



January 5, 2018

**Report of  
KSV Kofman Inc.  
as Proposed Receiver of Certain Property of  
Textbook (445 Princess St.) Inc.**

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COURT FILE NO.: CV-17-589078-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

BETWEEN:

KINGSETT MORTGAGE CORPORATION

APPLICANT

- AND -

TEXTBOOK (445 PRINCESS STREET) INC.

RESPONDENT

REPORT OF  
KSV KOFMAN INC.  
AS PROPOSED RECEIVER

JANUARY 5, 2018

## 1.0 Introduction

1. This report ("Report") is filed by KSV Kofman Inc. ("KSV") as proposed receiver and manager of certain real property municipally described as 429 and 445 Princess Street, Kingston, Ontario (the "Real Property"), which Real Property is registered on title as being owned by Textbook (445 Princess Street) Inc. (the "Company"), and of all of assets, undertakings and properties acquired for or used in relation to the Real Property (together with the Real Property, the "Property").
2. The application for the appointment of KSV is being made by KingSett Mortgage Corporation ("KingSett"), which is owed approximately \$7.1 million by the Company. KingSett has a mortgage registered on title to the Real Property.
3. KSV has consented to act as receiver of the Property. A copy of KSV's consent is attached as Appendix "A".
4. The principal purpose of the proposed receivership proceedings is to conduct a sale process for the Property under the supervision of a Court-appointed receiver.

## 1.1 Purposes of this Report

1. The purposes of this Report are to:
  - a) provide background information on the proposed receivership proceedings;
  - b) summarize a recommended process pursuant to which the Property is to be marketed for sale, including the retention of Jones Lang LaSalle Incorporated (“JLL”) to act as listing agent (“Sale Process”);
  - c) summarize the terms under which KSV proposes to borrow up to \$200,000 under Receiver Certificates (the “Receiver’s Borrowings”) from KingSett, if required; and
  - d) recommend that the Court issue an order, among other things:
    - appointing KSV as receiver and manager of the Property;
    - approving the Sale Process;
    - authorizing KSV to enter into an agreement with Pinchin Ltd. (“Pinchin”) to prepare a phase two environmental report on the Real Property (“Phase Two Report”); and
    - approving the terms of the Receiver’s Borrowings.

## 2.0 Background

1. The Company purchased the Real Property in July, 2016 for \$9.3 million.
2. Shoppers Drug Mart (“Shoppers”) operates a store on the Real Property. The lease expires in December, 2020. Shoppers has four five-year options to extend the lease at pre-determined rental rates. The base rent paid by Shoppers is approximately \$36,000 per month. Shoppers is also required to pay property taxes, insurance and maintenance expenses under the lease.
3. The Company intended to develop a student housing residence on the Real Property, with a Shoppers’ store located on the first two levels.
4. The Company’s officers and directors are John Davies (“Davies”) and Walter Thompson (“Thompson”).

## 2.1 Secured Creditors

### 2.1.1 KingSett Mortgage Corporation

1. The KingSett mortgage was used to finance a portion of the purchase price of the Real Property.
2. Monthly payments on the KingSett mortgage are interest only. Interest payments are approximately \$33,000 per month.
3. The Company did not fund its mortgage payment due to KingSett on November 1, 2017<sup>1</sup>. KSV understands that KingSett attempted to contact Davies and Thompson regarding the November 1<sup>st</sup> payment, but neither Davies nor Thompson have responded.
4. On November 7, 2017, KingSett issued a demand letter and served a Notice of Intention to Enforce Security pursuant to Section 244 of the *Bankruptcy and Insolvency Act* in respect of the amounts owing under its mortgage.
5. On November 20, 2017, KingSett advised Shoppers of the Company's default under its mortgage and, in accordance with the terms of its loan and security, directed Shoppers to pay all future rents to KingSett. On December 19, 2017, Shoppers paid KingSett the rent due for December.
6. Bennett Jones LLP, the proposed receiver's counsel, provided KSV with an opinion on KingSett's security, which indicates that, subject to the usual qualifications and assumptions, KingSett holds a valid and perfected security interest in the Company's business and assets as set out in its security documents, and that KingSett's mortgage with respect to the Real Property constitutes a valid and enforceable charge. A copy of the security opinion will be made available to the Court should it wish to review it.

### 2.1.2 445 Trustee and the Davies Developers' Proceedings

1. The Company is also indebted to Textbook Student Suites (445 Princess Street) Trustee Corporation (the "445 Trustee") in the amount of approximately \$8.4 million. The 445 Trustee and Olympia Trust Company have a mortgage registered on title to the Real Property in the amount of \$6 million (the "Subordinate Mortgage"). The KingSett charge was registered in advance of the Subordinate Mortgage, and the 445 Trustee and Olympia Trust Company have postponed their mortgage to KingSett. The postponement is registered on title to the Real Property.

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<sup>1</sup> Mortgage payments were paid via direct debit by KingSett from a Company bank account. The Company's bank account was not sufficiently funded to cover the November, 2017 interest payment.

2. Pursuant to an order of the Ontario Superior Court of Justice (“Court”) dated October 27, 2016, Grant Thornton Limited was appointed Trustee (“Trustee”) of eleven entities<sup>2</sup>, including the 445 Trustee, which raised monies from investors through syndicated mortgage investments (collectively, the “Trustee Corporations”). Eight of the Trustee Corporations then advanced these monies on a secured basis pursuant to loan agreements between a Trustee Corporation and eleven entities (the “Davies Developers”), including the Company.
3. The Davies Developers are developers of student residences, accommodations for people suffering from various forms of cognitive impairment and low-rise condominiums. All but one of the Davies Developers’ projects (the “Projects”) are in pre-construction.<sup>3</sup>
4. Davies and/or Thompson are the sole directors and officers of the Davies Developers.
5. The funds advanced from the Trustee Corporations to the Davies Developers were to be used to purchase real property and to pay the soft costs associated with the development of the Projects.
6. KSV is presently the Court appointed receiver (the “Receiver”) of the real properties and related assets owned by seven of the Davies Developers. KSV, as Receiver, is investigating the activities of the Davies Developers and their principals. As part of the investigation, the Receiver completed a review of the receipts and disbursements of each of the Davies Developers. In the case of the Company, the Receiver’s review reflects that approximately \$16,000<sup>4</sup> of the \$8.4 million borrowed by the Company from the 445 Trustee was spent on development activities for the Company’s Project. The development activities performed by the Company mainly related to obtaining a Phase One environmental assessment (“Phase 1 Report”) and conducting site servicing activities.
7. As a result of the Receiver’s investigation and findings, the Court issued a Mareva injunction against Davies, his spouse and Aeolian Investments Ltd., Davies’ family holding company.
8. Further information regarding the Davies Developers’ receiverships is provided in the prior reports of the Receiver, copies of which are available on the Receiver’s website at: <http://www.ksvadvisory.com/insolvency-cases/scollard-development-corporation/>.

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<sup>2</sup> Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trustee Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation

<sup>3</sup> Footings and foundations have been laid down at one of the Davies Developers’ Burlington project.

<sup>4</sup> The Receiver’s Fourth Report to Court dated June 6, 2017 included a Schedule of Receipts and Disbursements for the Company. The schedule reflected that approximately \$29,000 was spent on development expenses. Upon further review, approximately \$13,000 of the development expenses were spent on behalf of other Davies Developers.

### **2.1.3 208 Division Street, Kingston**

1. The Company purchased the real property municipally described as 208 Division Street, Kingston (“208 Division Street”) in October, 2016 for \$400,000. 208 Division Street is adjacent to the Real Property. KSV understands that the Shoppers lease is located entirely on the Real Property; it is not located on the 208 Division Street property.
2. 1556910 Ontario Limited has the only charge registered against the 208 Division Street property. The charge is in the amount of \$200,000. The 208 Division Street property is not subject to the contemplated receivership proceedings.

### **3.0 Sale Process**

1. Several listing agents were considered for the sale of the Real Property. KSV recommends that JLL be retained as the listing agent. KingSett, as the major economic interest in these proceedings, supports the retention of JLL, as does the 445 Trustee.
2. JLL has extensive experience selling assets similar to the Real Property, including a transaction in December 2016 where the property was leased by Shoppers.
3. JLL and KSV have negotiated a listing agreement (“Listing Agreement”). Under the Listing Agreement, JLL is entitled to a commission rate of 3% upon a sale of the Real Property. Based on KSV’s real estate experience, the contemplated commission rate is consistent with market. The agreed, unsigned Listing Agreement is attached as Appendix “B”. An executed version will be made available for the Court on the return of the application. The Court will be advised of any changes to the final form Listing Agreement, although none are expected.

### 3.1 Sale Process

1. The recommended Sale Process is summarized in the table below.

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 1 – Underwriting</i>		
Due diligence	➤ JLL to review all available documents concerning the Real Property.	Week 1 - 2
Finalize marketing materials	➤ JLL and KSV to: <ul style="list-style-type: none"> <li>○ prepare a development summary in the form of postcards, letters and marketing brochures;</li> <li>○ populate an online data room;</li> <li>○ prepare a confidentiality agreement (“CA”); and</li> <li>○ prepare a Confidential Information Memorandum (“CIM”).</li> </ul>	
Prospect Identification	➤ JLL will qualify and prioritize prospects. ➤ JLL will also have pre-marketing discussions with targeted prospects.	
<i>Phase 2 – Marketing</i>		
Stage 1	➤ Mass market introduction, including: <ul style="list-style-type: none"> <li>○ postcards to be sent to approximately 4,000 retail real estate investors;</li> <li>○ emails to be distributed to over 2,000 retail real estate investors;</li> <li>○ letters to be sent to investors that own similar retail assets;</li> <li>○ publication of the acquisition opportunity in <i>The Globe and Mail</i> (National Edition);</li> <li>○ telephone canvass of leading prospects; and</li> <li>○ meet with and interview bidders.</li> </ul>	Weeks 3 -4
Stage 2	➤ JLL to provide detailed information to qualified prospects which sign the CA, including the CIM and access to the data room; ➤ JLL to facilitate diligence by interested parties; ➤ JLL to canvass the market and then determine a bid date in conjunction with KSV; and ➤ KSV will prepare a vendor’s form of Purchase and Sale Agreement (“PSA”)	Week 5 - TBD
Stage 3	➤ Prospective purchasers to submit PSAs or other proposals.	TBD



Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 3 – Offer Review and Negotiations</i>		
	<ul style="list-style-type: none"> <li>➤ Proposal short listing and approval</li> <li>➤ 2<sup>nd</sup> Round Bids and further bidding - Prospective purchasers may be asked to re-submit PSAs on one or more occasions</li> </ul>	TBD
Selection of Successful Bids	➤ Select successful bidder and finalize definitive documents.	TBD
Sale Approval Motion and Closing	➤ Motion for sale approval and close transaction	TBD

2. The table reflects that the bid date in the Sale Process has not yet been determined. It is intended that after JLL completes its initial marketing efforts, KSV would establish the deadline for submitting offers in consultation with JLL and KingSett.
3. Additional attributes of the Sale Process include:
  - a) the Property will be marketed on an “as is, where is” basis;
  - b) KSV will have the right to reject all offers, including the highest offer;
  - c) if the highest and best offer received does not generate proceeds sufficient to repay KingSett in full, and KingSett does not consent to the proposed transaction, KSV will terminate the Sale Process. KingSett will then have the option to credit bid its debt to purchase the Property. If this occurs, provided the highest and best offer provided by JLL was a closeable offer (“Closeable Offer”), JLL will still be entitled to the commission it would have generated from the Closeable Offer; and
  - d) any transaction will be subject to Court-approval.
4. The Sale Process is similar to the sale processes used for the other Davies Developers where KSV is acting as receiver, including paragraph 3.1.3(c) above.
5. KSV intends to keep the 445 Trustee advised of the status of the Sale Process.

### **3.2 Sale Process Recommendation**

1. KSV recommends that the Court issue an order approving the Sale Process for the following reasons:
  - a) JLL's team has experience selling retail projects in Kingston;
  - b) KingSett and the 445 Trustee, being the two parties which represent the economic interest in the Real Property, have consented to the engagement of JLL;
  - c) the commission rate in the Listing Agreement is consistent with market;
  - d) the Sale Process is a fair, open and transparent process intended to canvass the market broadly on an orderly basis in order to obtain the highest and best price;
  - e) there will be no delay commencing the Sale Process – JLL will be retained from the outset of these proceedings and is familiar with the Real Property. This should allow for a timely process to be conducted, which will assist to reduce costs;
  - f) the Sale Process is flexible and will allow KSV to establish procedures it believes necessary to maximize value; and
  - g) KingSett and the 445 Trustee support the Sale Process.
2. Based on the foregoing, KSV believes that the terms of the Listing Agreement are reasonable in the circumstances. KSV recommends the Court approve the Sale Process and the retention of JLL as listing agent.

### **4.0 Phase Two Environmental Assessment**

1. Pinchin previously prepared the Phase 1 Report for the Real Property. If appointed, KSV intends to engage Pinchin to prepare a Phase Two Report. As part of its procedures, Pinchin will need to drill holes on the Real Property in order to collect samples for testing.
2. The completed Phase Two Report will be made available in the data room and to all interested parties who sign a confidentiality agreement, as many interested parties will require this report as part of their due diligence; they are unlikely to submit clean offers without it. Having this report prepared at the outset of the receivership should expedite the Sale Process because there will not be a need for offers to be conditioned on completing such a report.

## 5.0 Funding of the Receivership

1. In the event that funding is required to cover the costs of these proceedings, including professional costs, KingSett is prepared to fund such costs under Receiver's Certificates.
2. A summary of the key terms of the proposed KingSett facility is as follows:
  - a) Amount: up to \$200,000
  - b) Term: one year
  - c) Repayment: any time without penalty, with three business days written notice to KingSett
  - d) Interest rate: 11.5% per annum, compounded monthly
  - e) Commitment fee: 2% of the total facility (\$4,000). Given the size of the facility, the commitment fee is immaterial
  - f) Draws and Security: funds are to be advanced under Receiver's Certificates. Advances are to be secured by a Court-ordered charge on the Property which is only subordinate to the Receiver's Charge (as defined in the proposed form of receivership order)
  - g) Subsequent Loans: in the event the Receiver seeks a subsequent loan, the Receiver will first offer the opportunity to KingSett
  - h) Conditions: the only condition to the facility is that the Court approve the commitment letter and make the proposed receivership order.

### 5.1 Recommendation re Receiver's Borrowings

1. KSV recommends the Court issue an order approving the terms of the Receiver's Borrowings for the following reasons:
  - a) it will provide the Receiver with liquidity to fund these proceedings, if necessary, and avoid the expense relating to returning to Court at a later date seeking the ability to borrow; and

- b) The terms of the facility are consistent with other recent real estate restructurings in which KSV is involved, including others involving the Davies Developers. If the Court approves the terms of the Receiver's Borrowings, KSV does not intend to solicit other financing proposals. Given the small size of the facility, the fees incurred running such a process would exceed the savings, if any, achieved by that process.

## 6.0 Conclusion and Recommendation

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

\* \* \*

All of which is respectfully submitted,



**KSV KOFMAN INC.,  
SOLELY IN ITS CAPACITY AS PROPOSED RECEIVER OF CERTAIN PROPERTY OF  
TEXTBOOK (445 PRINCESS STREET) INC.  
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

## **Appendix “A”**

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

**BETWEEN:**

**KINGSETT MORTGAGE CORPORATION**

Applicant

- and -

**TEXTBOOK (445 PRINCESS STREET) INC.**

Respondent

**APPLICATION UNDER** Section 243(1) of the *Bankruptcy and Insolvency Act*  
and Section 101 of the *Courts of Justice Act*

**CONSENT**

KSV Kofman Inc. hereby consents to act as the receiver and manager in the above-noted proceeding pursuant to the draft Order included in the Applicant's application record.

**DATED** this 4<sup>th</sup> day of January, 2018.

**KSV KOFMAN INC.**

Per:   
Name: Noah Goldstein  
Title: Managing Director

## **Appendix “B”**

**Listing Agreement**  
**Authority to Offer for Sale**



**EXCLUSIVE**

This is a Multiple Listing Service® Agreement

(Seller's initials)

OR Exclusive Listing Agreement

(Seller's initials)

BETWEEN:

BROKERAGE: See "Rider to Listing Agreement"

(the "Listing Brokerage") Tel.No. (.....)

SELLER(S): .....(the "Seller")

In consideration of the Listing Brokerage listing the real property for sale known as

.....(the "Property")

the Seller hereby gives the Listing Brokerage the exclusive and irrevocable right to act as the Seller's agent,

commencing at 12:01 a.m. on the See "Rider to Listing Agreement" day of ....., 20.....  
 until 11:59 p.m. on the..... day of....., 20..... (the "Listing Period").

{ Seller acknowledges that the length of the Listing Period is negotiable between the Seller and the Listing Brokerage and, if a MLS® listing may be subject to minimum requirements of the real estate board, however, in accordance with the Real Estate and Business Brokers Act (2002), If the Listing Period exceeds six months, the Listing Brokerage must obtain the Seller's initials. }

(Seller's initials)

to offer the property for sale at a price of one Dollars (CDNS) 1000

and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property.

The Seller hereby represents and warrants that the Seller is not a party to any other listing agreement for the Property or agreement to pay commission to any other real estate brokerage for the sale of the property.

**1. DEFINITIONS AND INTERPRETATIONS:** For the purposes of this Listing Agreement ("Authority" or "Agreement"), "Seller" includes vendor, a "buyer" includes a purchaser, or a prospective purchaser and a "real estate board" includes a real estate association. A purchase shall be deemed to include the entering into of any agreement to exchange, or the obtaining of an option to purchase which is subsequently exercised. This Agreement shall be read with all changes of gender or number required by the context. For purposes of this Agreement, anyone introduced to or shown the Property shall be deemed to include any spouse, heirs, executors, administrators, successors, assigns, related corporations and affiliated corporations. Related corporations or affiliated corporations shall include any corporation where one half or a majority of the shareholders, directors or officers of the related or affiliated corporation are the same person(s) as the shareholders, directors, or officers of the corporation introduced to or shown the Property.

**2. COMMISSION:** In consideration of the Listing Brokerage listing the Property, the Seller agrees to pay the Listing Brokerage a commission of.....% of the sale price of the Property or See "Rider to Listing Agreement" for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period and on the terms and conditions set out in this Agreement OR such other terms and conditions as the Seller may accept - Subject to the terms and conditions set out in the Listing Agreement. The Seller further agrees to pay such commission as calculated above if an agreement to purchase is agreed to or accepted by the Seller or anyone on the Seller's behalf within See "Rider to Listing Agreement" days after the expiration of the Listing Period (Holdover Period), so long as such agreement is with anyone who was introduced to the Property from any source whatsoever during the Listing Period or shown the Property during the Listing Period. If, however, the offer for the purchase of the Property is pursuant to a new agreement in writing to pay commission to another registered real estate brokerage, the Seller's liability for commission shall be reduced by the amount paid by the Seller under the new agreement. The Seller further agrees to pay such commission as calculated above even if the transaction contemplated by an agreement to purchase agreed to or accepted by the Seller or anyone on the Seller's behalf is not completed, if such non-completion is owing or attributable to the Seller's default or neglect; said commission to be payable on the date set for completion of the purchase of the Property. Any deposit in respect of any agreement where the transaction has been completed shall first be applied to reduce the commission payable. Should such amounts paid to the Listing Brokerage from the deposit or by the Seller's solicitor not be sufficient, the Seller shall be liable to pay to the Listing Brokerage on demand, any deficiency in commission and taxes owing on such commission. All amounts set out as commission are to be paid plus applicable taxes on such commission.

**3 REPRESENTATION:** The Seller acknowledges that the Listing Brokerage has provided the Seller with information explaining agency relationships, including information on Seller Representation, Sub-agency, Buyer Representation, Multiple Representation and Customer Service. The Seller authorizes the Listing Brokerage to co-operate with any other registered real estate brokerage (co-operating brokerage) and to offer to pay the co-operating brokerage a commission of.....% of the sale price of the Property or See "Rider to Listing Agreement"

..... out of the commission the Seller pays the Listing Brokerage.

INITIALS OF LISTING BROKERAGE: (.....)

INITIALS OF SELLER(S): (.....)



The Seller understands that unless the Seller is otherwise informed, the co-operating brokerage is representing the interests of the buyer in the transaction. The Seller further acknowledges that the Listing Brokerage may be listing other properties that may be similar to the Seller's Property and the Seller hereby consents to the Listing Brokerage listing other properties that may be similar to the Seller's Property without any claim by the Seller of conflict of interest. The Seller hereby appoints the Listing Brokerage as the Seller's agent for the purpose of giving and receiving notices pursuant to any offer or agreement to purchase the property. Unless otherwise agreed in writing between Seller and Listing Brokerage, any commission payable to any other brokerage shall be paid out of the commission the Seller pays the Listing Brokerage, said commission to be disbursed in accordance with the Commission Trust Agreement.

**MULTIPLE REPRESENTATION:** The Seller hereby acknowledges that the Listing Brokerage may be entering into buyer representation agreements with buyers who may be interested in purchasing the Seller's Property. In the event that the Listing Brokerage has entered into or enters into a buyer representation agreement with a prospective buyer for the Seller's Property, the Listing Brokerage will obtain the Seller's written consent to represent both the Seller and the buyer for the transaction at the earliest practicable opportunity and in all cases prior to any offer to purchase being submitted or presented.

The Seller understands and acknowledges that the Listing Brokerage must be impartial when representing both the Seller and the buyer and equally protect the interests of the Seller and buyer. The Seller understands and acknowledges that when representing both the Seller and the buyer, the Listing Brokerage shall have a duty of full disclosure to both the Seller and the buyer, including a requirement to disclose all factual information about the Property known to the Listing Brokerage.

However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:

- that the Seller may or will accept less than the listed price, unless otherwise instructed in writing by the Seller;
- that the buyer may or will pay more than the offered price, unless otherwise instructed in writing by the buyer;
- the motivation of or personal information about the Seller or buyer, unless otherwise instructed in writing by the party to which the information applies or unless failure to disclose would constitute fraudulent, unlawful or unethical practice;
- the price the buyer should offer or the price the Seller should accept; and
- the Listing Brokerage shall not disclose to the buyer the terms of any other offer.

However, it is understood that factual market information about comparable properties and information known to the Listing Brokerage concerning potential uses for the Property will be disclosed to both Seller and buyer to assist them to come to their own conclusions.

**When a Brokerage represents both the Seller and the Buyer (multiple representation), the Brokerage shall not be entitled or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices.**

**MULTIPLE REPRESENTATION AND CUSTOMER SERVICE:** The Seller understands and agrees that the Listing Brokerage also provides representation and customer service to other sellers and buyers. If the Listing Brokerage represents or provides customer service to more than one seller or buyer for the same trade, the Listing Brokerage shall, in writing, at the earliest practicable opportunity and before any offer is made, inform all sellers and buyers of the nature of the Listing Brokerage's relationship to each seller and buyer.

4. **FINDERS FEES:** The Seller acknowledges that the Brokerage may be receiving a finder's fee, reward and/or referral incentive, and the Seller consents to any such benefit being received and retained by the Brokerage in addition to the commission as described above.
5. **REFERRAL OF ENQUIRIES:** The Seller agrees that during the Listing Period, the Seller shall advise the Listing Brokerage immediately of all enquiries from any source whatsoever, and all offers to purchase submitted to the Seller shall be immediately submitted to the Listing Brokerage before the Seller accepts or rejects the same. If any enquiry during the Listing Period results in the Seller accepting a valid offer to purchase during the Listing Period or within the Holdover Period after the expiration of the Listing Period, the Seller agrees to pay the Listing Brokerage the amount of commission set out above, payable within five (5) days following the Listing Brokerage's written demand therefor.
6. **MARKETING:** The Seller agrees to allow the Listing Brokerage to show and permit prospective buyers to fully inspect the Property during reasonable hours and the Seller gives the Listing Brokerage the sole and exclusive right to place "For Sale" and "Sold" sign(s) upon the Property. The Seller consents to the Listing Brokerage including information in advertising that may identify the Property. The Seller further agrees that the Listing Brokerage shall have sole and exclusive authority to make all advertising decisions relating to the marketing of the Property for sale during the Listing Period. The Seller agrees that the Listing Brokerage will not be held liable in any manner whatsoever for any acts or omissions with respect to advertising by the Listing Brokerage or any other party, other than by the Listing Brokerage's gross negligence or willful act.
7. **WARRANTY:** The Seller represents and warrants that the Seller has the exclusive authority and power to execute this Authority to offer the Property for sale and that the Seller has informed the Listing Brokerage of any third party interests or claims on the Property such as rights of first refusal, options, easements, mortgages, encumbrances or otherwise concerning the Property, which may affect the sale of the Property.
8. **INDEMNIFICATION AND INSURANCE:** The Seller will not hold the Listing Brokerage and representatives of the Brokerage responsible for any loss or damage to the Property or contents occurring during the term of this Agreement caused by the Listing Brokerage or anyone else by any means, including theft, fire or vandalism, other than by the Listing Brokerage's gross negligence or willful act. *unless same would be a breach of his duties in the seller's absolute discretion* The Seller agrees to indemnify and save harmless the Listing Brokerage and representatives of the Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury, including but not limited to loss of the commission payable under this Agreement, caused or contributed to by the breach of any warranty or representation made by the Seller in this Agreement or the accompanying data form. The Seller warrants the Property is insured, including personal liability insurance against any claims or lawsuits resulting from bodily injury or property damage to others caused in any way on or at the Property and the Seller indemnifies the Brokerage and all of its employees, representatives, salespersons and brokers (Listing Brokerage) and any co-operating brokerage and all of its employees, representatives, salespersons and brokers (co-operating brokerage) for and against any claims against the Listing Brokerage or co-operating brokerage made by anyone who attends or visits the Property.
9. **FAMILY LAW ACT:** The Seller hereby warrants that spousal consent is not necessary under the provisions of the Family Law Act, R.S.O. 1990, unless the Seller's spouse has executed the consent hereinafter provided.
10. **VERIFICATION OF INFORMATION:** The Seller authorizes the Listing Brokerage to obtain any information affecting the Property from any regulatory authorities, governments, mortgagees or others and the Seller agrees to execute and deliver such further authorizations in this regard as may be reasonably required. The Seller hereby appoints the Listing Brokerage or the Listing Brokerage's authorized representative as the Seller's attorney to execute such documentation as may be necessary to effect obtaining any information as aforesaid. The Seller hereby authorizes, instructs and directs the above noted regulatory authorities, governments, mortgagees or others to release any and all information to the Listing Brokerage.
11. **USE AND DISTRIBUTION OF INFORMATION:** The Seller consents to the collection, use and disclosure of personal information by the Brokerage for the purpose of listing and marketing the Property including, but not limited to: listing and advertising the Property using any medium including the Internet; disclosing Property information to prospective buyers, brokerages, salespersons and others who may assist in the sale of the Property; such other use of the Seller's personal information as is consistent with listing and marketing of the Property. The Seller consents, if this is an MLS® Listing, to placement of the listing information and sales information by the Brokerage into the database(s) of the MLS® System of the appropriate Board, and to the posting of any documents and other information (including, without limitation, photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions) provided by or on behalf of the Seller into the

INITIALS OF LISTING BROKERAGE: 

INITIALS OF SELLER(S): 

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database(s) of the MLS® System of the appropriate Board. The Seller hereby indemnifies and saves harmless the Brokerage and/or any of its employees, servants, brokers or sales representatives from any and all claims, liabilities, suits, actions, losses, costs and legal fees caused by, or arising out of, or resulting from the posting of any documents or other information (including, without limitation, photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions) as aforesaid. The Seller acknowledges that the database, within the board's MLS® System is the property of the real estate board(s) and can be licensed, resold, or otherwise dealt with by the board(s). The Seller further acknowledges that the real estate board(s) may, during the term of the listing and thereafter, distribute the information in the database, within the board's MLS® System to any persons authorized to use such service which may include other brokerages, government departments, appraisers, municipal organizations and others; market the Property, at its option, in any medium, including electronic media; during the term of the listing and thereafter, compile, retain and publish any statistics including historical data within the board's MLS® System and retain, reproduce and display photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions which may be used by board members to conduct comparative analyses; and make such other use of the information as the Brokerage and/or real estate board(s) deem appropriate, in connection with the listing, marketing and selling of real estate during the term of the listing and thereafter. The Seller acknowledges that the information, personal or otherwise ("information"), provided to the real estate board or association may be stored on databases located outside of Canada, in which case the information would be subject to the laws of the jurisdiction in which the information is located.

In the event that this Agreement expires or is cancelled or otherwise terminated and the Property is not sold, the Seller, by initialling



Does



Does Not

consent to allow other real estate board members to contact the Seller after expiration or other termination of this Agreement to discuss listing or otherwise marketing the Property

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

**13. CONFLICT OR DISCREPANCY:** If there is any conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto, shall constitute the entire Agreement between the Seller and the Listing Brokerage. There is no representation, warranty, collateral agreement or condition which affects this Agreement other than as expressed herein.

**14. ELECTRONIC COMMUNICATION:** This Listing Agreement and any agreements, notices or other communications contemplated thereby may be transmitted by means of electronic systems, in which case signatures shall be deemed to be original. The transmission of this Agreement by the Seller by electronic means shall be deemed to confirm the Seller has retained a true copy of the Agreement.

**15. SCHEDULE(S):** See "Refer to Listings Agreement" and data form attached hereto form(s) part of this Agreement.

**THE LISTING BROKERAGE AGREES TO MARKET THE PROPERTY ON BEHALF OF THE SELLER AND REPRESENT THE SELLER IN AN ENDEAVOUR TO OBTAIN A VALID OFFER TO PURCHASE THE PROPERTY ON THE TERMS SET OUT IN THIS AGREEMENT OR ON SUCH OTHER TERMS SATISFACTORY TO THE SELLER.**

..... DATE.....  
 (Authorized to bind the Listing Brokerage) (Name of Person Signing)

**THIS AGREEMENT HAS BEEN READ AND FULLY UNDERSTOOD BY ME AND I ACKNOWLEDGE THIS DATE I HAVE SIGNED UNDER SEAL.** Any representations contained herein or as shown on the accompanying data form respecting the Property are true to the best of my knowledge, information and belief.

SIGNED, SEALED AND DELIVERED I have hereunto set my hand and seal

..... DATE.....  
 (Signature of Seller) (Seal) (Tel. No.)

..... DATE.....  
 (Signature of Seller) (Seal)

**SPOUSAL CONSENT:** The undersigned spouse of the Seller hereby consents to the listing of the Property here in pursuant to the provisions of the Family Law Act, R.S.O. 1990 and hereby agrees that he/she will execute all necessary or incidental documents to further any transaction provided for herein.

..... DATE.....  
 (Spouse) (Seal)

**DECLARATION OF INSURANCE**

The broker/salesperson.....  
 (Name of Broker/Salesperson)

hereby declares that he/she is insured as required by the Real Estate and Business Brokers Act (REBBA) and Regulations.

.....  
 (Signature(s) of Broker/Salesperson)

**ACKNOWLEDGEMENT**

The Seller(s) hereby acknowledge that the Seller(s) fully understand the terms of this Agreement and have received a true copy of this Agreement on the ..... day of ....., 20 .....

..... Date:.....  
 (Signature of Seller)

..... Date:.....  
 (Signature of Seller)

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## Schedule "A"

**Re:** Listing Agreement (the "**Agreement**") for 429 and 445 Princess Street in the city of Kingston, Ontario (the "**Property**") between **JONES LANG LASALLE IP, INC.** (the "**Listing Brokerage**") and **KSV KOFMAN INC.** (the "**Seller**"), without personal or corporate liability and solely in its capacity as proposed Court-appointed receiver and manager of the Property owned by Textbook (445 Princess Street) Inc. ("**Company**") and all of the assets, undertakings and properties of the Company acquired for or used in relation to the Property.

Notwithstanding anything contained in the Agreement, each of Listing Brokerage, and the Seller acknowledges and agrees as follows:

1. **Termination Rights.** The Seller may without penalty or cost to the Seller terminate the Agreement at any time, if the Listing Brokerage is in default hereunder or under any other agreement with the Seller. In addition, this Agreement shall automatically terminate if: (a) the Court order appointing the Seller and/or the Seller's appointment as receiver and manager of the Property owned by the Company is revoked, overturned on appeal, suspended or terminated; and/or (b) the Seller is restricted in or enjoined from dealing with the Property by a court of competent jurisdiction; and/or (c) any of the mortgagees of the Property or any other future lenders are permitted by Court order to enforce their rights and/or remedies against the Property.
2. **Price.** While it is the Seller's intention to obtain the highest and best offer for the Property, the Listing Brokerage acknowledges and agrees that the Seller need not accept the highest offers and/or the best offers or any offer, and that acceptance by the Seller of any offers for the Property are subject at all times to the Seller's approval in its sole and absolute discretion and as well as approval by the Court. No fee, commission or other compensation is payable to the Listing Brokerage in respect of the Property unless and until the sale of the Property has been completed and the Seller is paid in its entirety (other than any portion of the purchase price to be paid by VTB mortgage or similar post-closing payment arrangement).
3. **Holdover Period Commission.** Any fee, commission or other compensation payable to the Listing Brokerage in connection with a holdover period, being six (6) months from the termination of the Listing Agreement ("**Holdover Period**"), shall: (a) only apply to those purchasers who were introduced to the Seller or to the Property by the Listing Brokerage during the Listing Period and who the Listing Brokerage has previously disclosed in writing to the Seller no later than three (3) days following the earlier of the expiration or termination of the Agreement; and (b) be reduced by any fee, commission and/or other compensation paid to another broker or agent for the sale of the Property as the new Listing Brokerage (the "**New Agent**") on the basis of an agreement with the New Agent entered into with respect to the Holdover Period.

If the Listing Brokerage had introduced up to a maximum of two (2) different prospective *bona fide* purchasers to the Seller during the Listing Period (each being a "**Serious Prospect**") and said Serious Prospect had entered into material negotiations with the Seller to purchase the Property, but said material negotiations had not resulted in a binding agreement of purchase and sale, to the extent that each of the Listing Brokerage and the Seller agree in writing to designate said prospective purchaser as a Serious Prospect prior to the expiration of the Listing Period, and so long as the Seller is not prohibited from doing so, and provided that the New Agent has agreed to forego its fee should a sale to a Serious Prospect be completed, the Listing Brokerage shall be entitled to its commission in connection with the transaction being completed with the Serious Prospect upon terms and conditions acceptable to the Seller in their sole and absolute discretion, which transaction must be subject to Court approval and a binding and unconditional agreement of purchase and sale executed by each of the parties thereto prior to the expiration of the Holdover Period.

During the Holdover Period, the Listing Brokerage will not be entitled to any commission, payment or fee as the Seller's agent if the Listing Team represents the purchaser.

4. **Listing Brokerage’s Duties.** The Listing Brokerage covenants and agrees with the Seller to:

- (a) pursuant to the Seller’s instructions as outlined below, list the Property for sale on an un-priced basis (save and except as described in (b) below with respect to the Multiple Listings Service (“MLS”));
- (b) if instructed by the Seller, offer the Property for sale on MLS, for which the listed price shall be \$1.00 (as a price is required) and the Commissions to Co-operating Brokerage shall be \$1.00 (it being the intention that the buyer(s) shall be responsible for any commissions to any Cooperating Agents (as defined below) or that the Listing Brokerage shall pay the Cooperating Agent from the Listing Fee (as defined below));
- (c) unless otherwise agreed by the Seller, diligently market the Property for sale and use commercially reasonable efforts to sell the Property pursuant to the following process:

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 1 – Underwriting</i>		
Due diligence	➤ Listing Brokerage to review all available documents concerning the Property.	Week 1 – 2
Finalize marketing materials	➤ Listing Brokerage and the Seller to: <ul style="list-style-type: none"> <li>○ prepare a development summary in the form of postcards, letters and marketing brochures;</li> <li>○ populate an online data room;</li> <li>○ prepare a confidentiality agreement (“CA”); and</li> <li>○ prepare a Confidential Information Memorandum (“CIM”).</li> </ul>	
Prospect Identification	➤ Listing Brokerage will qualify and prioritize prospects. ➤ Listing Brokerage will also have pre-marketing discussions with targeted prospects.	
<i>Phase 2 – Marketing</i>		
Stage 1	➤ Mass market introduction, including: <ul style="list-style-type: none"> <li>○ postcards to be sent to approximately 4,000 retail real estate investors;</li> <li>○ emails to be distributed to over 2,000 retail real estate investors;</li> <li>○ personalized letters to be sent to investors that own similar retail assets;</li> <li>○ publication of the acquisition opportunity in <i>The Globe and Mail</i> (National Edition);</li> <li>○ telephone canvass of leading prospects; and</li> <li>○ meet with and interview bidders.</li> </ul>	Weeks 3- 4
Stage 2	➤ Listing Brokerage to provide detailed information to qualified prospects which sign the CA, including the CIM and access to the data room;	Week 5 - TBD

Summary of Sale Process		
Milestone	Description of Activities	Timeline
	<ul style="list-style-type: none"> <li>➤ Listing Brokerage to facilitate all diligence by interested parties;</li> <li>➤ Listing Brokerage will canvass the market and then determine a bid date in conjunction with the Receiver; and</li> <li>➤ The Seller will prepare a vendor's form of Purchase and Sale Agreement ("PSA")</li> </ul>	
Stage 3	<ul style="list-style-type: none"> <li>➤ Prospective purchasers to submit PSAs or other proposals.</li> </ul>	TBD
<i>Phase 3 – Offer Review and Negotiations</i>		
	<ul style="list-style-type: none"> <li>➤ Proposal short listing and approval</li> <li>➤ 2<sup>nd</sup> Round Bids - Prospective purchasers may be asked to re-submit PSAs</li> </ul>	TBD
Selection of Successful Bids	<ul style="list-style-type: none"> <li>➤ Select successful bidder and finalize definitive documents.</li> </ul>	TBD
Sale Approval Motion and Closing	<ul style="list-style-type: none"> <li>➤ Motion for sale approval and close transaction</li> </ul>	TBD

- (d) co-operate with all licensed real estate brokers and agents in the sale of the Property (collectively the “**Cooperating Agents**” and each a “**Cooperating Agent**”), with any commissions or fees of such Cooperating Agents to be paid by the purchasers or by the Listing Brokerage out of the Listing Fee;
- (e) ensure that there is continuity in the assignment of individual staff members and partners to the work performed by the Listing Brokerage under the terms of this engagement. In particular, the Listing Brokerage agrees to ensure that individual staff members originally assigned, including Matthew Smith (collectively the “**Listing Team**”), perform work in connection with the Listing Brokerage’s engagement, will each be available and will devote the time required to undertake the assignment contemplated herein;
- (f) subject to the instructions of the Seller, to assist the Seller in negotiating binding agreements of purchase and sale subject to Court approval with those parties identified by the Seller. Only the Seller shall have authority to accept offers and the Listing Brokerage shall not have any authority whatsoever to enter into any sale, financing or other contract on behalf of the Seller and/or to otherwise bind the Seller in any manner whatsoever;
- (g) continue to assist the Seller in connection with the sale of the Property and seeking Court approval after the execution of a binding agreement of purchase and sale with respect to the same until such sale has been successfully concluded; and
- (h) unless the Seller’s written consent is provided in advance, to act solely for the benefit of the Seller in connection with the marketing and sale of the Property and not to have any direct or indirect interest in any entity purchasing or proposing to purchase the Property and not to receive any payments or other benefits from said purchasers or potential purchasers.

5. **Commission Payable to the Listing Brokerage.** The Seller shall pay to the Listing Brokerage upon the successful completion of sale of the Property, a commission equal to 3% of the purchase price of the Property. No additional commission or fee shall be payable by the Seller in the event that the Property is sold through a Cooperating Agent, it being the intention that the commission and fee of any Cooperating Agent be paid either by the purchaser or the Listing Brokerage (out of the Listing Fee, in accordance with Section 4(b) above). A Cooperating Agent may be employed at the Listing Brokerage so long that they are not a member of the Listing Team. For greater certainty, other than the Listing Team, all other agents shall be treated as third party Cooperating Agents, shall not be provided with any confidential information and shall be compensated pursuant to this Agreement as a Cooperating Agent. Said Cooperating Agent commission shall be payable by the purchaser or the Listing Brokerage (from the Listing Fee) to said Cooperating Agent's brokerage. The Seller acknowledges that payment of HST applies on all commissions payable. As it relates to the commission payable, a sale constitutes a court approved sale of the Property, share transaction, exercise of first right to purchase, option or other form of sale or transfer of the rights of the Property. The Seller agrees to notify the Listing Brokerage of the successful completion or closing. The Seller hereby instructs its solicitors and agrees to advise the Court to distribute payment to the Listing Brokerage in the amount noted above directly out of the proceeds of sale in accordance with an accepted agreement of purchase and sale and to have same addressed as a closing cost to the transaction. In addition, if the best and highest closable offer (as determined by the Seller, in its sole discretion) the Listing Agent is able to generate would not result in sufficient proceeds to repay KingSett Mortgage Corporation ("**KingSett**") in full, and KingSett does not consent to such offer and instead credit bids its debt (or completes an otherwise similar transaction), the Listing Agent shall still be entitled to the Listing Fee it would have received based on the proceeds such closable offer would have resulted in. For greater certainty, the Listing Agent shall not be entitled to the Listing Fee or any other fee in connection with any assignment or repayment of the KingSett mortgage, unless such assignment or repayment is made as part of a sale of the Property.

6. **Acknowledgments.** The Listing Brokerage acknowledges and agrees in favour of the Seller that:
- (a) the Property is to be marketed and sold on an "as is, where is" basis and, accordingly, any agreement of purchase and sale shall provide for an acknowledgment by such purchaser that the Property is being sold by the Seller on an "as is, where is" basis, and that no representations or warranties have been or will be made by the Seller or anyone acting on its behalf, to the Listing Brokerage or such purchaser as to the condition of the Property or any buildings located thereon;
  - (b) the Seller may annex a schedule to the transfer/deed of land (or other registrable document with respect to the sale) expressly excluding any covenants deemed to be included pursuant to the *Land Registration Reform Act* of Ontario, other than one to the effect that the Seller has the right to convey the Property;
  - (c) in lieu of a transfer/deed of land for the Property, the Seller will vest title to the Property by way of a vesting order; and
  - (d) the sale of the Property requires the prior approval of the Ontario Superior Court of Justice (Commercial List) in said Court's sole and absolute discretion.

7. **Advertisement Expenses & Third Party Consultants.** All advertising and sales promotion shall be subject to the approval of the Seller and all such advertisement and promotional material shall be prepared, published and distributed by the Listing Brokerage and shall be at the expense of the Listing Brokerage. All third party reports and legal service fees requested and/or approved by the Seller shall be at the expense of the Seller.

8. **Indemnity.** The Listing Brokerage confirms that it owes an obligation to the Seller and its officers, employees and agents (collectively, the “**Indemnified Parties**”) to carry out its activities in a competent and professional manner acting reasonably and in good faith. As such, the Listing Brokerage confirms that it owes an obligation to the Indemnified Parties with respect to claims made by third parties against the Indemnified Parties arising out of work performed by the Listing Brokerage or the Listing Brokerage’s failure to comply with its obligations hereunder. This indemnity shall survive the expiration or termination of the Agreement.
9. **Confidentiality.** The Listing Brokerage shall treat and shall cause its agents to treat as confidential and shall not disclose, during as well as after the rendering of the service contracted herein, any confidential information, records or documents to which the Listing Brokerage becomes privy as a result of its performance of the Agreement and shall take all necessary steps to ensure the confidentiality of information in the Listing Brokerage’s possession or control except for disclosure that may be required for the reasonable performance by the Listing Brokerage of its responsibilities hereunder.
10. **Assignment.** This Agreement shall not be assigned in whole or in part by the Listing Brokerage without the prior written consent of the Seller which consent may be unreasonably and/or arbitrarily withheld and any assignment made without that consent is void and of no effect.
11. **Seller’s Capacity.** Notwithstanding the foregoing or anything else contained herein or elsewhere, the Listing Brokerage acknowledges and agrees that both the execution of this Agreement and any transaction or transactions involving a sale of the Property requires the prior approval of the Ontario Superior Court of Justice (Commercial List) in said Court’s sole and absolute discretion.
12. **Warranty.** Subject to Section 11 above and the remainder of this Section 12, the Seller represents and warrants that the Seller has the exclusive authority and power to execute this Agreement and to authorize the Listing Brokerage to offer the Property for sale. Notwithstanding the foregoing and Section 7 of the pre-printed portion of this Agreement, the Listing Brokerage acknowledges and agrees that the Seller has only limited knowledge about the Property and cannot confirm any third party interests or claims with respect to the Property such as rights of first refusal, options, easements, mortgages, encumbrances or otherwise concerning the Property, which may affect the sale of the Property. Section 7 of the pre-printed portion of this Agreement is qualified by the previous sentence.
13. **Facsimile & Counterparts.** This Agreement and any other agreement delivered in connection therewith, and any amendments thereto, may be executed by facsimile transmittal facilities, or electronic copy in a portable document format or such similar format and if so executed and transmitted, will be for all purposes as effective as if the parties had delivered an executed original of this Agreement, or such other agreement or amendment, as the case may be, and shall be deemed to be made when the receiving party confirms this Agreement, or such agreement or amendment, as the case may be, to the requesting party by facsimile or by electronic copy in a portable document format or such similar format. This Agreement may be executed in several counterparts, and each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and, notwithstanding their date of execution, shall be deemed to bear date as of the date first written above.
14. **Jurisdiction.** This Agreement shall be governed and construed in accordance with the laws of the Province of Ontario. If any provision hereof is invalid or unenforceable in any jurisdiction where this Agreement is to be performed, such provision shall be deemed to be deleted and the remaining portions of this Agreement shall remain valid and binding on the parties hereto.
15. **Finder’s Fees.** The Seller **does not** consent to the Listing Brokerage or any Cooperating Agents (or their respective affiliates) receiving and retaining, in addition to the commission provided for or otherwise contemplated in this Agreement, a finder’s fee for any financing of the Property. Section 4 of the pre-printed portion of this Agreement is amended accordingly.

16. **Verification of Information.** The Seller authorizes the Listing Brokerage to obtain any information from any regulatory authorities, governments, mortgagees or others affecting the Property and the Seller agrees to execute and deliver such further authorizations in this regard as may be reasonably required. For greater certainty, none of the Listing Brokerage or the Listing Brokerage's representatives may bind the Seller or execute any documentation on behalf of the Seller. The Seller hereby authorizes, instructs and directs the above noted regulatory authorities, governments, mortgagees or others to release any and all information to the Listing Brokerage. Section 10 of the pre-printed portion of this Agreement is amended accordingly.

17. **Listing Period.** The term of this Agreement shall begin upon acceptance of this Agreement (the "Commencement Date") and shall expire one minute before midnight on the eight month anniversary following the Commencement Date or upon earlier termination as otherwise prescribed herein (the "Listing Period"). Notwithstanding any other provision in this Agreement, the Listing Brokerage shall not advertise the Property on MLS until the Seller provides expressed authority to do so and all marketing materials have been approved. The Listing Brokerage shall have five (5) days following said approval to post the Property on the MLS.

18. **Paramountcy.** In the event of any conflict or inconsistency between the provisions of the pre-printed portion of this Agreement and the provisions of this Schedule "A", the provisions of this Schedule "A" shall prevail and govern.

**JONES LANG LASALLE IP, INC.**

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

Name: Matthew Smith  
Title: Officer and Broker

**KSV KOFMAN INC. SOLELY IN ITS CAPACITY  
AS PROPOSED COURT APPOINTED RECEIVER  
AND MANAGER OF CERTAIN PROPERTY OF  
TEXTBOOK (445 PRINCESS STREET) INC. AND  
NOT IN ITS PERSONAL CAPACITY**

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

Name: Robert Kofman  
Title: President