**

The Purchaser shall indemnify and save harmless the Vendor and its directors, officers, employees and agents (collectively, the "**Indemnitees**") from and against any and all liabilities, obligations, losses, damages, penalties, notices, judgments, suits, claims, demands, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Indemnitees or any of them arising out of or in connection with the operations of the Purchaser on the Property or any order, notice, directive, or requirement under, or breaches, violations or non-compliance with any Environmental Laws after the Closing Date or as a result of the disposal, storage, release or threat of release or spill on or about the Property of any Hazardous Substance after the Closing Date. The obligation of the Purchaser hereunder shall survive the Closing Date.

The Purchaser shall indemnify the Vendor and save harmless the Indemnitees from and against any and all liabilities, obligations, losses, damages, penalties, notices, judgments, suits, claims, demands, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Indemnitees or any of them arising out of or in connection with the failure of the Purchaser to pay any taxes, duties, fees and like charges exigible in connection with the Offer or Agreement. It shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining, any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Purchaser of the Property.

## **26. Release**

The Purchaser agrees to release and discharge the Vendor together with its officers, employees, agents and representatives from every claim of any kind that the Purchaser may make, suffer, sustain or incur in regard to any Hazardous Substance relating to the Property. The Purchaser further agrees that the Purchaser will not, directly or indirectly, attempt to compel the Vendor to clean up or remove or pay for the cleanup or removal of any Hazardous Substance, remediate any condition or matter in, on, under or in the vicinity of the Property or seek an abatement in the Purchase Price or damages in connection with any Hazardous Substance. This provision shall not expire with, or be terminated or extinguished by or merged in the Closing of the transaction of purchase and sale,

contemplated by this Offer and the Agreement, and shall survive the termination of this Offer and the Agreement for any reason or cause whatsoever and the closing of this transaction.

**27. Non-Registration**

The Purchaser hereby covenants and agrees not to register this Offer or the Agreement or notice of this Offer or the Agreement or a caution, certificate of pending litigation, or any other document providing evidence of this Offer or the Agreement against title to the Property. Should the Purchaser be in default of its obligations under this Section, the Vendor may (as agent and attorney of the Purchaser) cause the removal of such notice of this Offer or the Agreement, caution, certificate of pending litigation or other document providing evidence of this Offer or the Agreement or any assignment of this Offer or the Agreement from the title to the Property. The Purchaser irrevocably nominates, constitutes and appoints the Vendor as its agent and attorney in fact and in law to cause the removal of such notice of this Offer or the Agreement, any caution, certificate of pending litigation or any other document or instrument whatsoever from title to the Property.

**28. Assignment**

Save and except for the completion of this transaction by a company to be incorporated by the Purchaser, the Purchaser shall not have the right to assign its rights under this Agreement without the Vendor's prior written consent, which consent may be unreasonably withheld. Notice of the Purchaser's intention to assign, with the assignee's name and address for service and the assignee's HST number shall be provided to the Vendor not less than seven (7) Business Days prior to the Closing Date.

**29. Notices**

Any notice to be given or document to be delivered to the parties pursuant to this Agreement shall be sufficient if delivered personally or sent by email or sent by facsimile or mailed by prepaid registered mail at the following addresses:

To Vendor:

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

Attention: David Sieradzki, Managing Director  
Phone: 416.932.6030  
Email: dsieradzki@ksvadvisory.com

**With a copy to:**

Dickinson Wright LLP  
199 Bay Street  
Suite 2200  
Commerce Court West  
Toronto, ON M5L 1G4

Attention: John D. Leslie  
Phone: (416) 646-3801  
Email: [jleslie@dickinsonwright.com](mailto:jleslie@dickinsonwright.com)

and in the case of a notice to the Purchaser, to:

Nexe Innovations Inc.  
109-19353 22 Avenue  
Surrey, BC V3Z 3S6

Attention: Darren Footz, CEO  
Email: [darren.footz@nexeinnovations.com](mailto:darren.footz@nexeinnovations.com)  
Phone: (604) 359-4733

**With a copy to**

Bennett Jones LLP  
3400 One First Canadian Place  
P.O. Box 130  
Toronto, ON, M5X 1A4

Attention: Christian Gauthier/Giovanna C. Campagna  
Phone: (604) 891-5120  
Email: [GauthierC@bennettjones.com/campagnag@bennettjones.com](mailto:GauthierC@bennettjones.com/campagnag@bennettjones.com)

Any written notice or delivery of documents given in this manner shall be deemed to have been given and received on the day of delivery if delivered personally or sent by email or sent by facsimile or, if mailed, three (3) Business Days after the deposit with the post office.

**30. Entire Agreement**

The Agreement shall constitute the entire agreement between the parties to it pertaining to the subject matter thereof and shall supersede all prior and contemporaneous agreements,

understandings, negotiations and discussions, whether oral or written, of the parties and there shall be no agreements or understandings between the parties in connection with the subject matter thereof except as specifically set forth herein. No party hereto has relied on any express or implied representation, written or oral, of any individual or entity as an inducement to enter into the Agreement.

**31. Amendment**

No supplement, modification, waiver or termination of the Agreement shall be binding, unless executed in writing by the parties to be bound thereby, provided that the time provided for doing any matter or thing contemplated herein may be abridged or extended by written agreement, in letter form or otherwise, executed by the duly authorized solicitors for the parties.

**32. Expenses**

Except as otherwise expressly provided in this Agreement, each Party will be responsible for all costs and expenses it incurs (including the fees and disbursements of its legal counsel, investment advisers, brokers, accountants and other professional advisers) in connection with the negotiation, preparation, execution, delivery and performance of this Agreement, any ancillary agreements and the transactions contemplated by them, whether or not the transactions contemplated by this Agreement are consummated. For clarity, the Purchaser will not be responsible for any expenses incurred by the Vendors in connection with this Agreement or the transactions contemplated by them.

**33. Time of Essence**

Time shall be of the essence in this Agreement in all respects and any waiver of any time provision shall not be effective unless in writing and signed by both parties.

**34. Binding Agreement**

This Offer, when accepted, shall constitute a binding agreement of purchase and sale subject to its terms. It is agreed that there is no representation, warranty, collateral agreement or condition affecting the Agreement or the Property supported hereby other than as expressed herein in writing.

**35. Governing Law**

This Offer and the Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**36. Gender, Interpretive Matters**

This Offer and the Agreement shall be read with all changes of gender or number required by the context. The titles to provisions do not form part of this Offer or the Agreement and are inserted for reference purposes only. Preparation and submission of the form of this Offer or any other material by the Vendor shall not constitute an offer to sell.

**37. Severability**

Any provision of this Agreement which is determined to be void, prohibited or unenforceable shall be severable to the extent of such avoidance, prohibition or unenforceability without invalidating or otherwise limiting or impairing the other provisions of this Agreement.

**38. Non-Merger**

The provisions of this Agreement (including, without limitation, the representations and warranties of the Purchaser), shall survive Closing and shall not merge in the Vesting Order or in any other documents delivered hereunder.


**39. Counterparts**

The parties hereto agree that this Agreement may be executed in counterparts and by facsimile transmission and each such counterpart so executed by facsimile transmission shall be deemed to be an original and when taken together shall constitute as one and the same Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Purchaser has executed this Offer this 22nd day of December, 2021.

**NEXE INNOVATIONS Inc., on behalf of a company to be incorporated**

By:   
Name:  
Title: CEO



*I have authority to bind the corporation.* 22nd

Subject to the Approval of the Court, the undersigned hereby accepts the foregoing Offer this ~~21st~~ day of December, 2021

**KSV RESTRUCTURING INC.**  
in its capacity as Court-appointed receiver and manager of all of the Debtor's assets, undertakings and properties and not in its personal or corporate capacity

Phone: 416.932.6030  
Email: dsieradzki@ksvadvisory.com

By:  David Sieradzki 12/22/21  
Name: David Sieradzki  
Title: Managing Director

*I have authority to bind the corporation.*

**SCHEDULE "A"**  
**LEGAL DESCRIPTION OF THE PROPERTY**  
***(PIN 01379-0091 (LT))***

PT BLK E PL 1644 WINDSOR PTS 2 & 3 12R12466; WINDSOR



## **SCHEDULE "B"**

### **REGISTRATIONS TO BE DELETED FROM PIN 01379-0091 (LT)**

- (i) Instrument No. CE571214 registered 2013/07/02 being a Transfer in favour of JD Norman Canada, ULC.
- (ii) Instrument No. CE837574 registered 2018/07/10 being a Charge in favour of Callidus Capital Corporation.
- (iii) Instrument No. R932547 registered on 1985/03/26 being an Agreement regarding a right of first refusal between Peerless-Cascade Plastics Limited and Windsor Plastic Products Limited.

## SCHEDULE "C"

### REGISTRATIONS TO BE PERMITTED ON PIN 01379-0091 (LT)

- (i) any reservations, restrictions, rights of way, easements or covenants that run with the Property.
- (ii) any registered agreements with a municipality, region or supplier of utility service including, without limitations, electricity, water, sewage, gas, telephone or cable television or other telecommunication services.
- (iii) all laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Property.
- (iv) any minor easements for the supply of utility services or other services to the Property or adjacent Property.
- (v) encroachments disclosed by any error or omission in existing surveys of the Property or neighbouring Property and any title defects, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Property and survey of the Property and survey matters generally.
- (vi) the exceptions and qualifications set forth in the *Land Titles Act* (Ontario), or amendments thereto, except paragraphs 11 and 14 of section 44 of such Act and provincial succession duties as of May 17, 1999.
- (vii) any reservation(s) contained in the original grant from Crown.
- (viii) the right of any tenant, occupant, lessee or licensee to remove fixed equipment or other fixtures.
- (ix) the rights of any person who would, but for the *Land Titles Act* (Ontario) be entitled to the Lands or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention.
- (x) Instrument No. 12R12466 registered 1993/03/11 being a plan of reference.
- (xi) Instrument No. 12R1844 registered 1974/10/25 being a plan of reference.
- (xii) Instrument No. 124577 registered 1978/08/28 being a plan of reference.
- (xiii) Instrument Nos. R844423 and R844424 registered 1981/10/27 being notices relating to Windsor Airport zoning by law amendments; and
- (xiv) Instrument No. 12R7590 registered 1984/07/09 being a plan of reference.

## FIRST AMENDMENT TO AGREEMENT OF PURCHASE AND SALE

This Agreement is dated as of the 23<sup>rd</sup> day of December, 2021.

BETWEEN:

**KSV RESTRUCTURING INC.** in its capacity as court-appointed Receiver, without security, of all of the assets, undertakings and properties of JD Norman Canada, ULC

(the "**Vendor**")

-and-

**NEXE INNOVATIONS INC.**, on behalf of a company to be incorporated

(the "**Purchaser**")

### RECITALS

- A. **WHEREAS** the Vendor and the Purchaser entered into an agreement of purchase and sale dated as of December 22, 2021 (the "**Original Agreement**") with respect to the property commonly known as the 6845 Hawthorne Drive,, Windsor, Ontario (the "**Property**");
- B. **AND WHEREAS** the Vendor and the Purchaser have agreed to amend the Original Agreement effective as of the date first set out above, on and subject to the terms set out herein;

**NOW THEREFORE**, for good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties hereto hereby covenant and agree as follows:

#### 1. **Amendments to the Original Agreement**

The Vendor and the Purchaser hereby agree, each with the other, that effective as of the date first set out above, the Original Agreement is hereby amended by:

- (a) the definition of the term "**Due Diligence Date**", as set out in Section 2 of the Original Agreement, is hereby amended to read: "**Due Diligence Date**" means Friday January 7, 2022 at 5:00 p.m. (Toronto time)."

#### 2. **Definitions**

Capitalized terms used but not defined herein have the respective meanings ascribed thereto in the Original Agreement.

3. **Entire Agreement**

This Agreement and the Original Agreement and any agreements, instruments and other documents herein contemplated to be entered into between, by or including the parties hereto constitute the entire agreement between the parties hereto pertaining to the agreement of purchase and sale provided for herein and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto, and there are no other warranties or representations and no other agreements between the parties hereto in connection with the agreement of purchase and sale provided for herein except as specifically set forth in this Agreement and the Original Agreement or the schedules attached hereto or thereto.

4. **Counterparts**

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

5. **Successors and Assigns**

All of the covenants and agreements in this Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall enure to the benefit of and be enforceable by the parties hereto and their respective successors and their permitted assigns pursuant to the terms and conditions of this Agreement.

6. **Amendment of Agreement**

No supplement, modification, waiver or termination of this Agreement (other than a termination permitted to be unilaterally made by the Vendor or Purchaser pursuant to the terms of this Agreement) shall be binding unless executed in writing by the parties hereto in the same manner as the execution of this Agreement.

7. **Further Assurances**

Each of the parties hereto shall from time to time hereafter and upon any reasonable request of the other, execute and deliver, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

– Signatures follow on next page –

**IN WITNESS WHEREOF** the parties have executed this Agreement as of the date first written above.

**KSV RESTRUCTURING INC.**

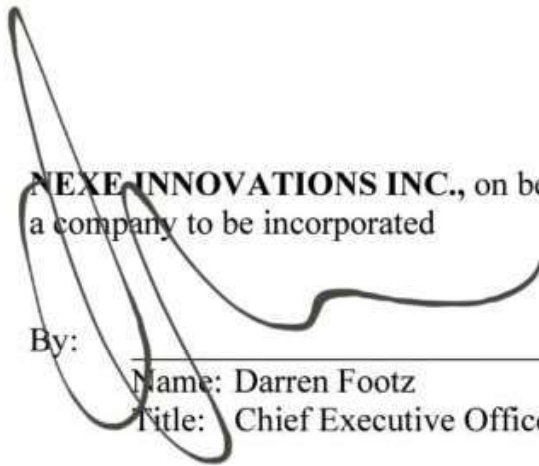
in its capacity as Court-appointed receiver and manager of all of JD Norman Canada, ULC assets, undertakings and properties and not in its personal or corporate capacity



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

Name: David Sieradzki  
Title: Managing Director

**NEXE INNOVATIONS INC.,** on behalf of a company to be incorporated



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

Name: Darren Footz  
Title: Chief Executive Officer

## Appendix “E”



CBRE Limited  
3200 Deziel Drive, Suite 110  
Windsor, Ontario N8W 5K8  
T 519 946 3034  
F 519 252 7554  
[www.cbre.ca](http://www.cbre.ca)

January 12<sup>th</sup>, 2022

KSV Restructuring Inc.  
c/o David Sieradzki  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

**RE: CBRE RECOMMENDATION LETTER – 6845 HAWTHORNE DRIVE, WINDSOR, ONTARIO**

David and Whom it May Concern,

With respect to the receivership sale listing of 6845 Hawthorne Drive in Windsor, Ontario and conditional agreement of purchase and sale with Nexe Innovations Inc. accepted December 22, 2021 (the "Agreement"), CBRE has recommended KSV Restructuring Inc. accept and proceed with the terms of the Agreement. In CBRE's professional opinion, the proposed business terms and sale price in the Agreement are at or above market for comparable industrial facilities in the Windsor market and the price fall within CBRE's recommended value range. The strong price and business terms achieved are reflective of a comprehensive marketing campaign, multi-national buyer outreach program and the competitive nature of the interested parties and offers received.

Regards,

A handwritten signature in black ink, appearing to read "Brook Handysides".

Brook Handysides  
CBRE Limited, Brokerage  
Vice President | Sales Representative

A handwritten signature in black ink, appearing to read "Brad Collins".

Brad Collins  
CBRE Limited, Brokerage  
Senior Associate | Sales Representative

## Appendix “F”



Osler, Hoskin & Harcourt LLP  
 Box 50, 1 First Canadian Place  
 Toronto, Ontario, Canada M5X 1B8  
 416.362.2111 MAIN  
 416.862.6666 FACSIMILE

OSLER

Toronto

October 29, 2021

Montréal

Marc Wasserman  
 Direct Dial: 416.862.4908  
 mwasserman@osler.com  
 Our Matter Number: 1218510

Calgary

**SENT BY ELECTRONIC MAIL**

Ottawa

Colliers International London Ontario Brokerage

Vancouver

650 Colborne Street

London, ON N6A 5A1

New York

[Chris.Kirwin@colliers.com](mailto:Chris.Kirwin@colliers.com)

[Matt.Chambers@colliers.com](mailto:Matt.Chambers@colliers.com)

Attention: Chris Kirwin and Matt Chambers

Dear Chris and Matt:

**Re: JD Norman Canada, ULC – Listing Agreement re Real Property Disposition (6845 Hawthorne Drive) (the “Property”)**

Further to your discussions with our client, KSV Restructuring Inc., in its capacity as Court-Appointed Receiver (the “**Receiver**”) of JD Norman Canada, ULC, we confirm that upon the expiry date (October 31, 2021) of the Listing Agreement – Commercial between Colliers International London Ontario, Brokerage (the “**Brokerage**” or “**you**”) and the Receiver dated April 19, 2021 (the “**Agreement**”), the Receiver will not be extending the Agreement.

The Receiver will be listing the Property with another brokerage firm. The basis for this decision has been made clear to you as, despite your repeated assurances that your proposed list price of \$6 million was commercially reasonable, you were able to produce only one \$3.5 million conditional offer for the Receiver’s consideration over the course of the six-month listing period.

Furthermore, in conjunction with discussions with the Receiver, we confirm we are in receipt of your proposed Cancellation of Listing Agreement – Commercial (“**Cancellation Agreement**”). Our client will not be executing the Cancellation Agreement and the Receiver will instead let the Agreement expire.

Please be advised that we are hereby putting you on notice that, with respect to the 120 Day Holdover (the “**Holdover Period**”) provision in section 2 of the Agreement and your proposed 120 Day Holdover List in the Cancellation Agreement, the Receiver takes the position that such provision will be unenforceable, and as such, the Receiver will not pay the Brokerage any commission on any sale of the Property, should the Receiver accept an offer for the Property for a purchase price below \$5 million. We rely upon section 5 of Schedule “A” to the Agreement, together with the representations you made regarding the

proposed purchase price inducing our client to execute the Agreement. We also note that your holdover party listing includes all realtors with whom you have communicated during the marketing period. In the Receiver's experience, only interested prospective purchasers who performed diligence are to be included in any holdover party listing. Accordingly, the Receiver reserves all of its rights to dispute any of the parties included on your holdover party listing, if applicable.

In any event, should the Receiver accept an offer for the Property during the Holdover Period, the Receiver will provide you with notice of the sale approval motion so that you may have the opportunity to appear and raise your concerns, if any, with the court at that time.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Wasserman", with a stylized flourish at the end.

Marc Wasserman

## Appendix “G”

JD Norman Canada, ULC

**Statement of Receipts and Disbursements**

For the Period February 12, 2021 to January 11, 2022

(CAD\$; unaudited)

**Receipts**

Fixed asset liquidation proceeds	450,000
HST refunds	261,480
Bank of America funded reserve for priority claims	166,000
Miscellaneous refunds and income	147,827
Inventory realizations	121,097
Receivership funding - Callidus Capital Corporation	37,480
Bank of America cost contribution	20,000
	<u>1,203,884</u>

**Disbursements**

Court-Approved Distribution to Callidus Capital Corporation	300,000
Reimbursement of Bank of America reserve	166,000
Operating expenses (utilities, security, storage, etc.)	140,083
Union Settlement re inventory sales	121,097
HST paid on disbursements	56,157
Repayment of receivership funding - Callidus Capital Corporation	37,500
Payroll costs	36,988
Insurance	19,034
Environmental assessment fees	17,650
Professional fees	
Receiver	143,050
Receiver's legal counsel	132,973
	<u>1,170,532</u>

Receivership Bank Balance

**33,352**

## Appendix “H”

Court File No. CV-21-00656820-00CL

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

THE HONOURABLE MR.	)	TUESDAY, THE 16 <sup>th</sup>
	)	
JUSTICE CAVANAGH	)	DAY OF NOVEMBER, 2021

**IN THE MATTER OF SECTION 243 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**

B E T W E E N:

**CALLIDUS CAPITAL CORPORATION**

Applicant

- and -

**JD NORMAN CANADA, ULC**

Respondent




**INTERIM DISTRIBUTION ORDER**

**THIS MOTION**, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver (the “**Receiver**”) of the property, assets and undertakings of JD Norman Canada, ULC (the “**Debtor**”) for an order, *inter alia*, (i) authorizing and directing the Receiver to make the Proposed Interim Distribution (as defined herein) in accordance with the Third Report of the Receiver dated November 9, 2021 (the “**Third Report**”), (ii) authorizing and directing the Receiver to make further distributions to the Applicant in accordance with the Third Report, and (iii) approving the Third Report and the Receiver’s activities described therein, and other relief, was heard this day by judicial videoconference via Zoom at Toronto, Ontario due to the COVID-19 crisis.

**ON READING** the Third Report, and on hearing the submissions of counsel for the Receiver, counsel for the Applicant and those other parties present, no one else appearing although duly served as appears from the affidavits of service of Chloe Nanfara, made November 9, 2021 and November 11, 2021:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Third Report herein is hereby abridged and validated so that this Motion is properly returnable today and any further service thereof is hereby dispensed with.
2. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to make the proposed interim distribution to the Applicant of \$300,000 (the “**Proposed Interim Distribution**”), as set out in the Third Report, subject to any necessary reserves as determined by the Receiver.
3. **THIS COURT ORDERS** that following the Proposed Interim Distribution, the Receiver be and is hereby authorized and directed to make further distributions to the Applicant, up to the amount of the Debtor’s secured indebtedness owing to the Applicant, subject to any necessary reserves as determined by the Receiver.
4. **THIS COURT ORDERS** that the Third Report be and is hereby approved and the activities of the Receiver as described therein be and is hereby approved.
5. **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.
6. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within

proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.



Digitally signed by  
Mr. Justice Cavanagh

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**CALLIDUS CAPITAL  
CORPORATION**

**JD NORMAN CANADA, ULC**

Court File No: CV-21-00656820-00CL

and

Applicant

Respondent

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT: TORONTO

**INTERIM DISTRIBUTION ORDER**

**OSLER, HOSKIN & HARCOURT LLP**  
100 King Street West, 1 First Canadian Place  
Suite 6200, P.O. Box 50, Toronto ON M5X 1B8

**Marc Wasserman** (LSO# 44066M)  
Email: [mwasserman@osler.com](mailto:mwasserman@osler.com)  
Tel: 416-862-4908

Counsel for the Court-Appointed Receiver

## Appendix “I”

Court File No. CV-21-00656820-00CL

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

**B E T W E E N:**

**CALLIDUS CAPITAL CORPORATION**

Applicant

- and -

**JD NORMAN CANADA, ULC**

Respondent

**AFFIDAVIT OF DAVID SIERADZKI**  
(Sworn January 14, 2022)

I, David Sieradzki, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Managing Director of KSV Restructuring Inc. ("**KSV**").
2. Pursuant to an application by Callidus Capital Corporation ("Callidus"), the Ontario Superior Court of Justice (Commercial List) ("Court") made an order on February 12, 2021 ("Receivership Order") appointing KSV as the receiver ("Receiver") of the properties, assets and undertakings of JD Norman Canada, ULC (the "Company").
3. I have had principal oversight of this mandate since the date of the Receivership Order. As such, I have knowledge of the matters to which I hereinafter depose.
4. On January 14, 2022, the Receiver finalized its Fourth Report to Court in which it outlined its activities with respect to the Company as well as provided information with respect to the Receiver's fees and disbursements and those of its legal counsel.

5. I hereby confirm that attached as Exhibit "A" hereto are true copies of the accounts of KSV for the period February 1 to December 31, 2021 and confirm that these accounts accurately reflect the services provided by KSV in this matter and the fees and disbursements claimed by them.


6. Additionally, attached hereto as Exhibit "B" is a summary of additional information with respect to all members of KSV who have worked on this matter, including their roles, hours and rates, and I hereby confirm that the list represents an accurate account of such information.

7. I consider the accounts to be fair and reasonable considering the circumstances connected with this administration.

8. I also confirm that the Receiver has not received, nor expects to receive, nor has the Receiver been promised any remuneration or consideration other than the amounts claimed in the accounts.

SWORN BEFORE ME at the City of Toronto, )  
in the Province of Ontario, this 14<sup>th</sup> day of )  
January, 2022. )

  
\_\_\_\_\_  
Commissioner for taking affidavits, etc. )

  
\_\_\_\_\_  
DAVID SIERADZKI

Rajinder Kashyap, a Commissioner, etc.,  
Province of Ontario, for KSV Restructuring Inc.  
Expires January 27, 2024.

THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF DAVID SIERADZKI  
SWORN BEFORE ME THIS 14<sup>th</sup> DAY OF JANUARY, 2022



---

A Commissioner for taking Affidavits, etc.

**Rajinder Kashyap, a Commissioner, etc.,  
Province of Ontario, for KSV Restructuring Inc.  
Expires January 27, 2024.**



---

**INVOICE**

JD Norman Canada, ULC  
c/o KSV Restructuring Inc.  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

March 10, 2021

Invoice No: 2116  
HST #: 818808768RT0001

**Re: JD Norman Canada, ULC (the “Company”)**

For professional services rendered during February 2021 by KSV Restructuring Inc. (“KSV”) in its capacity as Court-appointed receiver (“Receiver”) of the Company’s property, assets and undertaking pursuant to an order made on February 12, 2021 (the “Receivership Order”) by the Ontario Superior Court of Justice – Commercial List (the “Court”), including:

- Corresponding extensively with Osler Hoskin & Harcourt LLP (“Osler”) and Dickinson Wright LLP (“DW”) and Norton Rose Fulbright Canada LLP (“NR”) in the weeks leading up to the Receiver’s appointment;
- Reviewing and commenting on multiple versions of the receivership application materials, including a draft affidavit and Receivership Order;
- Preparing for the Company’s receivership proceedings, including drafting letters to various stakeholders and a checklist of matters to be addressed;
- Attending at Court (virtually) for the receivership application on February 12, 2021;
- Taking possession of the Company’s property and assets, including arranging for new locks and alarm codes at the Windsor facility;
- Corresponding extensively with Osler, NR and DW regarding the union blockade preventing the final shipments of the Company’s inventory;
- Drafting the Receiver’s First Report to Court dated February 15, 2021 in connection with the union blockade issues;
- Reviewing and commenting on draft Court materials prepared by Osler for a motion returnable February 17, 2021;
- Reviewing Court materials filed by the union’s legal counsel and discussing same with NR and Osler;

- Attending at Court (virtually) on February 17, 2021;
- Negotiating a settlement with the union on or around February 18, 2021;
- Working with the Company's former employees and its parent company in the US to facilitate the inventory shipments from the Windsor facility;
- Reviewing letters of resignation from the Company's directors and officers;
- Drafting consulting agreements for certain former non-unionized employees and corresponding with Osler regarding same;
- Corresponding with the Company's suppliers and service providers, including attending numerous telephone calls, to discuss the receivership proceedings and to secure supply/service during the receivership proceedings, when required;
- Corresponding with Walton Insurance Group, the Company's insurance provider, to obtain details relating to insurance held by the Company;
- Drafting the Receiver's Statement and Notice (the "Receiver's Notice") as required under Sections 245 and 246 of the *Bankruptcy and Insolvency Act*;
- Compiling a list of the Company's creditors to include with the Receiver's Notice;
- Corresponding regularly with Doug Chauvin, the Company's former Production Manager, to discuss, *inter alia*, the upcoming realization process, and issues relating to the Company's leased assets;
- Corresponding with Debbie Gonzalez, the Company's former Materials Manager, to discuss, *inter alia*, the shipment of raw materials, finished goods and dunnage from the Company's plant in Windsor, Ontario;
- Corresponding with CRA regarding the Company's current HST and source deductions accounts;
- Corresponding with Kim Segarac, the Company's former Human Resource Manager, to discuss payroll information relating to former employees to determine eligibility for the *Wage Earner Protection Program* ("WEPP");
- Carrying out the Receiver's obligations under WEPP, including preparing Trustee Information Forms and WEPP packages for the Company's former employees of the Company;
- Drafting interest solicitation letters for liquidation firms and commercial realtors to be used as part of the Receiver's realization process;
- Drafting a confidentiality agreement to be provided to parties participating in the realization process;
- Circulating the solicitation letter and confidentiality agreement to approximately 15 liquidation firms and four realtors;
- Attending multiple calls with parties interested in purchasing the Company's assets;

- Arranging for plant tours to be conducted by liquidators and realtors;
- Opening receivership bank accounts;
- Responding to enquiries from creditors;
- Posting the Receivership Order and other Court materials on the Receiver's website;
- Paying receivership expenses; and
- To all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements per attached time summary	CAD\$	32,687.07
HST		<u>4,249.32</u>
Total due	CAD\$	<u><u>36,936.39</u></u>



KSV Restructuring Inc.  
JD Norman Canada, ULC

**Time Summary**

For the period ended February 28, 2021

<b>Personnel</b>	<b>Role</b>	<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
David Sieradzki	Overall responsibility	650	27.50	17,875.00
Emily Klein	All aspects of mandate	400	31.00	12,400.00
Administrative/Other				1,892.50
Total Fees				<u>32,167.50</u>
Disbursements				519.57
Total Fees and Disbursements				<u><u>32,687.07</u></u>



150 King Street West, Suite 2308  
Toronto, Ontario, M5H 1J9  
T +1 416 932 6262  
F +1 416 932 6266

ksvadvisory.com

---

## INVOICE

JD Norman Canada, ULC  
c/o KSV Restructuring Inc.  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

April 6, 2021

Invoice No: 2137  
HST #: 818808768RT0001

**Re: JD Norman Canada, ULC (the “Company”)**

For professional services rendered during March 2021 by KSV Restructuring Inc. (“KSV”) in its capacity as Court-appointed receiver (“Receiver”) of the Company’s property, assets and undertaking pursuant to an order made on February 12, 2021 (the “Receivership Order”) by the Ontario Superior Court of Justice – Commercial List (the “Court”), including:

- Corresponding with the Company’s suppliers and service providers to discuss the receivership proceedings and to secure supply/service during the receivership proceedings, as required;
- Corresponding regularly with Doug Chauvin, the Company’s former Production Manager, to discuss, *inter alia*, the upcoming asset realization process, and issues relating to the Company’s leased assets;
- Corresponding with Debbie Gonzalez, the Company’s former Materials Manager, to discuss, *inter alia*, the shipment of dunnage from the Company’s plant in Windsor, Ontario;
- Corresponding with Canada Revenue Agency (“CRA”) regarding the Company’s HST and source deduction accounts;
- Responding to information requests submitted by CRA in connection with its payroll trust examination;
- Filing the Receiver’s HST return for February 2021;
- Corresponding with Kim Segarac, the Company’s former Human Resource Manager, to discuss former employee enquiries on the *Wage Earner Protection Program* (“WEPP”), issuance of T4s and other employment matters;
- Carrying out the Receiver’s obligations under WEPP, including updating Service Canada for former employees’ information and completed proofs of claim;

- Responding to enquiries from the Company's former employees pertaining to WEPP;
- Responding to unsolicited calls and emails from parties interested in purchasing the Company's assets;
- Responding to prospective realtor and liquidator enquiries regarding the property and fixed assets;
- Facilitating diligence requests and site visits for realtors and liquidators prior to the bid submission deadline of March 15 and 24, 2021, respectively;
- Reviewing the liquidation bids and listing proposals and preparing a summary of same for Callidus Capital ("Callidus");
- Discussing the bids submitted with Callidus and its legal counsel, Dickinson Wright LLP;
- Attending calls with prospective realtors, Callidus and Dickinson Wright to discuss the listing proposals, including with:
  - Colliers on March 23, 2021;
  - CBRE on March 24, 2021; and
  - JLL on March 24, 2021;
- Arranging for the pick-up of leased equipment upon execution of a release by the applicable equipment lessor;
- Reviewing invoices and preparing weekly disbursements, including bi-weekly contractor payments;
- Corresponding with the Company's US parent regarding information requests, including on the status of collecting receivables for the shipments of inventory facilitated by the Receiver at the commencement of the receivership proceedings;
- Responding to enquiries from creditors;
- Paying receivership expenses; and
- To all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements per attached time summary	CAD\$	31,159.32
HST		<u>4,050.71</u>
Total due	CAD\$	<u><u>35,210.03</u></u>

KSV Restructuring Inc.  
JD Norman Canada, ULC

**Time Summary**

For the period ended March 31, 2021

<b>Personnel</b>	<b>Role</b>	<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
David Sieradzki	Overall responsibility	650	21.75	14,137.50
Emily Klein	All aspects of mandate	400	36.90	14,760.00
Administrative/Other				1,653.75
Total Fees				<u>30,551.25</u>
Disbursements				608.07
Total Fees and Disbursements				<u><u>31,159.32</u></u>



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## INVOICE

JD Norman Canada, ULC  
c/o KSV Restructuring Inc.  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

May 6, 2021

Invoice No: 2178  
HST #: 818808768RT0001

**Re: JD Norman Canada, ULC (the “Company”)**

For professional services rendered during April 2021 by KSV Restructuring Inc. (“KSV”), in its capacity as Court-appointed receiver (“Receiver”) of the Company’s property, assets and undertaking pursuant to an order made on February 12, 2021 (the “Receivership Order”) by the Ontario Superior Court of Justice – Commercial List (the “Court”), including:

- Discussing the liquidation bids and listing proposals with Callidus Capital and its legal counsel, Dickinson Wright LLP;
- Corresponding with the Company’s suppliers and service providers to discuss the receivership proceedings;
- Negotiating a Liquidation Services Agreement (“LSA”) with Corporate Assets Inc. (“Corporate Assets”) and reviewing several turns of the LSA before finalizing same;
- Reviewing the schedules to the LSA prepared by Corporate Assets;
- Drafting the Receiver’s Second Report to Court dated April 27, 2021 in connection with a motion to approve the LSA returnable May 4, 2021 (the “LSA Approval Motion”);
- Reviewing and commenting on all court materials filed in connection with the LSA Approval Motion;
- Corresponding regularly with Doug Chauvin, the Company’s former Production Manager, to discuss, *inter alia*, the upcoming asset realization process;
- Corresponding with Debbie Gonzalez, the Company’s former Materials Manager, to discuss, *inter alia*, the shipment of General Motors dunnage from the Company’s plant in Windsor, Ontario;

- Responding to information requests submitted by CRA in connection with its payroll trust examination and pre-receivership HST examination;
- Corresponding with Kim Segarac, the Company's former Human Resource Manager, to discuss former employee enquiries on the *Wage Earner Protection Program* ("WEPP") and other employment matters;
- Carrying out the Receiver's obligations under WEPP, including updating Service Canada for completed proofs of claim;
- Responding to enquiries from the Company's former employees pertaining to WEPP;
- Responding to unsolicited calls and emails from parties interested in purchasing the Company's assets;
- Corresponding with Corporate Assets pertaining to the terms and conditions of the LSA, including to arrange access to the plant;
- Attending interviews with realtors to present their listing proposals;
- Corresponding with the Liquidator and Colliers International (the "Realtor") pertaining to site attendance and showings to prospective purchasers;
- Finalizing and executing the Colliers listing agreement;
- Reviewing invoices and preparing weekly disbursements, including bi-weekly contractor payments;
- Corresponding with the Company's US parent regarding information requests, including on the status of collecting receivables for the shipments of inventory facilitated by the Receiver at the commencement of the receivership proceedings and regarding the completion of the pre-receivership HST returns;
- Responding to enquiries from creditors;
- Paying receivership expenses; and
- To all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements per attached time summary	CAD\$	19,287.57
HST		<u>2,507.38</u>
Total due	CAD\$	<u><u>21,794.95</u></u>

KSV Restructuring Inc.  
JD Norman Canada, ULC

**Time Summary**

For the period ended April 30, 2021

<b>Personnel</b>	<b>Role</b>	<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
David Sieradzki	Overall responsibility	650	21.75	14,137.50
Emily Klein	All aspects of mandate	400	11.20	4,480.00
Administrative/Other				503.75
Total Fees				19,121.25
Disbursements				166.32
Total Fees and Disbursements				19,287.57



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## INVOICE

JD Norman Canada, ULC  
c/o KSV Restructuring Inc.  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

June 4, 2021

Invoice No: 2203  
HST #: 818808768RT0001

**Re: JD Norman Canada, ULC (the “Company”)**

For professional services rendered during May 2021 by KSV Restructuring Inc. (“KSV”), in its capacity as Court-appointed receiver (“Receiver”) of the Company’s property, assets and undertaking pursuant to an order made on February 12, 2021 (the “Receivership Order”) by the Ontario Superior Court of Justice – Commercial List (the “Court”), including:

- Corresponding generally with representatives Callidus Capital Corporation and its legal counsel, Dickinson Wright LLP;
- Corresponding with the Company’s suppliers and service providers to discuss the receivership proceedings;
- Attending at Court on May 4, 2021 for a motion seeking to approve a Liquidation Services Agreement with Corporate Assets Inc. (“Corporate Assets”);
- Corresponding regularly with Corporate Assets in connection with its preparation to conduct an auction at the Company’s premises in Windsor, Ontario on or around June 9, 2021;
- Corresponding regularly with Doug Chauvin, the Company’s former Production Manager, to discuss, *inter alia*, the upcoming asset realization process;
- Responding to information requests submitted by CRA in connection with its payroll trust examination and pre-receivership HST examination;
- Corresponding with Kim Segarac, the Company’s former Human Resource Manager, to discuss former employee enquiries on the *Wage Earner Protection Program* (“WEPP”) and other employment matters;
- Carrying out the Receiver’s obligations under WEPP, including updating Service Canada for completed proofs of claim;



- Responding to enquiries from the Company's former employees pertaining to WEPP;
- Responding to unsolicited calls and emails from parties interested in purchasing the Company's assets;
- Corresponding regularly with Colliers International in connection with its listing of the Company's real property for sale;
- Dealing with Colliers on its marketing materials and an extension of the bid deadline from June 3, 2021 to June 17, 2021;
- Corresponding with the Company's US parent regarding information requests, including on the status of collecting receivables for the shipments of inventory facilitated by the Receiver at the commencement of the receivership proceedings;
- Dealing with representatives of the Company's former union to coordinate the payment of its share of receivable collections and processing this payment on May 11, 2021;
- Responding to enquiries from creditors;
- Paying receivership expenses; and
- To all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements per attached time summary	CAD\$	12,500.67
HST		<u>1,625.09</u>
Total due	CAD\$	<u><u>14,125.76</u></u>

KSV Restructuring Inc.  
JD Norman Canada, ULC

**Time Summary**

For the period ended May 31, 2021

<b>Personnel</b>	<b>Role</b>	<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
David Sieradzki	Overall responsibility	650	14.00	9,100.00
Emily Klein	All aspects of mandate	400	6.80	2,720.00
Administrative/Other				607.25
Total Fees				12,427.25
Disbursements				73.42
Total Fees and Disbursements				12,500.67



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## INVOICE

JD Norman Canada, ULC  
c/o KSV Restructuring Inc.  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

July 8, 2021

Invoice No: 2257  
HST #: 818808768RT0001

**Re: JD Norman Canada, ULC (the “Company”)**

For professional services rendered during June 2021 by KSV Restructuring Inc. (“KSV”), in its capacity as Court-appointed receiver (“Receiver”) of the Company’s property, assets and undertaking pursuant to an order made on February 12, 2021 (the “Receivership Order”) by the Ontario Superior Court of Justice – Commercial List (the “Court”), including:

- Corresponding generally with representatives Callidus Capital Corporation and its legal counsel, Dickinson Wright LLP;
- Corresponding with the Company’s suppliers and service providers to discuss the receivership proceedings;
- Corresponding regularly with Corporate Assets Inc. (“Corporate Assets”) in connection with its auction conducted on June 9, 2021 at the Company’s premises in Windsor, Ontario;
- Reviewing the auction statement provided by Corporate Assets shortly after the conclusion of the auction;
- Corresponding with Corporate Assets about the removal of assets sold and unsold lots and issues in connection with the removal of hazardous materials from the plant;
- Corresponding regularly with Doug Chauvin, the Company’s former Production Manager, to discuss, *inter alia*, maintenance and environmental issues;
- Corresponding with Kim Segarac, the Company’s former Human Resource Manager, to discuss former employee enquiries on the *Wage Earner Protection Program* (“WEPP”) and other employment matters;
- Carrying out the Receiver’s obligations under WEPP, including updating Service Canada for completed proofs of claim;

- Responding to enquiries from the Company's former employees pertaining to WEPP;
- Corresponding regularly with Colliers International ("Colliers") in connection with its listing of the Company's real property for sale;
- Reviewing one offer received on the bid deadline of June 17, 2021 and discussing next steps with Colliers in respect of its marketing process;
- Responding to enquiries from creditors;
- Paying receivership expenses; and
- To all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements per attached time summary	CAD\$	9,594.40
HST		<u>1,247.27</u>
Total due	CAD\$	<u>10,841.67</u>

KSV Restructuring Inc.  
JD Norman Canada, ULC

**Time Summary**

For the period ended June 30, 2021

<b>Personnel</b>	<b>Role</b>	<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
David Sieradzki	Overall responsibility	650	11.00	7,150.00
Emily Klein	All aspects of mandate	400	4.10	1,640.00
Administrative/Other				656.25
Total Fees				9,446.25
Disbursements				148.15
Total Fees and Disbursements				9,594.40



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**INVOICE**

JD Norman Canada, ULC  
c/o KSV Restructuring Inc.  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

August 9, 2021

Invoice No: 2279  
HST #: 818808768RT0001

**Re: JD Norman Canada, ULC (the “Company”)**

For professional services rendered during July 2021 by KSV Restructuring Inc. (“KSV”), in its capacity as Court-appointed receiver (“Receiver”) of the Company’s property, assets and undertaking pursuant to an order made on February 12, 2021 (the “Receivership Order”) by the Ontario Superior Court of Justice – Commercial List (the “Court”), including:

- Corresponding generally with representatives Callidus Capital Corporation and its legal counsel, Dickinson Wright LLP, including calls and/or email correspondence on July 2, 5 and 26, 2021;
- Corresponding regularly with Colliers International (“Colliers”) in connection with its listing of the Company’s real property in Windsor, Ontario (the “Property”) for sale;
- Corresponding regularly with Corporate Assets Inc. (“Corporate Assets”) in connection with its auction conducted on June 9, 2021 at the Property;
- Corresponding with Corporate Assets about the removal of assets sold and unsold lots and issues in connection with the removal of hazardous materials from the Property;
- Corresponding regularly with Doug Chauvin, the Company’s former Production Manager, to discuss, *inter alia*, maintenance and environmental issues;
- Reviewing the Phase II environmental report issued on or around July 19, 2021 (the “Phase II Report”);
- Corresponding with Colliers and legal counsel regarding the Phase II Report;
- Corresponding with Kim Segarac, the Company’s former Human Resource Manager, to discuss former employee enquiries on the *Wage Earner Protection Program* (“WEPP”) and other employment matters;

- Carrying out the Receiver's obligations under WEPP, including updating Service Canada for completed proofs of claim;
- Responding to enquiries from the Company's former employees pertaining to WEPP;
- Reviewing WEPP statements and arranging for the reimbursement to Bank of America on an amount funded at the commencement of the receivership proceedings for potential priority WEPP and other priority employee obligations;
- Responding to enquiries from the Company's suppliers and service providers regarding the receivership proceedings;
- Dealing with maintenance and other issues in respect of the general upkeep of the Property;
- Paying receivership expenses; and
- To all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements per attached time summary	CAD\$	9,276.58
HST		<u>1,205.96</u>
Total due	CAD\$	<u><u>10,482.54</u></u>

KSV Restructuring Inc.  
JD Norman Canada, ULC

**Time Summary**

For the period ended July 31, 2021

<b>Personnel</b>	<b>Role</b>	<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
David Sieradzki	Overall responsibility	650	12.60	8,190.00
Emily Klein	All aspects of mandate	400	1.95	780.00
Administrative/Other				294.00
Total Fees				9,264.00
Disbursements				12.58
Total Fees and Disbursements				9,276.58





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**INVOICE**

JD Norman Canada, ULC  
c/o KSV Restructuring Inc.  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

September 13, 2021

Invoice No: 2318  
HST #: 818808768RT0001

**Re: JD Norman Canada, ULC (the “Company”)**

For professional services rendered during August 2021 by KSV Restructuring Inc. (“KSV”), in its capacity as Court-appointed receiver (“Receiver”) of the Company’s property, assets and undertaking pursuant to an order made on February 12, 2021 (the “Receivership Order”) by the Ontario Superior Court of Justice – Commercial List (the “Court”), including:

- Corresponding generally with representatives Callidus Capital Corporation and its legal counsel, Dickinson Wright LLP, including calls and/or email correspondence on August 9 and 12, 2021;
- Corresponding regularly with Colliers International (“Colliers”) in connection with its listing of the Company’s real property in Windsor, Ontario (the “Property”) for sale;
- Corresponding regularly with Corporate Assets Inc. (“Corporate Assets”) in connection with its auction conducted on June 9, 2021 at the Property;
- Corresponding with Corporate Assets about the removal of sold and unsold assets and issues in connection with its vacating the Property in broom swept condition;
- Corresponding regularly with Doug Chauvin, the Company’s former Production Manager, to discuss, *inter alia*, maintenance issues;
- Drafting an Interim Report of the Receiver required pursuant to Subsection 246(2) of the *Bankruptcy and Insolvency Act*;
- Filing the Interim Report of the Receiver with the Office of the Superintendent of Bankruptcy;
- Corresponding with Walton Insurance Group and Aon regarding the renewal of the Company’s insurance policy, including email correspondence on August 25, 26, 27, 30 and 31, 2021;

- Discussing with Colliers a reduction of the list price of the Property from \$6 million to \$5.8 million and executing documentation regarding same;
- Dealing with maintenance and other issues in respect of the general upkeep of the Property;
- Paying receivership expenses; and
- To all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements per attached time summary	CAD\$	8,105.86
HST		<u>1,053.76</u>
Total due	CAD\$	<u>9,159.62</u>

KSV Restructuring Inc.  
JD Norman Canada, ULC

**Time Summary**

For the period ended August 31, 2021

<b>Personnel</b>	<b>Role</b>	<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
David Sieradzki	Overall responsibility	650	9.00	5,850.00
Emily Klein	All aspects of mandate	400	4.65	1,860.00
Administrative/Other				368.50
Total Fees				8,078.50
Disbursements				27.36
Total Fees and Disbursements				8,105.86



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## INVOICE

JD Norman Canada, ULC  
c/o KSV Restructuring Inc.  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

October 13, 2021

Invoice No: 2362  
HST #: 818808768RT0001

**Re: JD Norman Canada, ULC (the “Company”)**

For professional services rendered during September 2021 by KSV Restructuring Inc. (“KSV”), in its capacity as Court-appointed receiver (“Receiver”) of the Company’s property, assets and undertaking pursuant to an order made on February 12, 2021 (the “Receivership Order”) by the Ontario Superior Court of Justice – Commercial List (the “Court”), including:

- Corresponding generally with representatives Callidus Capital Corporation and its legal counsel, Dickinson Wright LLP, particularly in respect of the ongoing sale process for the Company’s real property in Winsor, Ontario (the “Property”);
- Corresponding regularly with Colliers International (“Colliers”) in connection with its listing of the Property;
- Corresponding with Corporate Assets Inc. to close off the deal, including paying the final sundry costs associated with the removal of chemicals from the Property;
- Corresponding regularly with Doug Chauvin, the Company’s former Production Manager, to discuss, *inter alia*, maintenance issues;
- Corresponding with Aon regarding the placement of ongoing insurance during the receivership and binding coverage in connection therewith;
- Reviewing a strategy document prepared by Colliers in connection with its ongoing listing of the Property;
- Dealing with maintenance and other issues in respect of the general upkeep of the Property;
- Paying receivership expenses; and

- To all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements per attached time summary	CAD\$	6,430.60
HST		<u>835.98</u>
Total due	CAD\$	<u><u>7,266.58</u></u>

KSV Restructuring Inc.  
JD Norman Canada, ULC

**Time Summary**

For the period ended September 30, 2021

<b>Personnel</b>	<b>Role</b>	<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
David Sieradzki	Overall responsibility	650	8.25	5,362.50
Emily Klein	All aspects of mandate	400	1.80	720.00
Administrative/Other				340.00
Total Fees				6,422.50
Disbursements				8.10
Total Fees and Disbursements				6,430.60



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**INVOICE**

JD Norman Canada, ULC  
c/o KSV Restructuring Inc.  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

December 8, 2021

Invoice No: 2420  
HST #: 818808768RT0001

**Re: JD Norman Canada, ULC (the “Company”)**

For professional services rendered during October and November 2021 by KSV Restructuring Inc. (“KSV”), in its capacity as Court-appointed receiver (“Receiver”) of the Company’s property, assets and undertaking pursuant to an order made on February 12, 2021 (the “Receivership Order”) by the Ontario Superior Court of Justice – Commercial List (the “Court”), including:

- Corresponding generally with representatives of Callidus Capital Corporation (“Callidus”) and its legal counsel, Dickinson Wright LLP, particularly in respect of the ongoing sale process for the Company’s real property in Windsor, Ontario (the “Property”);
- Attending calls with Callidus and a prospective realtor, CB Richard Ellis Limited (“CBRE”), to replace the former realtor, Colliers International (“Colliers”);
- Dealing extensively with Colliers in respect of the termination of its listing agreement on October 31, 2021, including a dispute regarding any holdover provisions;
- Reviewing and commenting on a letter dated October 29, 2021 from the Receiver’s counsel to Colliers in connection with the holdover dispute;
- Finalizing and executing the CBRE listing agreement;
- Corresponding regularly with CBRE in connection with its listing of the Property;
- Drafting the Receiver’s Third Report to Court dated November 9, 2021 (the “Third Report”) in connection with a motion to approve interim distributions to Callidus returnable November 16, 2021 (the “Interim Distribution Motion”);
- Preparing an interim statement of receipts and disbursements for the period February 12, 2021 to November 8, 2021, which was appended to the Third Report;

- Reviewing and commenting on all court materials filed in connection with the Interim Distribution Motion, including a draft notice of motion, factum and order;
- Attending court (virtually) on November 16, 2021 for the hearing of the Interim Distribution Motion;
- Paying the interim distribution of \$300,000 to Callidus on or around November 16, 2021;
- Corresponding with Workplace Safety and Insurance Board regarding outstanding information;
- Corresponding with Canada Revenue Agency ("CRA") regarding an ongoing payroll audit and outstanding corporate tax returns;
- Corresponding regularly with Doug Chauvin, the Company's former Production Manager, to discuss, *inter alia*, maintenance issues and CBRE's access to the Property;
- Dealing with maintenance and other issues in respect of the general upkeep of the Property, including corresponding with Enbridge Gas regarding the gas line;
- Paying receivership expenses; and
- To all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements per attached time summary	CAD\$	11,697.75
HST		<u>1,520.71</u>
Total due	CAD\$	<u><u>13,218.46</u></u>



KSV Restructuring Inc.  
JD Norman Canada, ULC

**Time Summary**

For the period October 1, 2021 to November 30, 2021

<b>Personnel</b>	<b>Role</b>	<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
David Sieradzki	Overall responsibility	650	12.50	8,125.00
Emily Klein	All aspects of mandate	400	7.50	3,000.00
Administrative/Other				563.75
Total Fees				11,688.75
Disbursements				9.00
Total Fees and Disbursements				11,697.75



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**INVOICE**

JD Norman Canada, ULC  
c/o KSV Restructuring Inc.  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

January 10, 2021

Invoice No: 2470  
HST #: 818808768RT0001

**Re: JD Norman Canada, ULC (the “Company”)**

For professional services rendered during December 2021 by KSV Restructuring Inc. (“KSV”), in its capacity as Court-appointed receiver (“Receiver”) of the Company’s property, assets and undertaking pursuant to an order made on February 12, 2021 (the “Receivership Order”) by the Ontario Superior Court of Justice – Commercial List (the “Court”), including:

- Corresponding generally with representatives of Callidus Capital Corporation (“Callidus”) and its legal counsel, Dickinson Wright LLP, particularly in respect of the ongoing sale process for the Company’s real property in Windsor, Ontario (the “Property”);
- Corresponding regularly with CBRE in connection with its listing of the Property;
- Corresponding with Bennett Jones LLP (“Bennett Jones”), legal counsel for Nexe Innovations Inc., a potential purchaser of the Property (the “Potential Purchaser”), regarding the sale of the Property, including the Agreement of Purchase and Sale (the “APS”) and the Potential Purchaser’s due diligence process;
- Reviewing proposed revisions made to the APS by Bennett Jones;
- Corresponding regularly with Doug Chauvin, the Company’s former Production Manager, to discuss, *inter alia*, maintenance issues;
- Dealing with maintenance and other issues in respect of the general upkeep of the Property, including corresponding with a maintenance company regarding winter services;
- Paying receivership expenses; and

- To all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements per attached time summary	CAD\$	3,886.55
HST		<u>505.25</u>
Total due	CAD\$	<u><u>4,391.80</u></u>

KSV Restructuring Inc.  
JD Norman Canada, ULC

**Time Summary**

For the period ended December 31, 2021

<b>Personnel</b>	<b>Role</b>	<b>Rate (\$)</b>	<b>Hours</b>	<b>Amount (\$)</b>
David Sieradzki	Overall responsibility	650	4.00	2,600.00
Emily Klein	All aspects of mandate	400	2.40	960.00
Administrative/Other				322.50
Total Fees				3,882.50
Disbursements				4.05
Total Fees and Disbursements				3,886.55

THIS IS EXHIBIT "B" REFERRED TO IN THE  
AFFIDAVIT OF DAVID SIERADZKI  
SWORN BEFORE ME THIS 14<sup>th</sup> DAY OF JANUARY, 2022

A handwritten signature in cursive script, appearing to read "Raj Kashyap", written over a horizontal line.

A Commissioner for taking Affidavits, etc.

Rajinder Kashyap, a Commissioner, etc.,  
Province of Ontario, for KSV Restructuring Inc.  
Expires January 27, 2024.

**JD Norman Canada, ULC**  
**Schedule of Professionals' Time and Rates**  
 Exhibit to the Affidavit of David Sieradzki

Exhibit "B"

Personnel	Title	Duties	Hours	Billing Rate (per hour)	Amount \$
David Sieradzki	Managing Director	Overall responsibility	142.35	650.00	\$ 92,527.50
Emily Klein	Senior Associate	All aspects of mandate, including operational and creditor issues	108.30	400.00	43,320.00
Other staff and administrative			43.33		7,202.25
Total fees					<u>143,049.75</u>
Total hours					<u>293.98</u>
Average hourly rate					<u><u>\$ 486.60</u></u>

## Appendix “J”

Court File No. CV-21-00656820-00CL

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

B E T W E E N:

**CALLIDUS CAPITAL CORPORATION**

Applicant

- and -

**JD NORMAN CANADA, ULC**

Respondent

**AFFIDAVIT OF MARC WASSERMAN**  
**(sworn January 14, 2022)**

I, Marc Wasserman, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a barrister and solicitor qualified to practice law in the Province of Ontario and am a partner with Osler, Hoskin & Harcourt LLP (“**Osler**”), counsel to KSV Restructuring Inc. as receiver (the “**Receiver**”), without security, of the property, assets and undertakings of JD Norman Canada, ULC and as such have knowledge of the matters hereinafter deposed. Where I have indicated that I have obtained facts from other sources, I believe those facts to be true.
2. I make this affidavit in support of a motion by the Receiver for, among other things, approval of the fees and disbursements of the Receiver and its counsel.



3. Attached hereto as Exhibit “A” contains true copies of the full accounts rendered by Osler for the period between February 9, 2021 and November 16, 2021 (the “**Approval Period**”).

4. Attached hereto as Exhibit “B” is a schedule of the accounts rendered by Osler to the Receiver for the fees and disbursements incurred by Osler in connection with the activities summarized in Exhibit “A” undertaken in these proceedings during the Approval Period.

5. Attached hereto as Exhibit “C” is a schedule summarizing the respective years of call and billing rates of each of the professionals at Osler that rendered services to the Receiver, the hours worked by each such individual and a blended hourly rate for fees incurred during the Approval Period.

6. To the best of my knowledge, the rates charged by Osler throughout the course of these proceedings are comparable to the rates charged by other law firms in the Toronto market for the provision of similar services. I believe that the total hours, fees and disbursements incurred by Osler for the Approval Period are reasonable and appropriate in the circumstances.

SWORN BEFORE ME over video teleconference this 14<sup>th</sup> day of January, 2022. The affiant was located in the City of Toronto in the Province of Ontario and the commissioner was located in the City of Toronto in the Province of Ontario. The affidavit was commissioned remotely in accordance with O. Reg. 431/20 as a result of COVID-19.

*Tiffany Sun*

Commissioner for Taking Affidavits

Miao Sun, a Commissioner,  
etc., Province of Ontario,  
while a Student-at-Law.  
Expires March 6, 2023.



Marc Wasserman

THIS IS EXHIBIT "A" REFERRED TO IN  
THE AFFIDAVIT OF MARC WASSERMAN  
SWORN BEFORE ME ON THIS 14<sup>th</sup> DAY OF JANUARY, 2022

*Tiffany Sun*

---

A Commissioner for Taking Affidavits

Miao Sun, a Commissioner,  
etc., Province of Ontario,  
while a Student-at-Law.  
Expires March 6, 2023.

OSLER, HOSKIN & HARCOURT LLP  
1 First Canadian Place  
PO BOX 50  
Toronto ON M5X 1B8  
CANADA  
416.362.2111 main  
416.862.6666 facsimile

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OSLER

KSV Advisory Inc.  
Bay Adelaide Centre  
333 Bay Street  
Suite 1400  
Toronto, ON M5H 2R2  
CANADA

Attention: David Sieradzki

Invoice No.: **12493389**  
Date: **March 12, 2021**  
Client No.: 228776

GST/HST No.: 121983217 RT0001

Contact: **Marc Wasserman**  
Direct Dial: (416) 862-4908  
E-mail: MWasserman@Osler.com

---

For professional services rendered for Receivership of JD Norman (F#1218510).

OUR FEE HEREIN	89,461.00
REIMBURSABLE EXPENSES *	477.68
HST @ 13%	11,650.43
<b>TOTAL (CAD):</b>	<b>101,589.11</b>

\* Includes non-taxable expenses of 320.00 CAD

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Account No: 5219313  
SWIFT Code: TDOMCATTOR

Cheque Payments:

Osler, Hoskin & Harcourt LLP  
FINANCE & ACCOUNTING  
(RECEIPTS)  
1 First Canadian Place  
PO BOX 50  
Toronto, Ontario M5X 1B8  
Canada

Invoice No.: **12493389**  
Client No.: 228776  
Amount: 101,589.11 CAD

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referencing invoice number(s) being paid.

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cheque.

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### FEE SUMMARY

NAME	HRS	RATE	FEES
<u>PARTNER</u>			
Jacqueline Code	12.90	990	12,771.00
John A. MacDonald	18.10	1,120	20,272.00
Sven C. Poysa	11.20	890	9,968.00
Marc Wasserman	24.20	1,150	27,830.00
<u>ASSOCIATE</u>			
Adam Margeson	16.40	500	8,200.00
Chloe Nanfara	20.00	500	10,000.00
<u>PARAPROFESSIONAL</u>			
Kevin MacEachern	2.00	210	420.00
<b>TOTAL FEES (CAD):</b>	<b>104.80</b>		<b>89,461.00</b>

### FEE DETAIL

DATE	NAME	DESCRIPTION	HRS
Feb-09-21	Chloe Nanfara	Attending on correspondence regarding new matter; reviewing order and related materials.	0.40
Feb-10-21	Chloe Nanfara	Attending on call with M. Wasserman to discuss matter; reviewing affidavit, notice of application and order appointing receiver; providing comments on order; discussing order with M. Wasserman and S. Poysa; circulating comments on order to applicant's counsel; attending on call with applicant's counsel; attending on correspondence from applicant and Receiver.	4.10
Feb-10-21	Sven C. Poysa	Reviewing and revising initial order; multiple communications regarding same and various employee and labour issues; considering same.	2.40
Feb-10-21	Marc Wasserman	Reviewing materials; attending on calls regarding order and appointment.	1.20
Feb-11-21	Chloe Nanfara	Attending on correspondence from applicant; attending on internal correspondence; reviewing order appointing receiver.	0.50
Feb-11-21	Marc Wasserman	Preparing for hearing; engaged in discussions regarding same.	1.70
Feb-12-21	Chloe Nanfara	Reviewing union factum; attending on correspondence regarding same; attending court; attending on correspondence regarding next steps.	1.90

Feb-12-21	Sven C. Poysa	Reviewing union factum; drafting email to M. Wasserman regarding same; reviewing and revising 'term and task' letters; follow-up with E. Klein.	0.90
Feb-12-21	Marc Wasserman	Attending hearing; reviewing union documents; discussions with Dewart; reviewing documentation; engaged in conference calls regarding same.	3.10
Feb-13-21	Jacqueline Code	Attending Osler team call; instructing A. Margeson regarding labour injunction and receivership research; discussing research results with A. Margeson.	0.80
Feb-13-21	John A. MacDonald	Reviewing receivership order and background materials for pending court attendance to address labour-related issues; participating in call with M. Wasserman regarding litigation related strategies.	3.40
Feb-13-21	Adam Margeson	Reviewing case law regarding picketing and injunctions under the Courts of Justice Act.	9.40
Feb-13-21	Chloe Nanfara	Attending on call regarding next steps; attending on correspondence regarding same; reviewing proposed correspondence to union; attending on discussions regarding same; reviewing summary of research conducted; attending on correspondence with J. MacDonald regarding research.	3.30
Feb-13-21	Sven C. Poysa	Discussing labour issues and strategy; drafting and revising letter to union counsel; follow-up regarding same and picketing issues; considering injunction issues and strategy; follow-up regarding same.	2.30
Feb-13-21	Marc Wasserman	Attending on call regarding next steps concerning union matters; calls and emails with Dewart; calls with D. Sieradzki.	4.30
Feb-14-21	Jacqueline Code	Considering labour injunction and other issues regarding powers of receiver and union disputes; drafting strategy memo.	6.40
Feb-14-21	John A. MacDonald	Participating in calls with Receiver and Osler working group regarding motion for advice and direction; drafting outline of court materials and reviewing labour injunction related issues.	2.80
Feb-14-21	Adam Margeson	Discussion with M. Wasserman, J. Code, J. MacDonald, and C. Nanfara; reviewing case law regarding the duties of a court-appointed receiver.	4.40
Feb-14-21	Chloe Nanfara	Attending on correspondence regarding research; attending on call regarding same; attending on correspondence regarding discussions with union.	1.50
Feb-14-21	Sven C. Poysa	Reviewing authorities and considering union issues and strategy; drafting communication to opposing counsel regarding same; multiple communications with M. Wasserman, J. Code and others.	2.10

Feb-14-21	Marc Wasserman	Attending on discussions regarding union matters and breach of order; multiple emails and discussions regarding same; reviewing documents.	3.80
Feb-15-21	Jacqueline Code	Drafting receiver submissions for advice and directions motion; discussing with M. Wasserman.	4.90
Feb-15-21	John A. MacDonald	Participating in several conference calls regarding litigation strategies and further attendance before Justice Hainey; finalizing court materials for service; reviewing legal submissions for court attendance.	4.70
Feb-15-21	Adam Margeson	Reviewing submissions regarding union behaviour.	1.20
Feb-15-21	Chloe Nanfara	Attending on correspondence regarding discussions with counsel to union; finalizing court materials and serving on service list; attending on correspondence regarding same.	1.70
Feb-15-21	Sven C. Poysa	Drafting letter to union counsel; reviewing and revising motion materials and submissions; multiple communications regarding same and picketing issues and strategy with M. Wasserman, J. Macdonald and others.	2.90
Feb-15-21	Marc Wasserman	Attending on calls regarding next steps concerning union matters; email correspondence regarding same; reviewing materials regarding same; emails to court.	4.50
Feb-16-21	Jacqueline Code	Responding to follow-up points regarding union argument.	0.80
Feb-16-21	John A. MacDonald	Reviewing court materials and legal submissions for February 17, 2021 court appearance; arranging for materials to be filed with Commercial List office; preparing for court hearing.	3.80
Feb-16-21	Kevin MacEachern	Communicating with P. Macri and C. Nanfara with respect to timing for documents on the Commercial Court; attending to Commercial Court online portal; submitting notice of motion, book of authorities, Receiver's report and other submissions in advance of pending hearing.	1.00
Feb-16-21	Adam Margeson	Preparing book of authorities.	1.40
Feb-16-21	Chloe Nanfara	Attending on correspondence regarding filing and serving materials; reviewing and revising court materials; serving e-service list with court materials; drafting affidavit of service; swearing affidavit of service; drafting counsel slip; attending on correspondence with court regarding same.	5.10
Feb-16-21	Sven C. Poysa	Reviewing union submissions; multiple communications regarding same.	0.60

Feb-16-21	Marc Wasserman	Reviewing materials filed by the union; attending on calls regarding same; preparation for hearing.	3.20
Feb-17-21	John A. MacDonald	Preparation for and attending at court hearing with Justice Hainey seeking advice and direction; conference call with Bank of America counsel regarding litigation strategies.	3.40
Feb-17-21	Kevin MacEachern	Attending to Commercial Court online portal; submitting Receiver's report and other submissions; following up and confirming acceptance of documents in advance of hearing.	1.00
Feb-17-21	Chloe Nanfara	Preparing for and attending on case conference; reviewing and revising filed materials; coordinating filing of same with K. MacEachern; attending on correspondence.	1.50
Feb-17-21	Marc Wasserman	Attending on update call before court; attending court hearing; email correspondence regarding settlement.	2.10
Feb-23-21	Marc Wasserman	Attending on call regarding next steps.	0.30

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<b>TOTAL HOURS:</b>	<b>104.80</b>
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#### EXPENSE SUMMARY

DESCRIPTION	AMOUNT
<u>EXPENSES - TAXABLE</u>	
On-line Database Services	126.25
Telecommunications - External	31.43
<u>EXPENSES - NON-TAXABLE</u>	
Notice of Motion	320.00
<b>TOTAL (CAD):</b>	<b>477.68</b>

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KSV Advisory Inc.  
Bay Adelaide Centre  
333 Bay Street  
Suite 1400  
Toronto, ON M5H 2R2  
CANADA

Attention: David Sieradzki

Invoice No.: **12512259**  
Date: **May 20, 2021**  
Client No.: 228776

GST/HST No.: 121983217 RT0001

Contact: **Marc Wasserman**  
Direct Dial: (416) 862-4908  
E-mail: MWasserman@Osler.com

---

For professional services rendered for Receivership of JD Norman (F#1218510).

OUR FEE HEREIN	13,382.00
REIMBURSABLE EXPENSES	12.60
HST @ 13%	1,741.30
<b>TOTAL (CAD):</b>	<b>15,135.90</b>

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FINANCE & ACCOUNTING  
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1 First Canadian Place  
PO BOX 50  
Toronto, Ontario M5X 1B8  
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Invoice No.: **12512259**  
Client No.: 228776  
Amount: 15,135.90 CAD

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### FEE SUMMARY

NAME	HRS	RATE	FEES
<u>PARTNER</u>			
Jeremy E. Dacks	1.80	990	1,782.00
Marc Wasserman	0.30	1,150	345.00
<u>ASSOCIATE</u>			
Chloe Nanfara	22.30	500	11,150.00
<u>PARAPROFESSIONAL</u>			
Kevin MacEachern	0.50	210	105.00
<b>TOTAL FEES (CAD):</b>	<b>24.90</b>		<b>13,382.00</b>

### FEE DETAIL

DATE	NAME	DESCRIPTION	HRS
Mar-17-21	Chloe Nanfara	Drafting stay letter with respect to small claims matter.	0.60
Mar-19-21	Chloe Nanfara	Attending to stay letter regarding small claims court matter.	0.20
Mar-26-21	Chloe Nanfara	Attending on stay proceeding letter; attending on correspondence with respect to same.	0.40
Apr-12-21	Chloe Nanfara	Reviewing and providing comments on liquidation services agreement; attending on correspondence with respect to same.	2.10
Apr-20-21	Chloe Nanfara	Attending on correspondence with respect to scheduling court time for approval of liquidation services agreement.	0.30
Apr-21-21	Chloe Nanfara	Attending on correspondence with respect to scheduling court time for approval of liquidation services agreement.	0.30
Apr-22-21	Chloe Nanfara	Attending on correspondence with respect to scheduling court time for approval of liquidation services agreement; attending on documentation with respect to same.	1.00
Apr-23-21	Chloe Nanfara	Attending on call with M. Wasserman regarding security review; attending on correspondence regarding same; reviewing relevant security documentation.	2.40
Apr-23-21	Marc Wasserman	Attending on calls regarding security review.	0.30
Apr-24-21	Chloe Nanfara	Attending on correspondence regarding motion to grant liquidation services agreement; drafting motion materials.	1.00

Apr-25-21	Chloe Nanfara	Drafting notice of motion and approval and vesting order; attending on correspondence regarding same.	3.70
Apr-26-21	Chloe Nanfara	Reviewing and providing comments on second report; reviewing and revising notice of motion and approval and vesting order with respect to same; attending on correspondence with respect to same.	3.00
Apr-27-21	Jeremy E. Dacks	Reviewing and revising draft notice of motion, order and Receiver's report for liquidator motion; drafting and reviewing correspondence regarding same; reviewing revised court materials; reviewing and drafting correspondence concerning service issues.	1.80
Apr-27-21	Chloe Nanfara	Reviewing and revising notice of motion and approval and vesting order; reviewing and incorporating comments with respect to same; incorporating comments to second report; discussing same; circulating same; compiling motion record; serving motion record on service list; attending on correspondence.	4.90
Apr-28-21	Kevin MacEachern	Attending to Commercial Court online portal; submitting motion record.	0.50
Apr-28-21	Chloe Nanfara	Attending on swearing affidavit of service with respect to motion record; attending on filing court materials; attending on uploading court materials; attending on correspondence with respect to same.	1.10
Apr-29-21	Chloe Nanfara	Attending to administrative matters regarding confidential appendices; attending to administrative matters with respect to upcoming motion; attending to correspondence regarding same.	1.30

<b>TOTAL HOURS:</b>	<b>24.90</b>
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#### EXPENSE SUMMARY

DESCRIPTION	AMOUNT
<u>EXPENSES - TAXABLE</u>	
Postage/Registered Mail Costs	10.65
Printing Costs	1.95
<b>TOTAL (CAD):</b>	<b>12.60</b>

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1 First Canadian Place  
PO BOX 50  
Toronto ON M5X 1B8  
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KSV Advisory Inc.  
Bay Adelaide Centre  
333 Bay Street  
Suite 1400  
Toronto, ON M5H 2R2  
CANADA

Attention: David Sieradzki

Invoice No.: **12521432**  
Date: **June 23, 2021**  
Client No.: 228776

GST/HST No.: 121983217 RT0001

Contact: **Marc Wasserman**  
Direct Dial: (416) 862-4908  
E-mail: MWasserman@Osler.com

---

For professional services rendered for Receivership of JD Norman (F#1218510).

OUR FEE HEREIN	14,210.00
REIMBURSABLE EXPENSES *	622.14
HST @ 13%	1,886.58
<b>TOTAL (CAD):</b>	<b>16,718.72</b>

\* Includes non-taxable expenses of 320.00 CAD

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Invoice No.: **12521432**  
Client No.: 228776  
Amount: 16,718.72 CAD

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### FEE SUMMARY

NAME	HRS	RATE	FEES
<u>PARTNER</u>			
Ryan H. Nielsen	1.40	840	1,176.00
Marc Wasserman	0.70	1,150	805.00
<u>ASSOCIATE</u>			
Joshua Disenhouse	1.90	740	1,406.00
Chloe Nanfara	19.50	500	9,750.00
<u>PARAPROFESSIONAL</u>			
Kevin MacEachern	1.00	210	210.00
Lorna Storm	0.20	325	65.00
<u>CORPORATE SEARCHES FIXED FEES</u>			
Corporate Searches by Elizabeth E. Buchanan			798.00
<b>TOTAL FEES (CAD):</b>	<b>24.70</b>		<b>14,210.00</b>

### FEE DETAIL

DATE	NAME	DESCRIPTION	HRS
May-03-21	Corporate Searches by Elizabeth E. Buchanan	Receiving instructions from C. Nanfara; conducting Ontario Personal Property Security Act, searches respecting JD Norman Canada, ULC, and reporting thereon.	
May-03-21	Chloe Nanfara	Attending on correspondence regarding court matters.	0.10
May-04-21	Chloe Nanfara	Preparing for and attending on motion; attending on court matters and related administrative matters.	2.80
May-04-21	Marc Wasserman	Preparing for and attending hearing.	0.70
May-07-21	Chloe Nanfara	Reviewing security documents; drafting security opinion.	1.50
May-10-21	Chloe Nanfara	Reviewing security documents; drafting security opinion.	0.30
May-11-21	Corporate Searches by Elizabeth E. Buchanan	Receiving instructions from C. Nanfara; conducting corporate profile, British Columbia Personal Property Security Act, Ontario Bank Act, Execution province wide respecting JD Norman Canada, ULC; arranging for British Columbia certified Articles of Incorporation, and reporting thereon.	
May-11-21	Joshua Disenhouse	Briefly reviewing registered charge and title to Windsor property.	0.20

May-11-21	Kevin MacEachern	Attending to Commercial Court online portal; submitting order for issuance and following up with court staff to secure officially sealed version.	1.00
May-11-21	Chloe Nanfara	Attending on security review; attending on correspondence regarding filing of confidential appendices and signed approval and vesting order; circulating entered approval and vesting order.	2.00
May-12-21	Joshua Disenhouse	Reviewing title and registered charge; email correspondence with R. Nielsen regarding same.	0.40
May-12-21	Chloe Nanfara	Attending on security review; attending on correspondence regarding same; attending on correspondence regarding confidential appendices.	1.50
May-12-21	Ryan H. Nielsen	Reviewing charge and parcel register and corresponding on opinion.	0.50
May-13-21	Joshua Disenhouse	Email correspondence with C. Nanfara regarding precedent opinions.	0.20
May-13-21	Chloe Nanfara	Reviewing security and loan documentation; reviewing PPSA registrations and corporate searches; drafting security opinion; attending on correspondence regarding same.	8.30
May-13-21	Lorna Storm	Conducting subsearch to obtain current parcel register; reporting to J. Disenhouse.	0.20
May-14-21	Chloe Nanfara	Reviewing loan and security documentation; drafting security review opinion; attending on correspondence regarding same.	2.80
May-16-21	Joshua Disenhouse	Preparing riders for draft opinion related to real estate documents.	1.10
May-31-21	Chloe Nanfara	Attending on correspondence regarding security opinion.	0.20
May-31-21	Ryan H. Nielsen	Reviewing riders to charge opinion for security review opinion.	0.90
<b>TOTAL HOURS:</b>			<b>24.70</b>

#### EXPENSE SUMMARY

DESCRIPTION	AMOUNT
<u>EXPENSES - TAXABLE</u>	
Printing Costs	25.65
Agent's Fees & Expenses	65.00
OnCorp Fees for Searches/Certificates/Filings	176.64
Title-Related Searches-Toronto	34.85
<u>EXPENSES - NON-TAXABLE</u>	
Notice of Motion	320.00
<b>TOTAL (CAD):</b>	<b>622.14</b>

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KSV Advisory Inc.  
Bay Adelaide Centre  
333 Bay Street  
Suite 1400  
Toronto, ON M5H 2R2  
CANADA

Attention: David Sieradzki

Invoice No.: **12531678**  
Date: **July 26, 2021**  
Client No.: 228776

GST/HST No.: 121983217 RT0001

Contact: **Marc Wasserman**  
Direct Dial: (416) 862-4908  
E-mail: MWasserman@Osler.com

---

For professional services rendered for Receivership of JD Norman (F#1218510).

OUR FEE HEREIN	946.00
REIMBURSABLE EXPENSES	8.50
HST @ 13%	124.09
<b>TOTAL (CAD):</b>	<b>1,078.59</b>

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Invoice No.: **12531678**  
Client No.: 228776  
Amount: 1,078.59 CAD

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### FEE SUMMARY

NAME	HRS	RATE	FEES
<u>ASSOCIATE</u>			
Joshua Disenhouse	0.40	740	296.00
Chloe Nanfara	1.30	500	650.00
<b>TOTAL FEES (CAD):</b>	<b>1.70</b>		<b>946.00</b>

### FEE DETAIL

DATE	NAME	DESCRIPTION	HRS
Jun-02-21	Joshua Disenhouse	Revising draft real estate rider to security opinion; email correspondence with C. Nanfara regarding same.	0.40
Jun-03-21	Chloe Nanfara	Reviewing real estate riders for security opinion and incorporating same; reviewing and revising security opinion; attending on correspondence regarding same.	1.10
Jun-11-21	Chloe Nanfara	Attending on correspondence with M. Wasserman regarding security opinion.	0.10
Jul-07-21	Chloe Nanfara	Attending on correspondence regarding security opinion.	0.10
<b>TOTAL HOURS:</b>			<b>1.70</b>

### EXPENSE SUMMARY

DESCRIPTION	AMOUNT
<u>EXPENSES - TAXABLE</u>	
On-line Database Services	8.50
<b>TOTAL (CAD):</b>	<b>8.50</b>

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KSV Advisory Inc.  
Bay Adelaide Centre  
333 Bay Street  
Suite 1400  
Toronto, ON M5H 2R2  
CANADA

Attention: David Sieradzki

Invoice No.: **12570185**  
Date: **November 22, 2021**  
Client No.: 228776

GST/HST No.: 121983217 RT0001

Contact: **Marc Wasserman**  
Direct Dial: (416) 862-4908  
E-mail: MWasserman@Osler.com

For professional services rendered for Receivership of JD Norman (F#1218510).

OUR FEE HEREIN	14,974.40
REIMBURSABLE EXPENSES	113.80
HST @ 13%	1,961.46
<b>TOTAL (CAD):</b>	<b>17,049.66</b>

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SWIFT Code: TDOMCATTOR

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(RECEIPTS)  
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PO BOX 50  
Toronto, Ontario M5X 1B8  
Canada

Invoice No.: **12570185**  
Client No.: 228776  
Amount: 17,049.66 CAD

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### FEE SUMMARY

NAME	HRS	RATE	FEES
<u>PARTNER</u>			
Andrew Herr	6.60	1,199	7,913.40
Marc Wasserman	0.50	1,150	575.00
<u>ASSOCIATE</u>			
Joshua Disenhouse	0.90	740	666.00
Chloe Nanfara	11.00	500	5,500.00
<u>PARAPROFESSIONAL</u>			
Elizabeth E. Buchanan	0.60	275	165.00
Lorna Storm	0.20	325	65.00
<u>STUDENT</u>			
Tiffany Sun	0.30	300	90.00
<b>TOTAL FEES (CAD):</b>	<b>20.10</b>		<b>14,974.40</b>

### FEE DETAIL

DATE	NAME	DESCRIPTION	HRS
Oct-17-21	Chloe Nanfara	Attending on correspondence regarding next motion and security opinion.	0.20
Oct-18-21	Andrew Herr	Reviewing email from C. Nanfara with draft security review opinion and credit agreement.	0.40
Oct-18-21	Chloe Nanfara	Attending on correspondence regarding security opinion; updating security opinion; attending on discussion with M. Wasserman regarding same.	2.60
Oct-19-21	Joshua Disenhouse	Reviewing revised draft opinion with respect to real estate provisions therein.	0.70
Oct-19-21	Andrew Herr	Reviewing and commenting on security review opinion; reviewing credit agreement in connection therewith; emailing with C. Nanfara.	5.80
Oct-19-21	Chloe Nanfara	Reviewing and revising security opinion; attending on correspondence regarding same; attending on discussion with M. Wasserman regarding same.	2.70
Oct-20-21	Joshua Disenhouse	Reviewing updated title; email correspondence with C. Nanfara regarding same.	0.20

Oct-20-21	Andrew Herr	Reviewing email from C. Nanfara with revised security review opinion.	0.40
Oct-20-21	Chloe Nanfara	Reviewing and revising security opinion; attending on correspondence with respect to same.	1.30
Oct-20-21	Lorna Storm	Conducting subsearch to obtain current parcel register; reporting to J. Disenhouse.	0.20
Oct-21-21	Elizabeth E. Buchanan	Receiving instructions from C. Nanfara; conducting verbal response and certified Personal Property Security Act searches respecting JD Norman Canada, ULC, and reporting thereon.	0.60
Oct-21-21	Chloe Nanfara	Attending on correspondence regarding PPSA searches.	0.20
Oct-22-21	Chloe Nanfara	Finalizing security opinion; circulating same; attending on correspondence regarding same.	0.50
Oct-25-21	Chloe Nanfara	Attending on correspondence with Callidus counsel regarding security opinion.	0.30
Oct-26-21	Marc Wasserman	Attending on call in connection with letter regarding Colliers.	0.50
Oct-28-21	Chloe Nanfara	Reviewing listing agreement; attending on correspondence regarding same; reviewing and providing comments on letter to brokerage.	2.00
Oct-29-21	Chloe Nanfara	Reviewing and revising letter to brokerage; attending on call with M. Wasserman with respect to same.	1.20
Oct-29-21	Tiffany Sun	Attending call with C. Nanfara to discuss distribution order draft instructions.	0.30

<b>TOTAL HOURS:</b>	<b>20.10</b>
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#### EXPENSE SUMMARY

DESCRIPTION	AMOUNT
<u>EXPENSES - TAXABLE</u>	
OnCorp Fees for Searches/Certificates/Filings	78.95
Title-Related Searches-Toronto	34.85
<b>TOTAL (CAD):</b>	<b>113.80</b>

OSLER, HOSKIN & HARCOURT LLP  
1 First Canadian Place  
PO BOX 50  
Toronto ON M5X 1B8  
CANADA  
416.362.2111 main  
416.862.6666 facsimile

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OSLER

KSV Advisory Inc.  
Bay Adelaide Centre  
333 Bay Street  
Suite 1400  
Toronto, ON M5H 2R2  
CANADA

Attention: David Sieradzki

Invoice No.: **12585045**  
Date: **December 16, 2021**  
Client No.: 228776

GST/HST No.: 121983217 RT0001

Contact: **Marc Wasserman**  
Direct Dial: (416) 862-4908  
E-mail: MWasserman@Osler.com

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For professional services rendered for Receivership of JD Norman (F#1218510).

OUR FEE HEREIN	17,883.00
REIMBURSABLE EXPENSES *	352.25
HST @ 13%	2,328.98
<b>TOTAL (CAD):</b>	<b>20,564.23</b>

\* Includes non-taxable expenses of 320.00 CAD

### PAYMENT DUE UPON RECEIPT



We are committed to protecting the environment. Please provide your email address to [payments@osler.com](mailto:payments@osler.com) to receive invoices and reminder statements electronically.



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**REMITTANCE ADVICE**

Canadian Dollar EFT and Wire Payments:

TD Canada Trust  
751 3rd Street S.W.  
Calgary, Alberta T2P 4K8  
Transit No: 80629-0004  
Account No: 5219313  
SWIFT Code: TDOMCATTOR

Cheque Payments:

Osler, Hoskin & Harcourt LLP  
FINANCE & ACCOUNTING  
(RECEIPTS)  
1 First Canadian Place  
PO BOX 50  
Toronto, Ontario M5X 1B8  
Canada

Invoice No.: **12585045**  
Client No.: 228776  
Amount: 20,564.23 CAD

Email payment details to [payments@osler.com](mailto:payments@osler.com),  
referencing invoice number(s) being paid.

Please return remittance advice(s) with  
cheque.

osler.com

### FEE SUMMARY

NAME	HRS	RATE	FEES
<u>PARTNER</u>			
Jacqueline Code	1.20	990	1,188.00
Marc Wasserman	0.50	1,150	575.00
<u>ASSOCIATE</u>			
Adam Margeson	10.50	500	5,250.00
Chloe Nanfara	17.60	500	8,800.00
<u>PARAPROFESSIONAL</u>			
Kevin MacEachern	1.00	210	210.00
<u>STUDENT</u>			
Tiffany Sun	6.20	300	1,860.00
<b>TOTAL FEES (CAD):</b>	<b>37.00</b>		<b>17,883.00</b>

### FEE DETAIL

DATE	NAME	DESCRIPTION	HRS
Nov-02-21	Tiffany Sun	Reviewing past reports; drafting distribution order.	1.20
Nov-03-21	Tiffany Sun	Reviewing past reports and court documents; drafting distribution order and notice of motion.	3.00
Nov-04-21	Chloe Nanfara	Reviewing and revising court materials in respect of distribution motion; attending on correspondence regarding same.	1.00
Nov-04-21	Tiffany Sun	Drafting distribution order and notice of motion; attending to internal email correspondences with C. Nanfara.	0.80
Nov-05-21	Adam Margeson	Drafting factum for distribution order.	3.60
Nov-05-21	Chloe Nanfara	Reviewing motion materials; attending on discussion with A. Margeson regarding factum.	0.80
Nov-06-21	Chloe Nanfara	Attending on correspondence regarding court materials.	0.20
Nov-06-21	Tiffany Sun	Drafting distribution order and notice of motion.	0.80
Nov-07-21	Chloe Nanfara	Reviewing and revising court materials; attending on correspondence regarding same.	1.20
Nov-08-21	Chloe Nanfara	Reviewing and revising motion materials; attending on correspondence regarding same.	0.80

Nov-09-21	Kevin MacEachern	Attending to Commercial Court online portal; submitting motion record.	0.50
Nov-09-21	Adam Margeson	Drafting factum for distribution order.	1.80
Nov-09-21	Chloe Nanfara	Reviewing and revising motion materials; attending on correspondence regarding same; attending on service of same.	3.80
Nov-09-21	Tiffany Sun	Commissioning affidavit for C. Nanfara.	0.20
Nov-10-21	Adam Margeson	Drafting factum for distribution order.	3.50
Nov-10-21	Chloe Nanfara	Reviewing and providing comments on factum; attending on correspondence regarding same.	1.30
Nov-11-21	Jacqueline Code	Reviewing and commenting on draft distribution factum.	1.20
Nov-11-21	Adam Margeson	Drafting distribution order factum.	1.60
Nov-11-21	Chloe Nanfara	Reviewing and providing comments on factum; attending on correspondence regarding same; attending on service of same.	2.50
Nov-11-21	Tiffany Sun	Commissioning affidavit for C. Nanfara.	0.20
Nov-12-21	Kevin MacEachern	Attending to Commercial Court online portal; submitting factum.	0.50
Nov-12-21	Chloe Nanfara	Attending on correspondence regarding filing of factum; attending on matters with respect to caselines.	0.30
Nov-15-21	Chloe Nanfara	Reviewing motion materials; preparing submissions for hearing; attending on participation sheet and administrative matters.	4.50
Nov-16-21	Chloe Nanfara	Preparing submissions and attending on hearing; attending on matters with respect to issued order.	1.20
Nov-16-21	Marc Wasserman	Discussions with C. Nanfara in preparation for hearing; attending hearing.	0.50

<b>TOTAL HOURS:</b>	<b>37.00</b>
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#### EXPENSE SUMMARY

DESCRIPTION	AMOUNT
<u>EXPENSES - TAXABLE</u>	
Printing Costs	32.25
<u>EXPENSES - NON-TAXABLE</u>	
Notice of Motion	320.00
<b>TOTAL (CAD):</b>	<b>352.25</b>

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THIS IS EXHIBIT "B" REFERRED TO IN  
THE AFFIDAVIT OF MARC WASSERMAN  
SWORN BEFORE ME ON THIS 14<sup>th</sup> DAY OF JANUARY, 2022

*Tiffany Sun*

---

A Commissioner for Taking Affidavits

Miao Sun, a Commissioner,  
etc., Province of Ontario,  
while a Student-at-Law.  
Expires March 6, 2023.

**EXHIBIT B**

<b>Date of Account</b>	<b>For Billing Period Ending</b>	<b>Fees</b>	<b>Expenses / Disbursements*</b>	<b>Taxes</b>	<b>Total</b>
March 12, 2021	February 23, 2021	\$89,461.00	\$477.68	\$11,650.43	\$101,589.11
May 20, 2021	April 29, 2021	\$13,382.00	\$12.60	\$1,741.30	\$15,135.90
June 23, 2021	May 31, 2021	\$14,210.00	\$622.14	\$1,886.58	\$16,718.72
July 26, 2021	July 7, 2021	\$946.00	\$8.50	\$124.09	\$1,078.59
November 22, 2021	October 29, 2021	\$14,974.40	\$113.80	\$1,961.46	\$17,049.66
December 16, 2021	November 16, 2021	\$17,883.00	\$352.25	\$2,328.98	\$20,564.23
Total	-	\$150,856.40	\$1,586.97	\$19,692.84	\$172,136.21

\*Includes non-taxable expenses

THIS IS EXHIBIT "C" REFERRED TO IN  
THE AFFIDAVIT OF MARC WASSERMAN  
SWORN BEFORE ME ON THIS 14<sup>th</sup> DAY OF JANUARY, 2022

*Tiffany Sun*

---

A Commissioner for Taking Affidavits

Miao Sun, a Commissioner,  
etc., Province of Ontario,  
while a Student-at-Law.  
Expires March 6, 2023.



**EXHIBIT C****Billable Rates for February 9, 2021 to November 16, 2021**

<b><u>Name</u></b>	<b><u>Year of Call (if applicable)</u></b>	<b><u>Billing rate</u></b>	<b><u>Hours Worked</u></b>
Buchanan, Elizabeth E.	N/A	\$275	0.60
Code, Jacqueline	1998	\$990	14.10
Dacks, Jeremy E.	1999	\$990	1.80
Disenhouse, Joshua	2014	\$740	3.20
Herr, Andrew	2000	\$1,199	6.60
Macdonald, John A.	1986	\$1,120	18.10
MacEachern, Kevin	N/A	\$210	4.50
Margeson, Adam	2020	\$500	26.90
Nanfara, Chloe	2020	\$500	91.70
Nielsen, Ryan H.	2009	\$840	1.40
Poysa, Sven	2006	\$890	11.20
Storm, Lorna	N/A	\$325	0.40
Sun, Tiffany	N/A	\$300	6.50
Wasserman, Marc	2001	\$1,150	26.2
		<b>Total:</b>	213.20

<b>Blended Rate</b> (excluding expenses / disbursements and HST) \$150,856.40 ÷ 213.20 =	\$707.58
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**CALLIDUS CAPITAL  
CORPORATION**

**JD NORMAN CANADA, ULC**

Court File No: CV-21-00656820-00CL

and

Applicant

Respondent

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

PROCEEDING COMMENCED AT: TORONTO

**AFFIDAVIT OF MARC WASSERMAN**

**OSLER, HOSKIN & HARCOURT LLP**  
100 King Street West, 1 First Canadian Place  
Suite 6200, P.O. Box 50, Toronto ON M5X 1B8

**Marc Wasserman** (LSO# 44066M)  
Email: [mwasserman@osler.com](mailto:mwasserman@osler.com)  
Tel: 416-862-4908

Counsel for the Court-Appointed Receiver

**CALLIDUS CAPITAL  
CORPORATION**

**JD NORMAN CANADA, ULC**

Court File No: CV-21-00656820-00CL

and

Applicant

Respondent

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

PROCEEDING COMMENCED AT: TORONTO

**FOURTH REPORT OF KSV RESTRUCTURING INC.**  
**(January 14, 2022)**

**OSLER, HOSKIN & HARCOURT LLP**  
100 King Street West, 1 First Canadian Place  
Suite 6200, P.O. Box 50, Toronto ON M5X 1B8

**Marc Wasserman** (LSO# 44066M)  
Email: [mwasserman@osler.com](mailto:mwasserman@osler.com)  
Tel: 416-862-4908

Lawyers for the Court-Appointed Receiver

# TAB 3

Court File No. CV-21-00656820-00CL

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

THE HONOURABLE MR.	)	FRIDAY, THE 21 <sup>st</sup>
	)	
JUSTICE CAVANAGH	)	DAY OF JANUARY, 2021

**IN THE MATTER OF SECTION 243 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**

B E T W E E N:

**CALLIDUS CAPITAL CORPORATION**

Applicant

- and -

**JD NORMAN CANADA, ULC**

Respondent

**APPROVAL, VESTING AND DISCHARGE ORDER**

**THIS MOTION**, made by KSV Restructuring Inc. (“**KSV**”), in its capacity as the Court-appointed receiver (the “**Receiver**”) of the property, assets and undertakings of JD Norman Canada, ULC (the “**Debtor**”) for an order, *inter alia*, (i) approving the sale transaction (the “**Transaction**”) of the real property known as 6845 Hawthorne Drive, Windsor, Ontario (the “**Property**”), the legal description of which is set out in Schedule “A” hereto, contemplated by an agreement of purchase and sale between the Receiver and Nexe Innovations Inc., on behalf of a company to be incorporated (the “**Purchaser**”), dated December 22, 2021 (as amended by the first amendment to agreement of purchase and sale dated December 23, 2021, the “**Sale Agreement**”) and appended to the Fourth Report of the Receiver dated January 14, 2022 (the “**Fourth Report**”), (ii) vesting in the Purchaser the Debtor’s right, title and interest in and to the

Property, (iii) approving the Fourth Report and the Receiver's activities described therein, and the Receiver's fees and disbursements, including the fees and disbursements of its counsel and the Fee Accrual (as defined in the Fourth Report), (iv) sealing certain confidential appendices to the Fourth Report until the closing of the Transaction (the "**Confidential Appendices**"), and (v) discharging the Receiver in accordance with the Fourth Report, subject to the Receiver filing a Discharge Certificate (as defined herein) with the Court, and upon filing the Discharge Certificate with the Court, releasing and discharging KSV from any and all liability in its capacity as Receiver, and other relief, was heard this day by judicial videoconference via Zoom at Toronto, Ontario due to the COVID-19 crisis.

**ON READING** the Fourth Report, the affidavit of David Sieradzki sworn January 14, 2022 and attached as Appendix "I" to the Fourth Report (the "**Sieradzki Affidavit**") and the affidavit of Marc Wasserman sworn January 14, 2022 and attached as Appendix "J" to the Fourth Report (the "**Wasserman Affidavit**", and together with the Sieradzki Affidavit, the "**Fee Affidavits**") filed, and on hearing the submissions of counsel for the Receiver, counsel for the Applicant, counsel for the Purchaser, and those other parties present, no one else appearing although duly served as appears from the affidavits of service of ●, made ●, 2022:

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Fourth Report herein is hereby abridged and validated so that this Motion is properly returnable today and any further service thereof is hereby dispensed with.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Fourth Report.

### **APPROVAL OF THE TRANSACTION AND VESTING OF THE PROPERTY**

3. **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 Property to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "B" hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Property shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, 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 Justice Hailey dated February 12, 2021 in the within proceeding (the "**Receivership Order**"); (ii) any encumbrances or charges created by the Order of the Honourable Justice Hailey dated May 4, 2021 in the within proceeding; (iii) any encumbrances or charges created by the Order of the Honourable Justice Cavanagh dated November 16, 2021 in the within proceeding; and (iv) 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 (v) 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 that all of the Encumbrances affecting or relating to the Property are hereby expunged and discharged as against the Property.

5. **THIS COURT ORDERS** that upon registration in the Land Registry Office for the Land Titles Division of Essex 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 as the owner of the Property in fee simple, and is hereby directed to delete and expunge from title to the Property all of the Claims listed in Schedule "C" hereto.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Property shall stand in the place and stead of the Property, 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 Property with the same priority as they had with respect to the Property immediately prior to the sale, as if the Property

had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

8. **THIS COURT ORDERS** that, in connection with the Transaction, and pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser personal information of identifiable individuals, but only to the extent desirable or required to complete the Transaction. The Purchaser shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Receiver, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

9. **THIS COURT ORDERS** that, notwithstanding:

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



## **RECEIVER'S REPORT, ACTIVITIES, FEES AND DISBURSEMENTS**

10. **THIS COURT ORDERS** that the Fourth Report be and is hereby approved and the activities of the Receiver as described therein be and is hereby approved.

11. **THIS COURT ORDERS** that the professional fees and disbursements of the Receiver and its counsel, as set out in the Fourth Report and the Fee Affidavits, and the Fee Accrual be and are hereby approved.

## **SEALING**

12. **THIS COURT ORDERS** that the Confidential Appendices shall be sealed and kept confidential pending completion of the Transaction.

## **DISCHARGE**

13. **THIS COURT ORDERS AND DECLARES** that upon the Receiver filing with the Court a certificate, substantially in the form attached as Schedule "E" hereto (the "**Discharge Certificate**"), certifying that all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver, KSV shall be discharged as Receiver, provided however that notwithstanding its discharge herein (a) KSV shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership of the Debtor, and (b) KSV shall continue to have the benefit of all the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of the Receiver in its capacity as Receiver.

14. **THIS COURT ORDERS AND DIRECTS** that upon filing the Discharge Certificate, KSV shall be released and discharged from any and all liability that KSV has or may thereafter have by reason of, or in any way arising out of, the acts or omissions of KSV while acting in its capacity as Receiver, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, upon filing the Discharge Certificate, KSV shall be forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the receivership proceedings of the Debtor, save and except for any gross negligence or wilful misconduct on the Receiver's part.

13. **THIS COURT ORDERS** that upon filing the Discharge Certificate, the Receiver's Charge and the Receiver's Borrowings Charge (each as defined in the Receivership Order) shall be terminated, released and discharged.

#### **GENERAL**

15. **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.

16. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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**SCHEDULE "A"****LEGAL DESCRIPTION OF PROPERTY**

**PIN:** 01379-0091 (LT)

**DESCRIPTION:** PT BLK E PL 1644 WINDSOR PTS 2 & 3 12R12466; WINDSOR

**SCHEDULE “B”**

**FORM OF RECEIVER’S CERTIFICATE**

Court File No. CV-21-00656820-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**(COMMERCIAL LIST)**

**IN THE MATTER OF SECTION 243 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**

**B E T W E E N:**

**CALLIDUS CAPITAL CORPORATION**

Applicant

- and -

**JD NORMAN CANADA, ULC**

Respondent

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice (the “**Court**”) dated February 12, 2021, KSV Restructuring Inc. was appointed as the receiver, without security (in such capacity, the “**Receiver**”) of all of the assets, undertakings and properties of the Respondent, JD Norman Canada, ULC (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including the real property known as 6845 Hawthorne Drive, Windsor, Ontario (the “**Property**”).

B. Pursuant to an Order of the Court dated ●, 2022, the Court approved the agreement of purchase and sale between the Receiver and Nexe Innovations Inc., on behalf of a company to be incorporated (the “**Purchaser**”), dated December 22, 2021 (as amended by the first amendment to agreement of purchase and sale dated December 23, 2021, the “**Sale Agreement**”) with respect to the Property and provided for the vesting in the Purchaser of the Debtor’s right, title

and interest in and to the Property, which vesting is to be effective with respect to the Property 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 Property; (ii) that the conditions to Closing as set out in section 10 of the Sale Agreement have been satisfied or waived by the Receiver; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 10 of the Sale Agreement have been satisfied or waived by the Receiver; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**KSV Restructuring Inc., in its capacity as  
Receiver and Manager of the property, assets  
and undertakings of JD Norman Canada,  
ULC, and not in its personal capacity**

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

**SCHEDULE “C”****REGISTRATIONS TO BE DELETED AND EXPUNGED FROM TITLE TO PIN 01379-0091 (LT)**

- (i) Instrument No. CE571214 registered 2013/07/02 being a Transfer in favour of JD Norman Canada, ULC.
- (ii) Instrument No. CE837574 registered 2018/07/10 being a Charge in favour of Callidus Capital Corporation.
- (iii) Instrument No. R932547 registered on 1985/03/26 being an Agreement regarding a right of first refusal between Peerless-Cascade Plastics Limited and Windsor Plastic Products Limited.

**SCHEDULE “D”****PERMITTED REGISTRATIONS ON PIN 01379-0091 (LT)**

- (i) any reservations, restrictions, rights of way, easements or covenants that run with the Property;
- (ii) any registered agreements with a municipality, region or supplier of utility service including, without limitations, electricity, water, sewage, gas, telephone or cable television or other telecommunication services;
- (iii) all laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Property;
- (iv) any minor easements for the supply of utility services or other services to the Property or adjacent Property;
- (v) encroachments disclosed by any error or omission in existing surveys of the Property or neighbouring Property and any title defects, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Property and survey of the Property and survey matters generally;
- (vi) the exceptions and qualifications set forth in the Land Titles Act (Ontario), or amendments thereto, except paragraphs 11 and 14 of section 44 of such Act and provincial succession duties as of May 17, 1999;
- (vii) any reservation(s) contained in the original grant from Crown;
- (viii) the right of any tenant, occupant, lessee or licensee to remove fixed equipment or other fixtures;
- (ix) the rights of any person who would, but for the Land Titles Act (Ontario) be entitled to the Lands or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention;
- (x) Instrument No. 12R12466 registered 1993/03/11 being a plan of reference;
- (xi) Instrument No. 12R1844 registered 1974/10/25 being a plan of reference;
- (xii) Instrument No. 12R4577 registered 1978/08/28 being a plan of reference;
- (xiii) Instrument Nos. R844423 and R844424 registered 1981/10/27 being notices relating to Windsor Airport zoning by law amendments; and
- (xiv) Instrument No. 12R7590 registered 1984/07/09 being a plan of reference.

**SCHEDULE “E”**

Court File No. CV-21-00656820-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**(COMMERCIAL LIST)**

**IN THE MATTER OF SECTION 243 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**

**B E T W E E N:**

**CALLIDUS CAPITAL CORPORATION**

Applicant

- and -

**JD NORMAN CANADA, ULC**

Respondent

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice (the “**Court**”) dated February 12, 2021, KSV Restructuring Inc. (“**KSV**”) was appointed as the receiver, without security (in such capacity, the “**Receiver**”) of all of the assets, undertakings and properties of the Respondent, JD Norman Canada, ULC (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including the real property known as 6845 Hawthorne Drive, Windsor, Ontario.

B. Pursuant to an Order of the Court dated ●, 2022 (the “**Approval, Vesting and Discharge Order**”), KSV was to be discharged as Receiver of the property, assets and undertakings of the Debtor to be effective upon filing by the Receiver with the Court of a certificate confirming all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver.



**THE RECEIVER CERTIFIES** the following:

1. All matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver, subject to such incidental duties as may be required to complete the administration of the receivership.

1. This Certificate was filed by the Receiver with the Court on \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

**KSV Restructuring Inc., in its capacity as  
Receiver and Manager of the property, assets  
and undertakings of JD Norman Canada,  
ULC, and not in its personal capacity**

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

Name:

Title:

**CALLIDUS CAPITAL  
CORPORATION**

**JD NORMAN CANADA, ULC**

Court File No: CV-21-00656820-00CL

and

Applicant

Respondent

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

PROCEEDING COMMENCED AT: TORONTO

**APPROVAL, VESTING AND DISCHARGE ORDER**

**OSLER, HOSKIN & HARCOURT LLP**

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Counsel for the Court-Appointed Receiver

**CALLIDUS CAPITAL  
CORPORATION**

**JD NORMAN CANADA, ULC**

Court File No: CV-21-00656820-00CL

and

Applicant

Respondent

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

PROCEEDING COMMENCED AT: TORONTO

**MOTION RECORD**  
**(Returnable January 21, 2022)**

**OSLER, HOSKIN & HARCOURT LLP**  
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Lawyers for the Court-Appointed Receiver