

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

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

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

MOTION RECORD

(Returnable: May 30, 2018)

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(Updated as of May 9, 2018)

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

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

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

MOTION RECORD

I N D E X

| Tab | Documents |
|------------|---------------------------------------------------|
| 1 | Notice of Motion returnable May 30, 2018 |
| 2 | Twelfth Report of the Receiver dated May 17, 2018 |
| A | Appendix A – Amending Agreements |
| 3 | Draft Order |

TAB 1

Court File No. CV-17-11689-00CL

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

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

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

**NOTICE OF MOTION
(Returnable May 30, 2018)**

KSV Kofman Inc. (“**KSV**”) in its capacity as receiver and manager (the “**Receiver**”) of the real property (the “**Real Property**”) registered on title as being owned by Memory Care Investments (Kitchener) Ltd. (“**Kitchener**”), and 1703858 Ontario Inc. (“**Burlington**” and, together with Kitchener, the “**Receivership Companies**”, and each a “**Receivership Company**”), and of all of the assets, undertakings and properties of the Receivership Companies acquired for or used in relation to the Real Property (together with the Real Property, the “**Property**”) will make a motion to a judge presiding over the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on May 30, 2018, at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. An order (the “**Order**”) substantially in the form of the draft order attached as Tab “3” of this Motion Record, among other things, approving the Amending Agreements (defined below) and increasing the maximum amount that can be borrowed under the Kitchener MZG Facility (defined below) and the Burlington MZG facility (defined below).
2. Such further and other relief as counsel may advise and this Court may permit.

THE GROUNDS FOR THE MOTION ARE:**Overview**

3. KSV was appointed as Receiver of the Property on April 28, 2017 pursuant to an order issued on that date by the Ontario Superior Court of Justice (the “**Court**”), as further amended on May 2, 2017 to address certain clerical errors (the “**Amended and Restated Receivership Order**”).
4. On June 30, 2017, the Court made an order approving, *inter alia*, a process to solicit offers for development and/or sale of the Property (the “**Strategic Process**”).
5. Pursuant to the Amended and Restated Receivership Order, the Receiver was permitted to borrow under Receiver’s Certificates from MarshallZehr Group Inc. (“**MZG**”).
6. The MZG facility for Kitchener (the “**Kitchener MZG Facility**”) is in the amount of \$1.475 million, and the MZG facility for Burlington (the “**Burlington MZG Facility**”, and together with the Kitchener MZG Facility, the “**MZG Facilities**”) is in the amount of \$1.775 million.

7. The interest rate on the MZG Facilities is 9.5% per annum.
8. MZG was granted a first-ranking charge against the assets of each of Kitchener and Burlington for the respective loans, subject only the Receiver's Charge and certain priority amounts set out in the *Bankruptcy and Insolvency Act (Canada)*.
9. The Kitchener MZG Facility and the Burlington MZG Facility expire on the earlier of demand by MZG and May 15, 2018, subject to the Receiver's right to extend the facilities for one year, at its option.
10. Pursuant to the terms of the amending agreement for the Kitchener MZG Facility and the amending agreement for the Burlington MZG Facility (collectively, the "**Amending Agreements**"), the Receiver has elected to exercise the option to extend the termination date of the MZG Facilities.
11. MZG requires 1% lender fees on all amounts advanced in connection with providing the extension. The lender fees will not be paid in cash at this time; they will be capitalized and added to the loan balances.
12. MZG has advised the Receiver that it is not prepared to execute the Amending Agreements (defined below) absent the fee, and as discussed below, the Receiver is not in a position to simply extend the term of the loans without entering into the Amending Agreements.
13. The Amending Agreements, which are subject to Court approval, extend the term of the MZG Facilities by one year, and increase the amount of the Receiver's Borrowings Charge for interest that will accrue over the extension period (interest will continue to accrue at 9.5%) and the 1% lender fee.

14. The Property has been widely marketed for sale since early in the receivership proceedings, and there has been and continues to be significant interest in each property; however, the Receiver has been unable to complete a sale due to, *inter alia*, development issues on each site.

15. Court approval of the Amending Agreements will provide the Receiver with additional time to sell the Properties.

16. Entering into the Amending Agreements is necessary for the Receiver (as opposed to just exercising its option to extend the termination date) as it does not have sufficient cash to fund ongoing interest to MZG over the course of the next year; accordingly, the MZG Facilities need to be increased to allow ongoing interest to accrue without triggering a default which the Receiver could not remedy.

17. Absent Court approval, MZG could require that the Receiver enter into a transaction at a lower value than may be realizable through a continuation of the Strategic Process or MZG could seek to terminate these proceedings and commence its own realization process.

General

18. The provisions of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, and the inherent and equitable jurisdiction of this Court.

19. Rules 1.04, 1.05, 2.01, 2.03, 3.02, 16, and 37 of the *Rules of Civil Procedure*, R.R.O. 1990 Reg. 194, as amended.

20. Such further and other grounds as counsel may advise and this Court may permit.

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

1. the Twelfth Report, filed herewith; and
2. such further and other material as counsel may advise and this Court may permit.

May 17, 2018

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IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

(COMMERCIAL LIST)

Proceeding commenced at Toronto

NOTICE OF MOTION
(Returnable May 30, 2018)

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TAB 2



**Twelfth Report of
KSV Kofman Inc.
as Receiver and Manager of Certain Property
of Scollard Development Corporation, Memory
Care Investments (Kitchener) Ltd., Memory
Care Investments (Oakville) Ltd., 1703858
Ontario Inc., Legacy Lane Investments Ltd.,
Textbook (525 Princess Street) Inc. and
Textbook (555 Princess Street) Inc.**

May 17, 2018

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Appendices

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COURT FILE NO: CV-17-11689-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

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

TWELFTH REPORT OF
KSV KOFMAN INC.
AS RECEIVER AND MANAGER

MAY 17, 2018

1.0 Introduction

1. This report ("Report") is filed by KSV Kofman Inc. ("KSV") as receiver and manager (the "Receiver") of the real property registered on title as being owned by Memory Care Investments (Kitchener) Ltd. ("Kitchener") and 1703858 Ontario Inc. ("Burlington"), as well as their assets, undertakings and properties acquired for or used in relation to their real property (the "Property").
2. KSV was appointed as the Receiver of the Property on April 28, 2017 pursuant to an order issued on that date by the Ontario Superior Court of Justice (the "Court"). The order was then further amended on May 2, 2017 to address certain clerical errors (the "Amended and Restated Receivership Order").
3. On June 30, 2017, the Court made an order approving, *inter alia*, a process to solicit offers for the development and/or sale of the Property (the "Strategic Process").¹
4. Pursuant to the Amended and Restated Receivership Order, the Receiver was permitted to borrow under Receiver's Certificates from MarshallZehr Group Inc. ("MZG"). The MZG facility for Kitchener is in the amount of \$1.475 million and the MZG facility for Burlington is in the amount of \$1.775 million. The interest rate on the MZG facilities is 9.5% per annum.

¹ In addition to Kitchener and Burlington, KSV is the receiver of six other affiliated real estate development companies that borrowed monies through syndicated mortgage investments (four others in this proceeding, and two others in separate proceedings). All of the real property owned by the development companies subject to the Strategic Process have been sold, except for Kitchener and Burlington.

5. MZG was granted a first-ranking charge against the assets of each of Kitchener and Burlington for the respective loans, subject only to the Receiver's Charge and certain priority amounts set out in the *Bankruptcy and Insolvency Act (Canada)*.
6. The Kitchener and Burlington MZG facilities expire on the earlier of demand by MZG and May 15, 2018, subject to the Receiver's right to extend the facilities for one year, at its option. Pursuant to the terms of Amending Agreements for each of Kitchener and Burlington (the "Amending Agreements"), the Receiver has elected to exercise the option to extend the termination date of the MZG facilities. MZG has advised that it requires 1% lender fees on all amounts advanced in connection with providing the extension. The lender fees will not be paid in cash at this time; they will be capitalized and added to the loan balances. The lender fees are not contemplated in the MZG commitment letters; however, MZG has advised the Receiver that it is not prepared to execute the Amending Agreements absent the fee, and as discussed below, the Receiver is not in a position to simply extend the term of the loans without entering into the Amending Agreements. The Amending Agreements are subject to Court approval.

1.1 Purpose of this Report

1. The purpose of this Report is to recommend the Court issue an order approving the Amending Agreements and increasing the maximum amount that can be borrowed under the Kitchener and Burlington MZG facilities.

1.2 Currency

1. All currency references in this Report are in Canadian dollars.

2.0 Kitchener and Burlington

1. Kitchener and Burlington intended to develop residences for people suffering from various forms of cognitive impairment.
2. As reflected below, the amounts borrowed from MZG were used to repay first ranking mortgages on the Kitchener and Burlington real property at the commencement of the receivership, fund an interest reserve on the MZG facilities and pay the costs of the Kitchener and Burlington receivership proceedings, including professional fees.

| (unaudited; \$) | Kitchener | Burlington |
|-----------------------------------------------|-------------|-------------|
| Loan proceeds | 1,475,000 | 1,775,000 |
| One-year interest reserve | (140,125) | (168,625) |
| MZG fees | (29,500) | (35,500) |
| MZG's legal fees | (5,075) | (5,075) |
| | 1,300,300 | 1,565,800 |
| Repayment of first mortgages | (1,127,833) | (1,343,622) |
| Remainder | 172,467 | 222,178 |
| Receivership Costs | | |
| Professional fees | | |
| Receiver (excluding accruals) | (79,136) | (73,851) |
| Receiver's legal counsel (excluding accruals) | (64,303) | (64,627) |
| Other costs | (28,671) | (27,164) |
| | (172,110) | (165,642) |
| Balance | 357 | 56,536 |

3. The table reflects that there is presently a negligible balance in the Kitchener bank account and approximately \$57,000 in the Burlington account.
4. In addition to the expenses noted in the table above, the Receiver and its counsel, Bennett Jones LLP, have the following accrued and unpaid professional fees and disbursements (including HST) as of March 31, 2018:

| (unaudited; \$) | Kitchener | Burlington |
|--------------------|-----------|------------|
| Receiver | 41,527 | 65,998 |
| Receiver's Counsel | 52,462 | 76,211 |
| Total | 93,989 | 142,209 |

5. The Property has been widely marketed for sale since early in the receivership proceedings. There has been and continues to be significant interest in each property; however, the Receiver has been unable to complete a sale due to, *inter alia*, development issues on each site. Absent Court approval of the Amending Agreements, MZG could enforce on its security, which could result in lower recoveries for the Property than if the Strategic Process is completed. MZG has not chosen to do so and has worked cooperatively with the Receiver throughout these proceedings, as evidenced by its patience in the Strategic Process.
6. The Amending Agreements extend the term of the Outstanding Facilities by one year; and increase the amount of the Receiver's Borrowings Charge for interest that will accrue over the extension period (interest will continue to accrue at 9.5%) and the 1% lender fee. Copies of the Amending Agreements are attached as Appendix "A".
7. A summary of the proposed increase in the Receiver's Borrowing Charge is reflected in the table below.

| (unaudited; \$) | Kitchener | Burlington |
|-------------------------------------|-----------|------------|
| Current Receiver's Borrowing Charge | 1,475,000 | 1,775,000 |
| One year of interest at 9.5% | 140,125 | 168,625 |
| Subtotal | 1,615,125 | 1,943,625 |
| Lender Fee (1%) | 16,151 | 19,436 |
| Revised Receiver's Borrowing Charge | 1,631,276 | 1,963,061 |

8. Entering into the Amending Agreements is necessary for the Receiver (as opposed to just exercising its option to extend the termination date) as it does not have sufficient cash to fund ongoing interest to MZG over the course of the next year. The Receiver also does not have the funds to pay the Lender Fee. Accordingly, the facilities need to be increased to allow these amounts to accrue without triggering a default which the Receiver could not remedy.

3.0 Recommendation

1. The Receiver recommends that the Court make an Order approving the Amending Agreements as it will provide the Receiver with additional time to sell the Properties. Absent Court approval, MZG could require that the Receiver enter into a transaction at a lower value than may be realizable through a continuation of the Strategic Process. Alternatively, MZG could seek to terminate these proceedings and commence its own realization process.

* * *

All of which is respectfully submitted,



**KSV KOFMAN INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
CERTAIN PROPERTY OF MEMORY CARE INVESTMENTS (KITCHENER) LTD. AND
1703858 ONTARIO INC. AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

TAB “A”

Appendix "A"

FIRST AMENDMENT AGREEMENT

THIS FIRST AMENDMENT AGREEMENT is dated for reference May 15, 2018.

BETWEEN:

KSV KOFMAN INC., solely in its capacity as Receiver and Manager of certain property of **1703858 ONTARIO INC.**

(hereinafter called the "**Borrower**")

AND:

MARSHALLZEHR GROUP INC.

(hereinafter called the "**Lender**")

WHEREAS:

- A. The parties entered into a letter agreement dated as of April 20, 2017 (the "**Loan Agreement**") pursuant to which the Lender offered financing to the Borrower by way of a loan, subject to the terms and conditions set forth in the Loan Agreement.
- B. The parties have agreed to amend the Loan Agreement as provided in this agreement.

WITNESSETH THAT in consideration of the mutual covenants and agreements herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

1. INTERPRETATION

1.1 Terms with an initial capital letter which are not otherwise defined in this First Amendment Agreement have the meanings set out in the Loan Agreement.

1.2 Unless otherwise specified all statements of, or references to, dollar amounts in this First Amendment Agreement without currency specification shall refer to Canadian Funds.

1.3 Definitions

Where used in this First Amendment Agreement, the following terms shall have the following meanings:

- i) "**Effective Date**" means May 15, 2018, or such other date as may be agreed between the Borrower and the Lender; and
- ii) "**First Amendment Agreement**" means this first amendment agreement.

1.4 **Successors and Assigns**

The Loan Agreement, as amended by this First Amendment Agreement, shall enure to the benefit of and be binding on each of the parties hereto and their respective successors and permitted assigns.

1.5 **Applicable Law**

This First Amendment Agreement shall be construed in accordance with and governed by the laws of the Province of Ontario and the laws of Canada applicable in that Province.

2. **AMENDMENT**

If the conditions set forth in Section 3 of this First Amendment Agreement have been met or waived prior to or at the Effective Date, the Credit Agreement shall be amended as follows:

- i) amending the definition of "Term" in the Loan Agreement by deleting the reference to "twelve (12) months from the date of the initial advance" and replacing it with "May 15, 2019"; and
- ii) amending the definition of "Loan" in the Loan Agreement by deleting "\$1,775,000" and replacing it with "\$1,963,061".

3. **CONDITIONS OF LOAN AGREEMENT AMENDMENT**

The Lender shall have no obligation to amend the Loan Agreement by this First Amendment Agreement unless it shall have received the following:

- i) this First Amendment Agreement duly executed by the Borrower;
- ii) payment of a 1% amendment fee equal to \$19,436 (the "**Amendment Fee**"). The Amendment Fee is to be capitalized on the Effective Date and added to the principal amount of the Loan; and
- iii) approval of this First Amendment Agreement by Court order.

4. **GENERAL**

4.1 This First Amendment Agreement and all documents contemplated by or delivered under or in connection herewith may be executed in one or more counterparts or facsimile counterparts, or other electronic means, each of which when executed and delivered shall be deemed to be an original and all of which together shall constitute one document in writing.

4.2 The Borrower will do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents (including certificates, declarations, affidavits, reports

and opinions) and things as the Lender may reasonably require for the purpose of giving effect to this First Amendment Agreement and the Loan Agreement as amended hereby.

4.3 This First Amendment Agreement shall from the Effective Date be read and construed along with the Loan Agreement and be treated as part thereof and for such purposes and so far as may be necessary to effectuate these presents, the Loan Agreement shall be regarded as being hereby amended and the Loan Agreement as so amended shall continue in full force and effect.


4.4 The Borrower hereby ratifies and confirms the Loan Agreement as amended by this First Amendment Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF this First Amendment Agreement has been executed as of the date and year first written above.

MARSHALLZEHR GROUP INC.

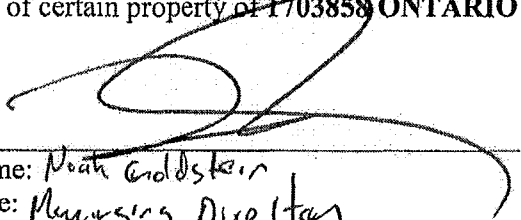
Per:


 Name: MURRAY SNEDDEN
 Title: CFO & PRINCIPAL BROKER

I have authority to bind the Corporation.

KSV KOFMAN INC., solely in its capacity as Receiver and Manager of certain property of ~~1703858~~ **ONTARIO INC.**

Per:


 Name: Noah Goldstein
 Title: Managing Director

I have authority to bind the Corporation.

FIRST AMENDMENT AGREEMENT

THIS FIRST AMENDMENT AGREEMENT is dated for reference May 15, 2018.

BETWEEN:

KSV KOFMAN INC., solely in its capacity as Receiver and Manager of certain property of **MEMORY CARE INVESTMENT (KITCHENER) LTD.**

(hereinafter called the "**Borrower**")

AND:

MARSHALLZEHR GROUP INC.

(hereinafter called the "**Lender**")

WHEREAS:

- A. The parties entered into a letter agreement dated as of April 20, 2017 (the "**Loan Agreement**") pursuant to which the Lender offered financing to the Borrower by way of a loan, subject to the terms and conditions set forth in the Loan Agreement.
- B. The parties have agreed to amend the Loan Agreement as provided in this agreement.

WITNESSETH THAT in consideration of the mutual covenants and agreements herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

1. INTERPRETATION

1.1 Terms with an initial capital letter which are not otherwise defined in this First Amendment Agreement have the meanings set out in the Loan Agreement.

1.2 Unless otherwise specified all statements of, or references to, dollar amounts in this First Amendment Agreement without currency specification shall refer to Canadian Funds.

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Where used in this First Amendment Agreement, the following terms shall have the following meanings:

- i) "**Effective Date**" means May 15, 2018, or such other date as may be agreed between the Borrower and the Lender; and
- ii) "**First Amendment Agreement**" means this first amendment agreement.

1.4 Successors and Assigns

The Loan Agreement, as amended by this First Amendment Agreement, shall enure to the benefit of and be binding on each of the parties hereto and their respective successors and permitted assigns.

1.5 Applicable Law

This First Amendment Agreement shall be construed in accordance with and governed by the laws of the Province of Ontario and the laws of Canada applicable in that Province.

2. AMENDMENT

If the conditions set forth in Section 3 of this First Amendment Agreement have been met or waived prior to or at the Effective Date, the Credit Agreement shall be amended as follows:

- i) amending the definition of "Term" in the Loan Agreement by deleting the reference to "twelve (12) months from the date of the initial advance" and replacing it with "May 15, 2019"; and
- ii) amending the definition of "Loan" in the Loan Agreement by deleting "\$1,475,000" and replacing it with "\$1,631,276".

3. CONDITIONS OF LOAN AGREEMENT AMENDMENT

The Lender shall have no obligation to amend the Loan Agreement by this First Amendment Agreement unless it shall have received the following:

- i) this First Amendment Agreement duly executed by the Borrower;
- ii) payment of a 1% amendment fee equal to \$16,151 (the "Amendment Fee"). The Amendment Fee is to be capitalized on the Effective Date and added to the principal amount of the Loan; and
- iii) approval of this First Amendment Agreement by Court order.

4. GENERAL

4.1 This First Amendment Agreement and all documents contemplated by or delivered under or in connection herewith may be executed in one or more counterparts or facsimile counterparts, or other electronic means, each of which when executed and delivered shall be deemed to be an original and all of which together shall constitute one document in writing.

4.2 The Borrower will do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents (including certificates, declarations, affidavits, reports

and opinions) and things as the Lender may reasonably require for the purpose of giving effect to this First Amendment Agreement and the Loan Agreement as amended hereby.

4.3 This First Amendment Agreement shall from the Effective Date be read and construed along with the Loan Agreement and be treated as part thereof and for such purposes and so far as may be necessary to effectuate these presents, the Loan Agreement shall be regarded as being hereby amended and the Loan Agreement as so amended shall continue in full force and effect.

4.4 The Borrower hereby ratifies and confirms the Loan Agreement as amended by this First Amendment Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF this First Amendment Agreement has been executed as of the date and year first written above.

MARSHALLZEHR GROUP INC.

Per: Murray Snedden
Name: MURRAY SNEDDEN
Title: CEO & PRINCIPAL BROKER
I have authority to bind the Corporation.

KSV KOFMAN INC., solely in its capacity as Receiver and Manager of certain property of MEMORY CARE INVESTMENT (KITCHENER) LTD.

Per: Noah Goldstein
Name: Noah Goldstein
Title: Managing Director
I have authority to bind the Corporation.

TAB 3

Court File No. CV-17-11689-00CL

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

| | | |
|----------------|---|---------------------------------|
| THE HONOURABLE |) | WEDNESDAY, THE 30 th |
| |) | |
| JUSTICE MYERS |) | DAY OF MAY, 2018 |
| |) | |

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

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

**ORDER
(Amending Agreements Approval)**

THIS MOTION, made by KSV Kofman Inc. (the “**Receiver**”), in its capacity as receiver and manager of certain property of Memory Care Investments (Kitchener) Ltd. (“**Kitchener**”), and 1703858 Ontario Inc. (“**Burlington**” and, together with Kitchener, the “**Receivership Companies**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion and the Receiver’s Twelfth Report dated May 17, 2018 (the “**Twelfth Report**”), together with the appendices thereto,

AND UPON HEARING the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed,

1. **THIS COURT ORDERS** that the time and manner of service of the Notice of Motion and the Motion Record, including the Twelfth Report, are hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
 2. **THIS COURT ORDERS** that the Amending Agreements (as defined in the Twelfth Report) be and are hereby approved.
 3. **THIS COURT ORDERS** that paragraph 23 of the Second Amended and Restated Order granted in this proceeding (the “**Amended and Restated Order**”) be and is hereby further amended to increase the sum that the Receiver is empowered to borrow by way of the MC Kitchener Commitment Letter (as defined in the Amended and Restated Order) to \$1,631,276 (or such greater amount as this Court may by further Order authorize).
 4. **THIS COURT ORDERS** that paragraph 25 of the Amended and Restated Order be and is hereby further amended to increase the sum that the Receiver is empowered to borrow by way of the MC Burlington Commitment Letter (as defined in the Amended and Restated Order) to \$1,963,061 (or such greater amount as this Court may by further Order authorize).
 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.
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IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

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

Court File No.: CV-17-11689-00CL

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

ORDER
(Amending Agreements Approval)

BENNETT JONES LLP
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Counsel to the Receiver,
KSV Kofman Inc.

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

MOTION RECORD
(Returnable May 30, 2018)

BENNETT JONES LLP
3400 One First Canadian Place
Toronto, ON M5X 1A4

Sean H. Zweig (LSUC#57307I)
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Counsel to the Receiver,
KSV Kofman Inc.