



COURT FILE NUMBER **2301 – 08305**

COURT **COURT OF KING’S BENCH OF ALBERTA**

JUDICIAL CENTRE **CALGARY**

APPLICANTS **IN THE MATTER OF THE COMPANIES’ CREDITORS**
ARRANGEMENT ACT, RSC 1985, c. C-36, as amended
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Apr 17, 2025
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CLERK OF THE COURT

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF WALLACE & CAREY INC. LOUDON
BROS LIMITED and CAREY MANAGEMENT INC.

DOCUMENT **SIXTEENTH REPORT OF THE MONITOR**
APRIL 17, 2025

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1.0 Introduction

1. Pursuant to an order (the “**Initial Order**”) granted by the Court of King’s Bench of Alberta (the “**Court**”) on June 22, 2023 (the “**Filing Date**”), Wallace & Carey Inc. (“**Wallace & Carey**”), Loudon Bros Limited (“**Loudon Bros**”, and together with Wallace & Carey, the “**Logistics Companies**”), and Carey Management Inc. (“**CMI**”, and together with the Logistics Companies, the “**Applicants**”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. (“**KSV**”) was appointed monitor of the Applicants (the “**Monitor**”).
2. On June 30, 2023, the Court granted an Amended and Restated Initial Order (the “**ARIO**”).
3. Pursuant to an order granted by the Court on August 23, 2023, the Applicants carried out a sale and investment solicitation process (the “**SISP**”) that resulted in a transaction (the “**SEC Transaction**”) between the Applicants and 7-Eleven Canada, Inc. (“**SEC**”) that was approved by the Court on November 17, 2023 pursuant to an approval and vesting order (the “**SEC Transaction Approval and Vesting Order**”) and other orders (together with the SEC Transaction Approval and Vesting Order, the “**SEC Transaction Orders**”). A detailed discussion of the SEC Transaction is provided in the Monitor’s Sixth Report to Court dated November 8, 2023 (the “**Sixth Report**”). A copy of the Sixth Report (without appendices) is attached as **Appendix “A”**.
4. On February 21, 2025, the Court issued an order approving the sale of certain additional assets of Wallace & Carey to 7-Eleven Distribution Canada Corporation (a subsidiary of SEC) (“**SEDCC**”), including accounts receivable, inventory, and certain equipment, furniture, and fixtures located at warehouses in Saskatchewan and Manitoba (the “**SEDCC Transaction**”).
5. As a result of the SEDCC Transaction and SEC Transaction, and subsequent related transactions, SEC, through SEDCC, is carrying on the majority of the business formerly carried on by Wallace & Carey. The Monitor is now focused on, *inter alia*, selling certain assets owned by the Applicants that were not sold to SEC or SEDCC, including the Shares (as defined below), which are the subject of this sixteenth report (the “**Report**”).

1.1 Purposes of this Report

1. The purposes of this Report are to:

- a) provide background information concerning the Applicants and these CCAA proceedings (the “**CCAA Proceedings**”);
- b) discuss the sale (the “**Share Transaction**”) by CMI of its 160,808 common shares (the “**Shares**”), representing a 22.503% equity interest in Spruce It Up Garden Centre Inc. (“**SIU GC**”), pursuant to a share purchase agreement dated April 14, 2025 (the “**SPA**”);
- c) provide the Court with an update on the Monitor’s activities since the Monitor’s Fifteenth Report to Court dated February 13, 2025 (the “**Fifteenth Report**”); and
- d) provide the Monitor’s recommendations that the Court issue:
 - i. an order (the “**Approval and Vesting Order**”):
 - 1) approving the SPA and the Share Transaction;
 - 2) authorizing and directing CMI and the Monitor to take all steps reasonably necessary to carry out the terms of the SPA; and
 - 3) vesting title to the Shares in and to SIU GC upon closing of the Share Transaction; and
 - ii. an order (the “**Sealing Order**”), among other things, sealing a confidential version of the SPA, attached as **Confidential Appendix “1”**, until further order of the Court¹.

1.2 Scope and Terms of Reference

1. In preparing this Report, the Monitor has relied upon the Applicants’ unaudited financial information, books and records, and discussions with the Applicants’ management and legal counsel.

¹ Pursuant to Article 5.2 of the SPA, SIU GC was to make the application for the Sealing Order. After finalizing the SPA, SIU GC and CMI agreed that CMI would bring the application for the Sealing Order to avoid having two separate applications.

2. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards (“**CAS**”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.

1.3 Currency

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

1.4 Court Materials

1. The affidavits of Patrick Carey, Eric Rolheiser, the President and Chief Executive Officer of Wallace & Carey as of the Filing Date, and Brian Birnie, the Senior Vice President of Finance & Corporate Development of Wallace & Carey as of the Filing Date, provide additional background information regarding the Applicants, their businesses, and the CCAA Proceedings. These affidavits, as well as information concerning these CCAA Proceedings, including all application materials and the reports filed by the Monitor, can be found at: <https://www.ksvadvisory.com/experience/case/wallace-and-carey>.

2.0 Applicants’ Background

1. CMI is an Alberta corporation and the sole shareholder of Wallace & Carey, which is the sole shareholder of Loudon Bros. In addition to the Logistics Companies, CMI has ownership interests in nine subsidiaries, none of which are subject to the CCAA Proceedings. These include, among others:
 - a) 100% of the equity of 772921 Alberta Inc. and Ridge Meadows Properties Ltd. and 84.57% of the equity of Spruce It Up Land Corp. (collectively, the “**Receivership Companies**”)²; and
 - b) the 22.503% equity interest in SIU GC.
2. CMI’s corporate organizational chart is provided in **Appendix “B”**.

² In connection with the SEC Transaction, KSV was appointed the Receiver of the Receivership Companies pursuant to an order of the Court dated November 17, 2023.

3. Wallace & Carey is an Alberta corporation that is extra-provincially registered to conduct business in most provinces and territories in Canada. Prior to the Filing Date, Wallace & Carey serviced more than 7,000 customers across the country and had grown to become one of Canada's largest independent wholesale distribution and logistics companies. The Applicants' largest customer, by far, was SEC.
4. Loudon Bros, located in Thunder Bay, Ontario, is an Ontario corporation that is wholly owned by Wallace & Carey, which, until late 2023, operated as Wallace & Carey's Northwestern Ontario branch. As part of the downsizing of their businesses during these proceedings, the Applicants discontinued the Loudon Bros business and realized upon all of its assets.
5. Prior to the CCAA Proceedings, the Applicants' senior secured lender was Canadian Imperial Bank of Commerce ("**CIBC**"). In addition, the Receivership Companies granted first-ranking mortgages against certain real property and a second-ranking general security interest to secure amounts owing to Canadian Western Bank ("**CWB**"). CWB was also a secured creditor of the Applicants. As at the date of this Report, all amounts owing to CIBC and CWB have been repaid.
6. The Sixth Report provided a waterfall of distributions among the beneficiaries of the charges created in the CCAA Proceedings pursuant to the ARIO and the Ancillary Order³.
7. Each Court-ordered charge created pursuant to the ARIO and the Ancillary Order has been fully satisfied and released, except for the Tobacco Tax Charge (as defined in the ARIO) in the amount of \$26 million, which was granted in favour of certain provinces and territories (the "**Provinces and Territories**") in respect of Wallace & Carey's unpaid tobacco taxes as of the Filing Date⁴.

³ This Order was issued by the Court on August 23, 2023 and created the Transaction Fee Charge, which was payable to Alvarez & Marsal Canada Securities ULC, the financial advisor retained by the Applicants to carry out the SISF.

⁴ The Monitor has made distributions totaling approximately \$8.77 million to the Provinces and Territories pursuant to orders granted by the Court on August 22 and November 25, 2024.

3.0 Share Transaction

1. SIU GC is an Alberta corporation incorporated pursuant to the *Business Corporations Act*, RSA 2000, c B-9 (the “**ABCA**”). As at the date of this Report, the shareholders of SIU GC are as follows:
 - a) Meryl Coombs – 54.996%;
 - b) Silvergrove Investments Inc. (“**Silvergrove**”) (a company solely owned by Meryl Coombs) – 22.501%; and
 - c) CMI – 22.503%.
2. Meryl Coombs and Patrick Carey are the directors of SIU GC. Patrick Carey is not arm’s length to the Share Transaction, as he is the former CEO of CMI and Wallace & Carey, the sole director of the Applicants, and a director of SIU GC.
3. Beginning in January 2024, the Monitor began requesting information from SIU GC to consider the value of the Shares and how to monetize them. Dentons Canada LLP, SIU GC’s legal counsel at the time, provided the Monitor with SIU GC’s internally prepared financial statements and its corporate minute books, including the articles of incorporation (the “**Articles of Incorporation**”). The Monitor was advised that SIU GC does not have a shareholders’ agreement. Based on the information provided to it, the Monitor prepared a valuation to determine the estimated value of the Shares.
4. On September 3, 2024, Silvergrove made an offer to CMI and the Monitor to purchase the Shares (the “**Initial Offer**”). As the Initial Offer was immaterial and substantially less than the Monitor’s valuation, the Monitor advised CMI that it was not prepared to support the sale to Silvergrove.
5. The Monitor considered whether it could conduct a sale process to sell the Shares, however, a sale process was not commenced for the following reasons:
 - a) the Articles of Incorporation require that SIU GC’s board of directors approve the transfer of any shares;

- b) the Shares represent a minority interest, with the balance being held by Meryl Coombs and Silvergrove, a company solely controlled by Meryl Coombs. Since Meryl Coombs has a controlling stake, this limits the ability of the owner of the Shares to influence management decisions, resulting in the Shares likely not being marketable to anyone other than the other shareholders;
 - c) the inability for the owner of the Shares to control the affairs of SIU GC for actions such as when and how to pay dividends or make investment decisions;
 - d) SIU GC does not have an executed shareholders' agreement in place and therefore the Shares do not have specific shareholder rights or provisions that provide access to liquidity, including buy-sell provisions that establish terms for purchasing and selling the Shares;
 - e) the inability to sell the Shares due to the lack of a liquid market for private shares, particularly for a minority interest; and
 - f) a sale process would result in professional costs without any certainty that a transaction could be completed.
6. Based on the above, the Monitor determined that a sale process was unlikely to result in an acceptable transaction. As SIU GC is profitable, the Monitor was of the view that it was more appropriate that CMI continue to hold its interest in SIU GC with a view to either negotiating in due course with SIU GC's other shareholders, participating in the profitability of the business and/or monetizing its interest in SIU GC in due course, upon a sale of, or transaction in respect of, SIU GC. In this regard, the Monitor continued to make information requests of SIU GC so that it could understand the performance of the business.
7. On February 24, 2025, SIU GC presented an offer for the Shares that, after negotiation with the Monitor, resulted in the SPA.

3.1 SPA⁵

1. The following is a summary of the SPA. A copy of the SPA, with the purchase price (and its related payment terms) redacted, is attached as **Appendix “C”**. An unredacted copy of the SPA is attached as **Confidential Appendix “1”**:
 - a) **Vendor:** Carey Management Inc.
 - b) **Purchaser:** Spruce It Up Garden Centre Inc.
 - c) **Purchased Property:** the Shares.
 - d) **Deposit:** SIU GC has paid a deposit pursuant to the SPA. The Deposit shall be applied as follows:
 - i. if Closing occurs, the Deposit shall be credited against the Closing Payment at Closing; and
 - ii. if Closing does not occur: (1) for any reason other than the breach by SIU GC of its obligations under the SPA, then the Deposit shall be returned to SIU GC; or (2) due to the breach by SIU GC of any of its obligations under this SPA, as determined by CMI acting reasonably, then CMI shall be entitled to retain the Deposit as a guarantee of performance and the Deposit shall be finally and absolutely forfeited to CMI.
 - e) **Payment of Purchase Price:** the Purchase Price shall be paid in the following manner:
 - i. 80% of the Purchase Price shall be payable by SIU GC to CMI on the Closing Date (the “**Closing Payment**”);
 - ii. 10% of the Purchase Price shall be satisfied by the issuance of a term, non-interest-bearing promissory note by SIU GC to and in favour of CMI, payable in accordance with its terms, six (6) months following the Closing Date (“**Promissory Note 1**”); and

⁵ Capitalized terms in this section have the meaning provided to them in the SPA unless otherwise defined herein.

- iii. 10% of the Purchase Price shall be satisfied by the issuance of a term, non-interest-bearing promissory note by SIU GC to and in favour of CMI, payable in accordance with its terms, twelve (12) months following the Closing Date (“**Promissory Note 2**” and together with Promissory Note 1, the “**Promissory Notes**”).
- f) **Vendor’s Rights:** SIU GC and CMI acknowledge and agree that, should Closing not occur due to the breach by SIU GC of any of its obligations under the SPA, CMI will suffer and incur harm that cannot be quantified or precisely calculated and is irreparable, for which CMI reserves all further rights, benefits, privileges and entitlements whether in law or equity or by statute and whether by way of specific performance, damages or otherwise.
- g) **Representation and Warranties:** consistent with the standard terms of an insolvency transaction, i.e. on an “as is, where is” basis with limited representations and warranties.
- h) **Closing Date:** 3 business days after the date of the Approval and Vesting Order.
- i) **Covenants:**
 - i. the Parties shall cooperate with each other and shall use their commercially reasonable efforts to cause the conditions precedent in Article 7 of the SPA to be satisfied and to facilitate and cause the consummation of the Share Transaction;
 - ii. CMI shall schedule with the Court, within 5 days from the execution and delivery of the SPA, an application seeking the Approval and Vesting Order; and
 - iii. SIU GC shall make an application for the Sealing Order⁶.
- j) **Conditions Precedent:**
 - i. all representations and warranties of SIU GC and CMI contained in the SPA are true at the Closing Time; and

⁶ CMI and SIU GC have agreed that CMI will make the application for the Sealing Order. See footnote 1.

- ii. the Court shall have issued and entered the Approval and Vesting Order.

3.2 Share Transaction Recommendation

1. The Monitor recommends that the Court issue the proposed Approval and Vesting Order approving the Share Transaction for the following reasons:
 - a) the value of the Shares under the SPA is the product of good faith negotiations, which were conducted by the Monitor, on behalf of CMI, and the Purchaser;
 - b) for the reasons provided in Section 3.0(6) above, the Monitor is of the view that conducting a sale process for same is unlikely to result in a completable transaction;
 - c) CMI is permitted under the ARIO to sell its assets up to the maximum amount of \$500,000 in any one transaction without Court approval. SIU GC required, however, that CMI obtain an approval and vesting order in respect of the Shares;
 - d) the Purchase Price pursuant to the SPA is approximately eight times greater than the Initial Offer;
 - e) the Purchase Price is commercially reasonable and is within a valuation range considered reasonable by the Monitor;
 - f) SIU GC's offer is unconditional, other than the issuance of the Approval and Vesting Order;
 - g) CMI, SIU GC, and the Monitor have agreed to the terms of the Share Transaction; and
 - h) the Monitor does not believe there are other viable options to monetize the Shares.

3.3 Sealing

1. At the request of SIU GC, CMI is seeking an order sealing the unredacted version of the SPA attached as **Confidential Appendix "1"**. SIU GC is of the view that the Purchase Price for the Shares should remain confidential as SIU GC is a private company not subject to the CCAA Proceedings. Further, pursuant to the Sealing Order, the Monitor is entitled to provide the amount of the Purchase Price to the Provinces and Territories (being the only stakeholders with a financial interest in the Share Transaction), provided they confirm in advance that they will keep the Purchase Price confidential.

2. The salutary effects of sealing such information from the public record outweigh the deleterious effects of doing so under the circumstances. The Monitor is not aware of any party that will be prejudiced if the information in **Confidential Appendix “1”** is sealed or any public interest that will be served if such details are disclosed in full. The Monitor is of the view that the Sealing Order is appropriate in the circumstances, satisfies the test from *Sherman Estate v. Donovan* 2021 SCC 25, and that no stakeholders will be prejudiced if the information is sealed.

4.0 Monitor’s Activities Since the Fifteenth Report

1. Since the Fifteenth Report, the Monitor has conducted the following activities:
 - a) communicating on a near-daily basis with the Applicants’ management team and SEC’s representatives regarding the Applicants’ financial performance, the TSA, the Applicants’ continued banking arrangements with CIBC, and the Applicants’ new banking arrangements with the Bank of Nova Scotia;
 - b) corresponding regularly with the Applicants’ counsel, Miller Thomson LLP, SEC, SEDCC, SEC and SEDCC’s counsel, DLA Piper (Canada) LLP, and Cassels Brock & Blackwell LLP, the Monitor’s counsel, regarding the SEDCC Transaction;
 - c) reviewing and commenting on the SEDCC Transaction closing documents and coordinating the closing of same;
 - d) drafting a letter to the Provinces and Territories dated February 26, 2025 summarizing the Monitor’s calculation of the tobacco tax balances owing to each of them and setting out their respective pro-rata share of a \$5.5 million interim distribution (the “**Interim Distribution**”), and engaging in discussions with certain of the Provinces and Territories regarding same;
 - e) paying the Interim Distribution;
 - f) corresponding with the Canada Revenue Agency, the Applicants, SEC, and SEDCC regarding outstanding GST and T2 income tax returns for the Applicants;
 - g) monitoring the Applicants’ receipts and disbursements on a near-daily basis;
 - h) reviewing Wallace & Carey’s daily funding requests;

- i) responding to inquiries from creditors and customers of the Logistics Companies concerning the CCAA Proceedings, the SEDCC Transaction, and the SEC Transaction;
- j) assisting the Applicants' counsel with the collection of:
 - i. a judgment in favour of Wallace & Carey against INS News for \$616,341, including obtaining a garnishment order in the Ontario Superior Court of Justice (Commercial List); and
 - ii. a cost award from A&M Enterprises Ltd., Freshslice Holdings Ltd., and RF Franchising Inc., including obtaining a garnishment order in the Supreme Court of British Columbia;
- k) reviewing and commenting on CMI's materials to be filed in support of the relief to be sought at this application;
- l) drafting this Report; and
- m) maintaining the Case Website.

5.0 Conclusion

1. Based on the foregoing, the Monitor is of the view that the relief requested is reasonable and appropriate in the circumstances and respectfully requests that this Court issue the order granting CMI's requested relief.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

KSV RESTRUCTURING INC.,
in its capacity as monitor of
Wallace & Carey Inc., Loudon Bros Limited, and Carey Management Inc.
and not in its personal capacity

APPENDIX A

[ATTACHED]

COURT FILE NUMBER

2301 – 08305

COURT

2301- _____
COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANTS

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, RSC 1985, c. C-36, as amended



LL

C110668

Nov 17, 2023
COM

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF WALLACE & CAREY INC., LOUDON
BROS LIMITED and CAREY MANAGEMENT INC.

CANADIAN IMPERIAL BANK OF COMMERCE v. 772921
ALBERTA INC.; SPRUCE IT UP LAND CORP. and RIDGE
MEADOWS PROPERTIES LTD.

DOCUMENT

SIXTH REPORT OF THE MONITOR AND
PRE-FILING REPORT OF THE PROPOSED RECEIVER
DATED NOVEMBER 8, 2023

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1.0 Introduction

1. Pursuant to an order (the “**Initial Order**”) issued by the Court of King’s Bench of Alberta (the “**Court**”) on June 22, 2023 (the “**Filing Date**”), Wallace & Carey Inc. (“**Wallace & Carey**”), Loudon Bros Limited (“**Loudon Bros**”, and together with Wallace & Carey, the “**Logistics Companies**”) and Carey Management Inc. (“**CMI**”, and together with the Logistics Companies, the “**Applicants**”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. (“**KSV**”) was appointed monitor of the Applicants (the “**Monitor**”).
2. KSV is filing this report (the “**Report**”) as Monitor of the Applicants and as proposed receiver and manager of the property, assets and undertaking of:
 - a) 772921 Alberta Inc. (“**772**”), which:
 - i. owns two warehouses¹, one in British Columbia (the “**772 Owned BC Property**”) and one in Alberta (the “**772 Owned Alberta Property**”) that are used by Wallace & Carey in its business (jointly, the 772 Owned BC Property and the 772 Owned Alberta Property, the “**772 Owned Real Property**”); and
 - ii. leases two warehouses², one in British Columbia and one in Alberta, that are also used by Wallace & Carey in its business (the “**772 Leased Real Property**”); and
 - b) Ridge Meadows Properties Inc. (“**Ridge Meadows**”) ³ and Spruce It Up Land Corp (“**SIU**”) ^{4,5} each of which is subject to security interests in favour of Canadian Western Bank (“**CWB**”) and Canadian Imperial Bank of Commerce (“**CIBC**” or the “**Lender**”). (Collectively, the 772 Owned Real Property, the 772 Leased Real Property and the properties owned by 772, Ridge Meadows and SIU are referred to as the “**Non-Applicant Real Property**”).

¹ The municipal addresses of these properties are 1230 Industrial Road, Kelowna, British Columbia and 5415 and 5445 8th Street N.E., Calgary Alberta.

² Having municipal addresses of 8th Street N.E., Calgary, Alberta, and Unit 5B, 4386 Boban Drive Nanaimo, British Columbia.

³ Having a municipal address of 255256 Range Road 25, NW Calgary, Alberta.

⁴ Having a municipal address of 159 210 Avenue SW, Calgary, Alberta.

⁵ The shares of Ridge Meadows and SIU are subject to the CCAA Charges (as defined in Section 2.1 below). CMI is believed to own 100% of Ridge Meadows and 84.57% of SIU.

1.1 Purposes of this Report

1. The purposes of this Report are to:

- a) provide background information concerning the Applicants and these proceedings;
- b) discuss the Sale and Investment Solicitation Process (“**SISP**”) carried out by Alvarez & Marsal Canada Securities ULC (“**A&M**”), as the Applicants’ financial advisor (the “**Financial Advisor**”), under the supervision of the Monitor;
- c) discuss a transaction (the “**Transaction**”) between the Applicants and 7-Eleven Canada, Inc. (“**7-Eleven**” or the “**Purchaser**”) that is intended to maximize recoveries to stakeholders, which includes;
 - i. pursuant to an agreement of purchase and sale dated November 7, 2023 (the “**W&C APA**”):
 - the purchase of certain of the Applicants’ personal property, information technology and intellectual property assets used in the Wallace & Carey business in British Columbia and Alberta (the “**Western Business**”);
 - the purchase of 7-Eleven designated inventory; and
 - the payment of accounts receivable owing by 7-Eleven to Wallace & Carey;
 - ii. the entering into of a Transition Services Agreement (“**TSA**”) upon closing of the Transaction among Wallace & Carey, CMI, the Purchaser and the Monitor that contemplates:
 - the businesses of the Logistics Companies continuing to operate following closing of the Transaction for the benefit of the Purchaser while the Applicants remain under CCAA protection;
 - the Purchaser funding substantially all of the Applicants’ operational and professional costs from and after the closing of the Transaction, including the fees and costs of the Monitor and its counsel, Cassels, Brock & Blackwell LLP (“**Cassels**”);

- an option granted to the Purchaser to acquire certain additional assets (the “**Optional Purchased Assets**”) used by the Logistics Companies that are not being acquired by 7-Eleven on closing of the Transaction, including certain assets located in provinces east of Alberta (the “**Eastern Business**”); and
 - the retention of most of the employees of Wallace & Carey⁶ during, at least, the term of the TSA, and potentially thereafter, as further detailed below;
- iii. releases (the “**Releases**”) granted in favour of certain persons, including the Applicants’ director and officers, as contemplated by the form of Approval and Vesting Order (the “**CCAA AVO**”);
 - iv. the appointment of KSV as receiver and manager of the property, assets and undertaking of 772, Ridge Meadows and SIU (if so appointed, the “**Receiver**”), pursuant to a receivership application brought by CIBC as secured creditor of each of 772, SIU and Ridge Meadows;
 - v. a sale by the Receiver to the Purchaser immediately following its appointment of the real property owned by 772, as set out in an agreement of purchase and sale between the Purchaser and the Receiver (the “**Receivership APS**”);
 - vi. an assignment pursuant to the Receivership APS by the Receiver to the Purchaser of the leases for 772 Leased Real Property; and
 - vii. a marketing process for the Non-Applicant Real Properties owned by Ridge Meadows and SIU;
- d) recommend that the sale proceeds from the Transaction, as well as the proceeds from the Optional Purchased Assets, certain assets excluded from the transaction (the “**Excluded Assets**”) and the Non-Applicant Real Property (collectively, the “**Net Distributable Proceeds**”) be paid to stakeholders (including CIBC and CWB) in accordance with the priorities established by the ARIO and the Ancillary Order (each as defined below), and applicable law;

⁶ As of the date of this Report, all Loudon Bros. employees have been terminated.

- e) discuss the next steps in these proceedings; and
- f) provide the reasons in support of the Monitor's recommendation that the Court issue:
 - i. the CCAA AVO, among other things, approving the W&C APA, the TSA, the Releases and a distribution of the Net Distributable Proceeds of the assets subject to the CCAA Proceeding, as discussed herein;
 - ii. an order (the "**Receivership Order**") sought by CIBC appointing KSV as the Receiver and authorizing the Receiver to market the Non-Applicant Real Properties owned by Ridge Meadows and SIU through the retention of a real estate broker identified by the Receiver;
 - iii. an order (the "**Receivership AVO**") approving:
 - the Receivership APS, including the sale of the 772 Owned Real Property to the Purchaser, and the assignment of the 772 Leased Real Property to the Purchaser, in each case free and clear of encumbrances other than permitted encumbrances; and
 - authorizing a distribution of the Net Distributable Proceeds of the assets subject to the Receivership Proceeding, as discussed herein; and
 - iv. sealing **Confidential Appendix "1"** for the reasons provided in Section 7 of this Report until the earlier of the termination of these proceedings or Order of this Court.

1.2 Scope and Terms of Reference

1. In preparing this Report, the Monitor has relied upon the Applicants' unaudited financial information, books and records and discussions with the Applicants' management and legal counsel.
2. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.

3. An examination of any forward-looking financial information discussed herein has not been performed in accordance with the Chartered Professional Accountants of Canada Handbook. Forward-looking financial forecasts and information are based upon various assumptions. Actual results achieved may vary materially from the forecasted results. The Monitor expresses no opinion or other form of assurance on whether the Applicants' businesses will perform in accordance with their financial forecasts and projections.

1.3 Currency

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

2.0 Applicants' Background

1. CMI is an Alberta corporation and the sole shareholder of Wallace & Carey, which is the sole shareholder of Loudon Bros. In addition to the Logistics Companies, CMI has ownership interests in nine subsidiaries, none of which are subject to the CCAA proceedings. These include 100% of the equity of 772 and Ridge Meadows, and 84.57% of the equity of SIU. CMI's corporate organizational chart is provided in **Appendix "A"**.
2. Wallace & Carey is an Alberta corporation that is extra-provincially registered to conduct business in most provinces and territories in Canada. Wallace & Carey operates from nine leased warehouses.
3. Loudon Bros, located in Thunder Bay, Ontario, is an Ontario corporation that is wholly owned by Wallace & Carey which until recently operated as its Northwestern Ontario branch. As part of their efforts to downsize their business during these proceedings, the Applicants decided to discontinue the Loudon Bros business. On November 3, 2023, the Court approved a sale of Loudon Bros' real property for gross proceeds of approximately \$1.4 million. The sale is scheduled to close on or before November 17, 2023, which will be the final significant step in the wind-down of the Loudon Bros business.
4. Wallace & Carey is continuing to carry on active business operations. 7-Eleven is by far the most significant customer of Wallace & Carey. It presently represents substantially all of Wallace & Carey's revenue.
5. As of the Filing Date, the Logistics Companies employed approximately 600 full-time and 50 part-time employees. Wallace & Carey presently has approximately 450 full-time employees. CMI has three employees, being Patrick Carey, the Chair, Daniel Elrod, the Chief Executive Officer, and an administrative employee.

6. CIBC provides CMI with a revolving asset-based loan (the "**CIBC Revolving Loan**") and term loan facility, which is guaranteed by the Logistics Companies and various other entities within the Carey corporate group, including 772, SIU and Ridge Meadows (the "**CIBC Facility**"). Pursuant to the terms of a Forbearance Agreement between the Applicants and CIBC dated June 22, 2023 (the "**Forbearance Agreement**"), all amounts owing to CIBC as of the Filing Date under the revolving portion of the CIBC Facility (being approximately \$38.54 million) have been repaid through accounts receivables collections, and all amounts advanced by CIBC since that time are secured by the Lender Priority Charge (as defined below).
7. Pursuant to the Forbearance Agreement, CIBC was also to be provided a mortgage on the Non-Applicant Real Property, which mortgage was to rank behind CWB's mortgage on the same real property. The agreed mortgages were executed on July 20, 2023 and registered on the Non-Applicant Real Property on September 12, 2023.
8. At this time, the Forbearance Agreement has terminated as a result of the occurrence of certain Terminating Events described therein; however, CIBC has continued to fund the business of the Applicants subject to the borrowing limits of the CIBC Credit Agreement (as defined in the Initial Order) primarily for the purpose of completing the Transaction. The Monitor also understands that certain amendments to the CIBC Credit Agreement concerning, *inter alia*, enhanced reporting required by CIBC are in the process of being documented.

2.1 CCAA Proceedings

1. Pursuant to the terms of the Initial Order, *inter alia*, the Court:
 - a) granted a stay of proceedings in favour of the Applicants and their directors and officers to and including July 1, 2023;
 - b) approved the Applicants' use of the centralized cash management system provided by CIBC to the Applicants;
 - c) granted charges on the Applicants' current and future assets, property and undertakings in the following amounts and priority:
 - i. first, a charge in the amount of \$250,000 in favour of the Applicants' legal counsel (Miller Thomson LLP), the Monitor and its counsel, Cassels, to secure the fees and disbursements of those firms (the "**Administration Charge**");

- ii. second, a charge in the amount of \$55 million plus interest, fees and expenses for all post-filing advances (the “**Lender Priority Charge**”) made by CIBC under the existing CIBC Credit Agreement as amended pursuant to the terms of the Forbearance Agreement;
 - iii. third, a charge in the amount of \$3.33 million in favour of the directors and officers of the Applicants (the “**D&O Charge**”);
 - iv. fourth, the Encumbrances existing as of the date of the Initial Order in favour of the Lender securing the pre-filing obligations owing under the CIBC Credit Agreement including, for greater certainty, obligations in connection with the BCAP Loan (the “**CIBC Pre-Filing Security**”); and
 - v. fifth, a charge in the amount of \$18 million in favour of provincial and territorial authorities for amounts required to be remitted by the Logistics Companies under the *Tobacco Tax Act*, RSA 2000, c. T-4 or under any other applicable provincial legislation or laws (the “**Tobacco Tax Charge**”, and collectively with the Lender Priority Charge, the Administration Charge and the D&O Charge, the “**CCAA Charges**”); and
 - d) permitted the Logistics Companies to pay certain pre-filing tobacco tax obligations pursuant to the Tobacco Tax Payment Plans (as defined in the Initial Order), subject to the terms of the Forbearance Agreement and first obtaining the Monitor’s consent.
2. On June 30, 2023, the Applicants’ comeback application was heard and the Court granted:
- a) an amended and restated Initial Order (the “**ARIO**”) (provided in **Appendix “B”**) which, among other things:
 - i. extended the stay of proceedings to and including September 20, 2023;
 - ii. increased the maximum amount of the CCAA Charges, as follows:
 - Administration Charge to \$750,000;
 - D&O Charge to \$4 million; and
 - Tobacco Tax Charge to \$25 million; and

- b) an Order providing for the Applicants' continued access to certain fuel service cards, known as the Mobil Fleet Cards.
- 3. Pursuant to certain restructuring milestones in the Forbearance Agreement, the Applicants were required within 40 days of the Initial Order to deliver for acceptance by CIBC a pro forma business model and financial forecast for the restructured business of the Applicants following implementation of a proposed plan consistent with a plan term sheet (the "**Term Sheet Milestone**"). Pursuant to the terms of the first amendment to the Forbearance Agreement dated July 18, 2023, CIBC provided certain accommodations to the Applicants and the Applicants were required to, *inter alia*, retain a financial advisor for the purpose of the SISP. Subsequently, certain defaults arose under the Forbearance Agreement, as amended, including in respect of the Term Sheet Milestone, and on August 2, 2023, CIBC provided notice to the Applicants of the occurrence of certain Terminating Events (as defined in the Forbearance Agreement).
- 4. On August 9, 2023, the Monitor filed its second report to Court (the "**Second Report**") which, among other things:
 - a) was drafted in the context of Section 23(1)(d)(i) of the CCAA, which requires the Monitor to file a report with the Court advising on the state of a company's business and financial affairs upon ascertaining a material adverse change (a "**MAC**") in the company's projected cash flow or financial circumstances;
 - b) discussed financial and other challenges being faced by the Applicants and the efforts being taken at the time by the Applicants, the Monitor, CIBC and 7-Eleven to address those challenges;
 - c) provided a comparison of the Applicants' cash flow forecast for the period June 18 to September 30, 2023 against actual results; and
 - d) advised that the Monitor would file a further report with the Court advising on the status of the Applicants' efforts to address the issues resulting from the MAC.

5. On August 11, 2023, the Monitor filed a supplement to the Second Report (the “**Second Report Supplement**”). The Second Report Supplement provided stakeholders with a copy of the Second Forbearance Amendment between, among others, CIBC and the Applicants. The Second Forbearance Amendment, among other things, provided the Applicants with enhanced availability of approximately \$10 million of credit under their existing financing arrangements with CIBC based on additional credit support provided by 7-Eleven to CIBC pursuant to a cash collateral agreement (the “**Cash Collateral Agreement**”). The Applicants advised that they expected that the additional capital would address their challenges and would lead to improved customer fill rates, and therefore financial performance. Copies of the Second Report and the Second Report Supplement are provided in **Appendices “C” and “D”**, respectively, without appendices.
6. On August 21, 2023, the Monitor prepared and filed its Third Report to Court (the “**Third Report**”) which provided, among other things, the Monitor’s recommendations that the Court issue:
 - a) an order (the “**SISP Approval Order**”) among other things, approving the SISP and authorizing the Applicants, in consultation and co-operation with A&M, under the oversight of the Monitor, to conduct the SISP; and
 - b) an order (the “**Ancillary Order**”), among other things:
 - i. extending the stay of proceedings to and including November 30, 2023;
 - ii. approving the engagement of A&M as the Financial Advisor, pursuant to an agreement dated August 13, 2023 between the Applicants and A&M, and associated changes to the ARIO, including:
 - increasing the amount of the Administration Charge from \$750,000 to \$850,000 to include a work fee payable to A&M in connection with the SISP and its role as the Financial Advisor; and
 - granting a charge on the Applicants’ current and future assets, property and undertakings in favour of A&M to secure a fee payable to A&M upon completion of a qualifying transaction (the “**Transaction Fee**”), which is only subordinate to the Administration Charge.

7. On September 18, 2023, CIBC delivered to the Applicants a notice that certain additional Terminating Events had occurred and that CIBC was reserving all rights in respect of such, but provided that CIBC would continue to advance funding to the Applicants, subject to the borrowing limits of the CIBC Credit Agreement, unless and until two days following the delivery by CIBC of notice to the Applicants and the Monitor of CIBC's intention to discontinue funding.
8. On September 19, 2023, the Monitor filed its Fourth Report to Court (the "**Fourth Report**") which advised of a further MAC, as reflected by the Applicants' cash flow projection finalized on September 13, 2023. The MAC arose because the Applicants were not projected to have sufficient liquidity under the CIBC Revolving Loan to fund all forecasted disbursements in the ordinary course, unless the Logistics Companies deferred the payment of certain pre-filing and post-filing tobacco taxes (the "**Accrued Tobacco Taxes**") or made significant reductions to their inventory purchases (which was anticipated to impair the viability of the Logistics Business).
9. On October 7, 2023, the Monitor filed its Supplemental Report to the Fourth Report (the "**Fourth Report Supplement**"), which provided:
 - a) a summary of the dialogue among the Applicants, the Monitor and representatives of certain Provinces concerning the Accrued Tobacco Taxes and the payment by the Applicants of such taxes going-forward;
 - b) a further revised cash flow projection;
 - c) an update in respect of certain additional financial support provided by 7-Eleven;
 - d) an update concerning a third amendment to the Forbearance Agreement (the "**Third Amendment**"), which was expected to be finalized in the week following the filing of the Fourth Report Supplement and in respect of which the Monitor advised it would file a further supplemental report once finalized (the "**Second Supplement to the Fourth Report**");
 - e) an update concerning the SISP; and
 - f) the Monitor's recommendation that these proceedings continue so that the Applicants could complete the SISP, which was being advanced on an expedited basis given the Applicants' ongoing liquidity challenges.

10. Copies of the Fourth Report and the Fourth Report Supplement are provided in **Appendices “E” and “F”**, respectively, without appendices.
11. As of the date of this Report, a Third Amendment has not been finalized; however, CIBC has continued to make its revolving loan facility available to the Applicants, subject to the borrowing limits of the CIBC Credit Agreement and the reliance on certain additional financial support provided by 7-Eleven, so that the Applicants could fund their normal course business operations and complete the SISP, including the Transaction.
12. On October 30, 2023, the Monitor served its Fifth Report to Court, which recommended a sale of the Loudon Bros real property located in Thunder Bay, Ontario. The Court approved that transaction on November 3, 2023 and the sale is expected to close by no later than November 17, 2023.
13. The Court materials filed in these proceedings, including this Report, are available on the Monitor’s case website at www.ksvadvisory.com/experience/case/wallace-and-carey.

3.0 SISP

3.1 Background

1. The Applicants were required to commence the SISP due to their ongoing liquidity challenges and the absence of an executable restructuring plan.
2. As a result of negotiations among the Applicants, 7-Eleven, CIBC and the Monitor, the Applicants, 7-Eleven, and CIBC entered into the Cash Collateral Agreement on August 10, 2023, which resulted in an increase in the Applicants’ availability under the CIBC Facility. Pursuant to the Cash Collateral Agreement, the parties thereto agreed to the following key terms, among others:
 - a) 7-Eleven would provide \$9 million (the “**Cash Collateral**”) to be held by CIBC;
 - b) upon receipt by CIBC of the Cash Collateral, CIBC would promptly (i) increase the borrowing base under the CIBC Facility by an amount equal to the Cash Collateral, and (ii) increase the borrowing base under the CIBC Facility by not less than \$2 million;

- c) 7-Eleven agreed to execute and deliver to and in favour of CIBC a Limited Recourse Guarantee, therein guaranteeing the obligations of Wallace & Carey under the CIBC Credit Agreement, as well as a Cash Collateral Agreement granting to CIBC a security interest in the Cash Collateral (collectively, the “**7-Eleven Security Documents**”);
 - d) the Applicants would schedule a Court hearing to approve the SISP;
 - e) as consideration for 7-Eleven providing the Cash Collateral, the Applicants agreed (i) to pay 7-Eleven a fully earned fee equal to \$1 million; and (ii) 7-Eleven would be granted the 7-Eleven SISP Rights, including the right to be a stalking horse purchaser in the SISP, as discussed further in paragraph 3.2.3 below; and
 - f) on a monthly basis, the Applicants agreed to pay 7-Eleven interest at the rate of 10% per annum, less any amounts received from CIBC on account of the Cash Collateral, until same has been returned to 7-Eleven in full.
3. On August 10, 2023, the Cash Collateral Agreement, 7-Eleven Security Documents and Second Forbearance Amendment were executed and 7-Eleven funded the Cash Collateral amount. Accordingly, the Applicants were provided approximately \$10 million of additional liquidity under the CIBC Facility (which amounts are secured under the Lender Priority Charge) for general working capital purposes, including to purchase inventory intended to improve customer fill rates and to provide the Applicants the opportunity to advance the SISP.
4. Pursuant to the Cash Collateral Agreement, CIBC is not permitted to seek repayment of the amounts owing to it by the Applicants from the Cash Collateral until it has realized upon all of the tangible property of Wallace & Carey, CMI and the CMI subsidiaries over which CIBC holds security.
5. The guarantee by 7-Eleven was amended on or about October 6, 2023 to, among other things, increase the guarantee given by 7-Eleven to CIBC of the Applicants’ indebtedness from \$9 million to \$11.5 million. The guarantee by 7-Eleven was further amended on or about November 3, 2023 to among other things, increase the guarantee given by 7-Eleven to CIBC of the Applicants’ indebtedness from \$11.5 million to \$15 million.

3.2 SISP Overview⁷

1. Pursuant to the SISP, interested parties were provided the opportunity to submit offers to:
 - a) acquire all, substantially all or a portion of the Property or the Business;
 - b) make an investment in, restructure, reorganize or refinance the Business;
 - c) carry out any combination of a Sale Proposal and an Investment Proposal; or
 - d) form a partnership with the Applicants, or any of them, by way of joint-venture or otherwise.
2. The following table provides the key milestones and dates under the SISP Approval Order.

SISP Launch Date	August 30, 2023
Phase 1 Bid Deadline	October 5, 2023
Phase 2 Bid Deadline	November 2, 2023
Hearing of the Transaction Approval Application	Subject to the availability of the Court
Target Closing Date	On or before December 4, 2023

3. The SISP was designed as a two-stage process, with letters of intent to be submitted by the Phase 1 Bid Deadline and binding agreements to be submitted at the Phase 2 Bid Deadline.
4. Notwithstanding that 7-Eleven was granted the right to submit a stalking horse bid pursuant to the SISP, 7-Eleven did not exercise that right.

3.3 SISP Summary

1. A&M conducted a comprehensive process to solicit interest in the SISP, by contacting 190 parties, including 12 lending institutions, 141 private equity firms and 37 strategic parties, of which:

⁷ Defined terms in this Section of the Report have the meaning provided to them in the SISP Approval Order, unless otherwise defined herein.

- a) 47 parties executed a non-disclosure agreement (the “**NDA**”) and were granted access to an electronic data room, including 32 private equity firms, ten strategic parties and five lenders; and
 - b) four parties submitted non-binding expressions of interest/letters of intent (each an “**EOI**”), including one strategic party, two private equity firms and one lender.
- 2. A&M has provided the Monitor with a report concerning its conduct of the SISP and its recommendation of the Transaction. A copy of A&M’s report is provided in **Appendix “G”**.
 - 3. As a result of the Applicants’ significant liquidity challenges, which continued notwithstanding the Cash Collateral Agreement, the Applicants, A&M and the Monitor, with the consent of CIBC, believed it was necessary to expedite the SISP timelines.
 - 4. Accordingly, A&M encouraged the parties most interested in the transaction opportunity to provide EOIs at the earliest possible opportunity, which EOIs were to include, among other things, an overview of the proposed transaction structure, an indication of value, any outstanding due diligence and an estimated timeline to complete a transaction. A&M engaged with each party participating in the SISP at that time to facilitate their due diligence, including organizing meetings between certain interested parties and representatives of 7-Eleven.
 - 5. As noted, four parties submitted EOIs on or before October 5, 2023. Given the critical importance of the 7-Eleven relationship to the Wallace & Carey business, each of the parties that submitted an EOI required that a new service agreement be executed with 7-Eleven, with the exception of the prospective lender, which required an equity investment.
 - 6. During September 2023, 7-Eleven expressed concerns to the Monitor about the Applicants’ eroding financial and operational performance, lack of liquidity, the ability of the interested parties performing due diligence in the SISP to meet their service needs, and the amount of time that would be required to negotiate a new service agreement with one or more of these parties. 7-Eleven, however, also advised that it was not prepared at that time to exercise its right to submit a stalking horse bid nor to make a definitive offer for the Applicants’ business as its due diligence was not yet complete.

7. Following the Fourth Report (i.e., the second MAC report), discussions among A&M, the Monitor and 7-Eleven advanced rapidly concerning a transaction based on the structure detailed in this Report. On September 27, 2023, 7-Eleven sent an email to the Monitor outlining the terms of a proposed transaction. Those terms were incorporated into a draft term sheet between the Applicants and 7-Eleven that formed the basis of the Transaction documents. As the term sheet was non-binding, the parties' focus shifted to the definitive documents rather than finalizing the term sheet.

4.0 The Transaction⁸

1. The following are the primary Transaction documents:

- a) the W&C APA;
- b) the TSA; and
- c) the Receivership APS.

Each document is summarized below.

2. The W&C APA sets out the terms pursuant to which:

- a) the Applicants will sell to the Purchaser certain personal property forming part of the Western Business;
- b) the Purchaser will pay for 7-Eleven designated inventory; and
- c) the Purchaser will pay for all validated accounts receivable it owes to Wallace & Carey.

3. The W&C APA attaches a form of the TSA which is to be executed by the parties at closing of the Transaction. The TSA sets out the terms on which (i) the Purchaser will be provided an option following closing to purchase certain remaining assets used in the operation of the Western Business and the Eastern Business, including a lease for a warehouse used by Wallace & Carey in Oakville, Ontario that is believed to have considerable value; and (ii)

⁸ Unless otherwise defined in this Report, defined terms have the meanings provided to them in the Transaction Documents.

Wallace & Carey will continue to operate for the benefit of the Purchaser under CCAA protection, including:

- a) the duration of the TSA, being 15 months and nine months for the Western Business and the Eastern Business, respectively, subject in each case to two 90-day extensions that are available to the Purchaser; and
 - b) the Purchaser shall fund from and after closing, substantially all of the Applicants' operational costs, including employee costs, real property and personal property leases and other contracts, as well as the fees and costs of the Monitor and its counsel, and certain fees of the Applicants' counsel.
4. The execution of the TSA by the parties thereto is a critical part of the Transaction. The purpose of the TSA is for Wallace & Carey and CMI to maintain in good standing for the benefit of the Purchaser certain real and personal property leases and other contracts until the Purchaser can determine its long-term intentions for those leases and contracts.
 5. Pursuant to the TSA, the majority of Wallace & Carey's employees as of the Closing Date will continue to be employed until (and if) they are hired by one or more service providers identified by the Purchaser, which may include 7-Eleven, or until their services are no longer required, at which time their employment will be terminated and all wages and vacation pay owing to them will be paid. Additionally, the Purchaser has agreed to encourage any new service provider or providers with which they contract to hire Wallace & Carey's employees.
 6. The Receivership APS sets out the terms pursuant to which KSV, if appointed as Receiver of 772, is to sell and transfer to the Purchaser, respectively, the 772 Owned Real Property and 772's interest in the 772 Leased Real Property. These properties were marketed as part of the SISP. Pursuant to the terms of the Receivership APS, the Purchaser shall purchase the 772 Owned Real Property for the purchase price of \$14.92 million. The purchase price for the 772 Owned Real Property was determined through (i) an arm's length process conducted by a commercial real estate agent for the 772 Owned BC Property, in which the Purchaser's offer was the highest offer; and (ii) an estimate of value based on an appraisal sourced by the Applicants that was updated by the Monitor to reflect the current market value for the 772 Owned Alberta Property.

7. Other notable provisions of the Transaction include:

- a) from and after the Closing Date, the Lender will have no further obligation to fund the Applicants' operating costs;
- b) the key terms of the Transaction are consistent with the terms of a standard insolvency transaction, i.e., on an "as is, where is" basis, with limited representations and warranties from the Applicants or the Receiver, as the case may be;
- c) the closing of the W&C APA and the Receivership APS are conditional on the closing of each other;
- d) the CCAA AVO in respect of the W&C APA provides for the Releases (as discussed in Section 4.3 below);
- e) the CCAA AVO provides for an assignment of the Assigned Contracts listed on Schedule "B" to the W&C APA to the Purchaser provided that amounts required to be paid pursuant to section 11.3(4) of the CCAA have been paid by the Purchaser. The Monitor understands that the Applicants and the Purchaser are attempting to reach out to counterparties of the Assigned Contracts to obtain their consent to assignment. However, given the timing of the expected closing of this transaction, it is likely not possible to do so for all Assigned Contracts. In this respect, the Monitor notes that the Purchaser has agreed under the W&C APA to assume the obligations under the Assigned Contracts. Based on information provided to the Monitor by the Purchaser, the Monitor also understands that 7-Eleven will be able to perform the obligations under the Assigned Contracts and that it would be appropriate to assign the rights and obligations to the Purchaser;
- f) With respect to any real property lease assignments required under the Transaction, the Applicants' counsel has advised that each of the relevant landlords has indicated that it is prepared to consent to an assignment of the relevant lease. The Monitor understands that the Applicants' counsel intends to obtain these assignments in advance of closing; however, to the extent that the assignments are not provided prior to the hearing of the application, the Receivership AVO also provides for an assignment of the 772 Leased Real Property to the Purchaser;

- g) subject to Court approval, closing of the Transaction is contemplated to occur on November 20, 2023 (with an effective time of 12:01 a.m. on November 19, 2023) unless otherwise agreed by the parties and the Monitor. The Outside Date is November 30, 2023;
- h) the only material conditions precedent are Court approval of the Transaction pursuant to the CCAA AVO and the approval or non-objection of the Transaction by the Commissioner of Competition pursuant to the *Competition Act*, 1985, c. C-34, the latter of which is in process; and
- i) the Receiver also intends to market the Ridge Meadows and SIU real property for sale by retaining a real estate broker.

4.1 Estimated Transaction Value

1. The table below provides (i) an estimate of the value of the Transaction as of October 28, 2023 based on the Applicants' financial information available to the Monitor; and (ii) the indicative waterfall of distributions resulting therefrom pursuant to the ARIO and the Ancillary Order.

(\$000s) ⁹	Range	
Description	Low	High
W&C APA Transaction		
Accounts Receivable	10,000	12,600
Inventory	7,600	8,600
7-Eleven Inventory	27,100	27,100
Property, Plant & Equipment	4,000	5,000
Other Proceeds	6,200	8,000
Total proceeds from W&C APA Transaction	54,900	61,300
Receivership Transaction, net of CWB mortgage¹⁰	3,100	3,100
Loudon real property	1,300	1,300
Other	400	1,400
Total gross realizations	59,700	67,100

⁹ All amounts in the table have been rounded.

¹⁰ CWB's mortgage is expected to be repaid in full on closing from the sale of the 772 Owned Real Property.

Less:		
Holdbacks and adjustments ¹¹	(14,600)	(11,300)
Net proceeds of realization before the following	45,100	55,800
Lender Priority Charge	(31,800)	(31,800)
Surplus after Lender Priority Charge	13,300	24,000
D&O Charge ¹²	(4,000)	(4,000)
(Shortfall)/surplus after D&O Charge	9,300	20,000
CIBC Pre-Filing Security ¹³	(5,600)	(5,600)
(Shortfall)/surplus after CIBC debt	3,700	14,400
Tobacco Tax Charge	(24,800)	(24,800)
Shortfall on Tobacco Charge	(21,100)	(10,400)

4.2 Transaction Alternatives

1. For the following reasons, the Monitor is of the view that there is no viable better option to the Transaction:
 - a) A&M conducted the SISP in accordance with its terms, subject to encouraging parties to submit offers on an expedited basis;
 - b) the Transaction maximizes value for the Applicants' business and assets;
 - c) 7-Eleven has advised that it is not prepared to support any other transaction at this time. Given 7-Eleven's critical relationship to the Wallace & Carey business, its support is required for any going-concern solution;
 - d) absent the Transaction, the Applicants' business is likely to be liquidated; and
 - e) the value of the Transaction exceeds liquidation value for the Applicants' business and assets for the reasons listed below.

¹¹ Includes holdbacks for the Administration Charge, the Transaction Fee Charge, post-filing liabilities, vacation pay and various other amounts that are required to be paid.

¹² As discussed in paragraph 4.3.6 below, the Applicants' directors and officers are prepared to have this charge released if the Release contemplated by the Transaction is approved by the Court. This would make available \$4 million to stakeholders ranking subordinate to the D&O Charge.

¹³ Estimated, subject to adjustment for interest and expenses.

i. W&C APA transaction

- The purchase price of the personal property in the CCAA transaction exceeds the liquidation value of those assets based on valuations obtained by A&M. A&M and the Monitor engaged in extensive and protracted negotiation with 7-Eleven concerning the purchase price for these assets. The amount paid by 7-Eleven includes a premium above liquidation value reflecting their value-in-use for 7-Eleven.
- 7- Eleven has agreed to purchase, in most cases at cost, certain inventory that has been purchased on its behalf by Wallace & Carey. This represents a substantial portion of Wallace & Carey's inventory. Without this commitment from 7-Eleven, inventory realizations would be significantly impaired, and costs of realization would be materially higher. There would also be challenges conducting the liquidation of the inventory as the assistance of Wallace & Carey's employees would be required. This would require an expensive key employee retention plan given the large number of Wallace & Carey employees, which would further reduce recoveries.
- 7-Eleven has also agreed to pay in full its accounts receivable owing to Wallace & Carey. In a liquidation, Wallace & Carey may be unable to service 7-Eleven in the ordinary course, and there is a significant risk that 7-Eleven would setoff any damages against accounts receivable it owes to Wallace & Carey.
- The method for determining the purchase price for the Oakville lease, which is an Optional Purchased Asset that is believed to have considerable value, was established under the terms of the TSA. The Monitor believes that the methodology is fair and commercially reasonable and is consistent with how such value is commonly calculated.

ii. Receivership transaction

- The purchase price for each 772 Owned Real Property is based on either updated value estimates for those properties obtained by the Monitor earlier in these proceedings, and/or on offers received for these properties in these proceedings. The purchase price also excludes carrying costs (such as property taxes and utilities) that would otherwise be incurred while marketing the properties, and the realtor commissions payable are less than a typical transaction.¹⁴ The sale of the properties in the Transaction also eliminates the risk that these properties may sell for a lower price than the purchase price under the Transaction.

iii. Additionally, the Transaction:

- mitigates the risks and costs of a liquidation, including the challenges retaining employees to assist with the liquidation process and the related payroll and operating costs, which would total millions of dollars; and
- minimizes the fees and costs of the Monitor, its counsel and the Applicants' counsel carrying out a liquidation, which would also be very significant.

4.3 Releases

1. The CCAA AVO provides for the Releases, which include a broad release of all claims against (a) the current and former directors, officers, employees and their legal counsel; (b) legal counsel, agents and advisors of the Applicants and the Purchaser; (c) the Monitor and its legal counsel (collectively, the **"Released Parties"**).
2. The proposed Releases do not release: (i) any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA, or (ii) any fraud, gross negligence or willful misconduct on the part of any Released Parties.
3. The W&C APA provides that the closing of the Transaction will not be conditional upon the granting of the provisions of the CCAA AVO in a form that contains the Releases.

¹⁴ Typically, 5% of the selling price. In this case, commissions total approximately \$180k, or slightly more than 1%.

4. The Monitor notes that certain of the statutes under which the Accrued Tobacco Taxes are legislated contain provisions for director and/or officer liability that would be captured by the Releases contained in the CCAA AVO. The amounts are also secured by the Tobacco Tax Charge. Potential recoveries under the Tobacco Tax Charge are discussed herein and the Monitor understands that the applicable Provinces and Territories were served by the Applicants with their application materials on November 7, 2023 and will be served with this Report. The applicable Provinces and Territories have also been served with all materials filed in these proceedings, including the application materials containing the Initial Order, the ARIO and the Ancillary Order, each of which addresses the priority of the Tobacco Tax Charge and the other CCAA Charges.
5. In the Monitor's view, the Released Parties have provided substantial assistance (and will continue to do so) facilitating the proposed Transaction, which, if approved and closed, will ultimately see the value of the Applicants' business being maximized for the benefit of its stakeholders, including the beneficiaries of the Tobacco Tax Charge. In this regard, the Applicants' directors and officers have agreed, if requested, to continue in their role through this CCAA proceeding, which will provide the Purchaser with the benefit of their institutional knowledge of the Applicants' business and operations and will facilitate the orderly completion of these proceedings for the benefit of stakeholders.
6. Further, the Applicants' director and officers have agreed to have the D&O Charge released if the Release contemplated by the Transaction is approved by the Court. This would make the holdback of \$4 million otherwise contemplated to secure the D&O Charge unnecessary, meaning such funds would be available to stakeholders ranking subordinate to the D&O Charge. The release of this charge also negates the need for a claims process to determine any entitlement to such funds, resulting in significant associated cost savings.

5.0 Proposed Distributions

1. The ARIO and the Ancillary Order establish the following waterfall of distributions in the CCAA proceedings:
 - a) Administration Charge (\$850,000);

- b) Transaction Fee Charge (variable based on the value of the Transaction, but estimated to be approximately \$1 million);
 - c) the Lender Priority Charge (\$55 million);
 - d) D&O Charge (\$4 million);
 - e) the CIBC Pre-Filing Security (estimated to be \$5.5 million); and
 - f) Tobacco Tax Charge to \$25 million.
2. Pursuant to the Forbearance Agreement, CIBC was provided mortgages on the Non-Applicant Real Property ranking subordinate to CWB. As of the date of this Report, the amount owing to CWB is estimated to be approximately \$12 million. CWB is to be repaid, in full, from the sale of the Non-Applicant Real Property owned by 772.
 3. Subject to maintaining a holdback for the Administration Charge and other pre-closing costs that need to be funded from the Transaction proceeds, the Applicants are requesting an Order of the Court providing that the Net Distribution Proceeds are to be distributed to secured creditors in accordance with paragraph 1 and 2 above.
 4. In advance of these proceedings, and in order for the Monitor to recommend that the Court approve the Lender Priority Charge, the Monitor's counsel, Cassels, provided an opinion on the validity and enforceability of CIBC's security. Cassels' opinion provides that, subject to the customary assumptions and qualifications contained therein, the security granted to CIBC is valid and enforceable. Cassels has also provided the Monitor with an opinion confirming the validity and enforceability of CWB's security, subject to the customary assumptions and qualifications contained therein. A copy of the security opinions can be made available to the Court upon request.
 5. The Monitor is not aware of any secured creditors or any claim (including any deemed trust) that ranks or may rank in priority to the Lender Priority Charge or the CIBC Pre-Filing Security, other than the amounts secured under the Administration Charge, the Ancillary Order, and CWB in respect of the Non-Applicant Real Property (excluding the 772 Leased Real Property). Any equipment lessors with security interests in certain leased assets will either be assumed or paid by the Purchasers pursuant to the terms of the Transaction or their assets will be returned to the lessor.

6. The CCAA AVO provides that these distributions will be made free and clear of any claims and encumbrances. The Monitor notes that provincial legislation regarding tobacco taxes establishes a deemed trust in favour of tobacco tax authorities; however, that deemed trust is not operative pursuant to Section 37 of the CCAA. The Monitor notes that the applicable provinces will be served with this Report, as has been the case with all relevant materials filed in these proceedings.
7. Based on the foregoing, the Monitor recommends that the Court issue an order or orders:
 - a) authorizing the Monitor to make distributions to CWB to repay it in full from the proceeds of the sale of the 772 Owned Real Property; and
 - b) subject to the Monitor retaining sufficient reserves to satisfy, among other things, employee wages and vacation pay, the Administration Charge and the D&O Charge (subject to Court approval of the Release), authorizing the Applicant to make certain distributions, to the extent funds are available, including under the Transaction Fee Charge, the Lender Priority Charge and the CIBC Prefiling Security.

6.0 Tobacco Tax Recoveries

1. A table comparing the amounts projected to be owed by the Applicants to the Provinces and Territories as of November 17, 2023¹⁵ to the amounts owing as of the date of the Filing Date is provided below.

(\$000s)	November 17 Projection	Filing Date	Change
British Columbia	3,638	4,281	(643)
Alberta ¹⁶	16,085	13,780	2,305
Saskatchewan	1,880	4,386	(2,506)
Manitoba	1,426	452	974
Ontario	639	1,342	(702)
Northwest Territories	279	340	(61)
Nunavut	-	344	(344)
Yukon	822	535	287
Total	24,769	25,459	(691)

¹⁵ The last business day before closing.

¹⁶ The Monitor understands that the Province of Alberta's records may reflect a lower amount owing as of the Filing Date. The Monitor believes this amount would be approximately \$7.3 million. This is because the Province of Alberta's records would be based on the tobacco tax obligation as of the end of May 2023 and not as of the Filing Date.

2. As is evidenced by the table above, on a net basis, the tobacco taxes projected to be owing by the Applicants as of November 17, 2023 approximate the tobacco taxes owing as of the date of the Initial Order. The table reflects that the amounts owing to certain Provinces and Territories are projected to decline while the amounts owing to others are projected to increase, with Alberta seeing the greatest increase. This is largely because as of the Filing Date, Alberta and the Applicants had agreed to a payment plan in respect of tobacco tax arrears owing at the time, which the Applicants were unable to maintain during the CCAA proceedings. As noted in the Fourth Report Supplement, on October 1, 2023, Alberta withdrew Wallace & Carey's status as a tax collector such that Wallace & Carey is required to pay tobacco taxes at the time of purchase versus at the time of sale, which was the case until that time.
3. Based on the analyses performed by the Monitor, as discussed in Section 4.2 above, the projected repayments to the Provinces and Territories resulting from the Transaction materially exceed the amounts that the Provinces and Territories would receive if the business and assets of the Applicants were liquidated.
4. During the TSA period, Wallace & Carey intends to continue to pay tobacco taxes in the ordinary course.

7.0 Sealing

1. The Applicants are also seeking a Sealing Order, sealing on the Court file the Confidential Appendix to this Report, which contains a summary of bids received during the SISP. The availability of this information to other parties may negatively impact any future sale process if the Transaction does not close, or with respect to other elements of the Applicants' business that may be sold in the future. In the Monitor's view, sealing this information until the earlier of the termination of these proceedings or further Order of this Court is necessary to maximize recoveries in these proceedings and to maintain the integrity and confidentiality of key information in the SISP. The salutary effects of sealing such information from the public record greatly outweigh any deleterious effects of doing so. The Monitor is of the view that the Sealing Order is appropriate in the circumstances, satisfies the test from *Sherman Estate v. Donovan* 2021 SCC 25, and that no stakeholders will be prejudiced if the information is sealed.

8.0 Recommendation

1. The Monitor recommends that the Court issue the CCAA AVO, the Receivership Order and the Receivership AVO for the following reasons:
 - a) A&M carried out the SISP in accordance with its terms;
 - b) A&M widely canvassed the market for potential purchasers. Any purchaser of the Wallace & Carey business would have required a new “service agreement” with 7-Eleven. Among other reasons, the Applicants’ declining liquidity did not provide 7-Eleven with sufficient time to negotiate a service agreement with a new distributor;
 - c) the value of the Transaction exceeds liquidation value. The Transaction has been extensively negotiated. The Monitor believes that the Transaction is, by far, the best outcome for the business and its stakeholders in the circumstances, and is intended to maximize value. The Monitor does not believe there is any viable transaction alternative available to the Applicants;
 - d) the Applicants have had a series of liquidity challenges throughout these proceedings, which liquidity challenges are continuing. Accordingly, it is imperative that a transaction be completed forthwith. Liquidation is a probability if the Transaction is not approved by the Court;
 - e) the Forbearance Agreement has been terminated. Absent completion of the Transaction, it is unlikely that CIBC will continue to fund the going concern operations of Wallace & Carey’s business;
 - f) The Monitor does not believe that the Provinces and Territories would have a superior outcome to the Transaction if it is not approved. Wallace & Carey intends to continue to remit to the Provinces and Territories all tobacco taxes accruing from the date of closing and following;
 - g) the transaction will see the Wallace & Carey business continue during the transition periods, at a minimum. The Purchaser has undertaken to encourage a future service provider (or providers) to offer employment to Wallace & Carey employees. The Purchaser is also considering long-term self-distribution, which would also provide employees with opportunities for long-term employment; and

- h) the continuation of the business will provide Wallace & Carey's vendors with an opportunity to continue their relationship with 7-Eleven, which is critically important to many of them.

* * *

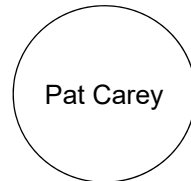
All of which is respectfully submitted,

KSV Restructuring Inc.

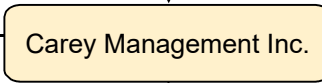
**KSV RESTRUCTURING INC.,
in its capacity as monitor of
Wallace & Carey Inc., Loudon Bros Limited, and Carey Management Inc.
and not in its personal capacity**

APPENDIX B

[ATTACHED]



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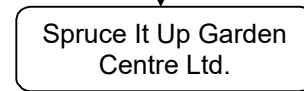
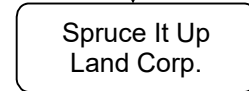
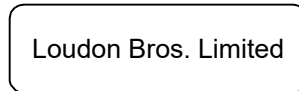
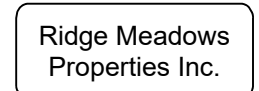
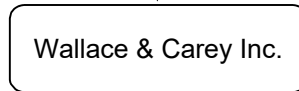
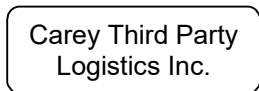
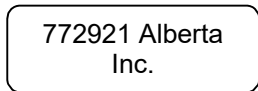
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APPENDIX C

[ATTACHED]

SHARE PURCHASE AGREEMENT

THIS AGREEMENT made effective as of the 14 day of April, 2025.

AMONG:

SPRUCE IT UP GARDEN CENTRE INC., a corporation incorporated pursuant to the laws of the Province of Alberta (the “**Corporation**”)

- and -

CAREY MANAGEMENT INC., a corporation incorporated pursuant to the laws of the Province of Alberta (the “**Vendor**”)

WHEREAS the Vendor is the legal and beneficial owner of the Spruce It Up Shares;

AND WHEREAS, upon the terms and conditions hereinafter set forth, the Vendor wishes to sell the Spruce It Up Shares to the Corporation and the Corporation wishes to purchase for cancellation the Spruce It Up Shares;

NOW THEREFORE in consideration of the above premises and of the covenants, agreements hereinafter set forth, it is hereby agreed as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, the following shall have the following meanings:

- (a) “**Agreement**” means this Share Purchase Agreement and all instruments supplemental to or in amendment or confirmation of this Agreement;
- (b) “**Approval and Vesting Order**” has the meaning ascribed thereto in Section 5.2 hereof;
- (c) “**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada), as amended from time to time;
- (d) “**Closing**” means the consummation of the Transaction;
- (e) “**Closing Date**” means such date which is 3 business days after the date of the Approval and Vesting Order;
- (f) “**Closing Payment**” has the meaning ascribed thereto in Section 2.2(a) hereof;
- (g) “**Closing Time**” means **[2:00 p.m.]** Calgary time on the Closing Date or such other time as the Parties may agree to in writing;
- (h) “**Deposit**” has the meaning ascribed thereto in Section 2.3 hereof;

- (i) **"Initial Order"** means the order issued under the CCAA in Court File No. 2301-08305 in respect of the Vendor on June 22, 2023, as amended and restated on June 30, 2023, and as subsequently amended, modified, supplemented or restated;
- (j) **"Monitor"** has the meaning ascribed to it in the Initial Order;
- (k) **"Monitor's Solicitors"** means Cassels Brock & Blackwell LLP;
- (l) **"Parties"** means, collectively, the Corporation and the Vendor and **"Party"** means any one of them;
- (m) **"Purchase Price"** has the meaning ascribed thereto in Section 2.2 hereof;
- (n) **"Promissory Note 1"** has the meaning ascribed thereto in Section 2.2(b) hereof;
- (o) **"Promissory Note 2"** has the meaning ascribed thereto in Section 2.2(c) hereof;
- (p) **"Promissory Notes"** has the meaning ascribed thereto in Section 2.2(c) hereof;
- (q) **"Sealing Order"** has the meaning ascribed thereto in Section 5.2 hereof;
- (r) **"Spruce It Up Shares"** means 160,080 common shares in the capital of the Corporation represented by share certificate no. CA-7; and
- (s) **"Transaction"** means the purchase and sale of the Spruce It Up Shares contemplated by this Agreement.

ARTICLE 2 PURCHASE AND SALE

2.1 Purchase and Sale

The Vendor hereby agrees to sell, assign and transfer to the Corporation, and the Corporation agrees to purchase from the Vendor for cancellation, as of the Closing Date and subject to the terms and conditions hereof, all of the Vendor's right, title and interest in and to the Spruce It Up Shares for an aggregate purchase price of [REDACTED] (the **"Purchase Price"**).

2.2 Purchase Price

The Purchase Price shall be paid in the following manner:

- (a) [REDACTED] shall be payable by the Corporation to the Vendor on the Closing Date (the **"Closing Payment"**);
- (b) [REDACTED] shall be satisfied by the issuance of a term, non-interest bearing promissory note by the Corporation to and in favour of the Vendor in the principal amount of [REDACTED] payable in accordance with its terms, six (6) months following the Closing Date (**"Promissory Note 1"**); and
- (c) [REDACTED] shall be satisfied by the issuance of a term, non-interest bearing promissory note by the Corporation to and in favour of the Vendor in the principal amount of [REDACTED]

████████ payable in accordance with its terms, twelve (12) months following the Closing Date (“**Promissory Note 2**” and together with Promissory Note 1, the “**Promissory Notes**”).

2.3 Deposit

Subject to Section 2.4, the Corporation shall pay to the Vendor a non-interest bearing deposit of ██████████ upon execution and delivery of this Agreement (referred to hereinafter as the “**Deposit**”). The Deposit shall be delivered and held in accordance with the following:

If Closing occurs, the Deposit shall be credited against the Closing Payment at Closing.

If Closing does not occur:

- (a) for any reason other than the breach by the Corporation of its obligations under this Agreement (as contemplated in subsection (b) below), then the Deposit shall be returned to the Corporation, this Agreement shall thereupon terminate, and each Party shall be released from all obligations and liabilities under or in connection with this Agreement; or
- (b) due to the breach by the Corporation of any of its obligations under this Agreement, as determined by the Vendor acting reasonably, then the Vendor shall be entitled to retain the Deposit as a guarantee of performance and the Deposit shall be finally and absolutely forfeited to the Vendor.

The Corporation and the Vendor hereby acknowledge and agree that, should Closing not occur due to the breach by the Corporation of any of its obligations under this Agreement (as contemplated in subsection (b) above), the Vendor will suffer and incur harm that cannot be quantified or precisely calculated and is irreparable, for which the Vendor hereby reserves all further rights, benefits, privileges and entitlements whether in law or equity or by statute and whether by way of specific performance, damages or otherwise.

2.4 Direction for Payments

- (a) The Vendor hereby irrevocably authorizes and directs the Corporation to deliver payment of both the Deposit and the Closing Payment under and pursuant to this Agreement, and all payments under the Promissory Notes, to the Monitor's Solicitors on behalf of the Vendor. Further thereto, from and after Closing, all amounts delivered to the Monitor hereunder shall be final and irrevocable and neither the Vendor nor Corporation shall have any recourse to same.
- (b) The Parties agree that this authorization and direction shall be good, sufficient and irrevocable authority for the Corporation to deliver, and the Monitor's Solicitors to receive, funds, as contemplated herein.
- (c) Upon a payment being delivered by the Corporation to the Monitor's Solicitors, all as contemplated herein, such payment shall be considered delivered and paid to the Vendor.

- (d) All payments to the Monitor's Solicitors hereunder shall be effected by wire, as directed by the Monitor's Solicitors from time to time.
- (e) The aforesaid authorization and direction in no way derogates from or limits the application of the terms of the Deposit described in Section 2.3. Further thereto, in the event that Closing does not occur and the Deposit is forfeited to the Vendor, the Monitor shall be entitled to retain, and the Vendor shall not have any recourse to, same.
- (f) The Monitor is a third-party beneficiary of the provisions set forth above and, as such, is entitled to rely on and enforce the provisions of this Section 2.4.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Vendor

The Vendor represents and warrants to the Corporation that:

- (a) the Vendor is a corporation duly incorporated, organized and subsisting under the laws of the Province of Alberta;
- (b) pursuant to the terms of the Initial Order and subject to the making of the Approval and Vesting Order, the Vendor has good and sufficient power, authority and right to enter into and deliver this Agreement on the terms and conditions set forth herein, and to transfer the legal and beneficial title to and ownership of the Spruce It Up Shares to the Corporation, free and clear of all encumbrances;
- (c) the Vendor is the owner of the Spruce It Up Shares as the shareholder of record and as the beneficial owner with good and marketable title thereto free and clear of all mortgages, liens, charges, encumbrances, security interests and adverse claims;
- (d) other than this Agreement, there is no agreement which grants to any person the right to purchase or otherwise acquire any of the Spruce It Up Shares;
- (e) the Transaction does not and will not result in any breach or violation of, or be in conflict with, or constitute, or create a state of facts which, after notice or lapse of time, or both, would constitute a default under any term or provision of the constating documents or by-laws of the Vendor;
- (f) this Agreement constitutes a valid and binding obligation of the Vendor enforceable against the Vendor in accordance with its terms. The Vendor is not a party to, bound by, or subject to, any indenture, mortgage, lease, agreement, instrument, statute, regulation, order, judgment, decree or law that would be violated, contravened or breached by, or under which any default would occur as a result of, the execution and delivery by the Vendor of this Agreement or the performance by the Vendor of any of the terms hereof; and
- (g) the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

3.2 Representations and Warranties of the Corporation

The Corporation represents and warrants to the Vendor that:

- (a) the Corporation is a corporation duly incorporated, organized and subsisting under the laws of the Province of Alberta;
- (b) this Agreement constitutes a legal, valid and binding obligation of the Corporation enforceable against the Corporation in accordance with its terms;
- (c) there are no reasonable grounds for believing that:
 - (i) the Corporation is, or would after the payment of the Purchase Price be, unable to pay its liabilities as they become due; or
 - (ii) the realizable value of the Corporation's assets would after the payment of the Purchase Price be less than the aggregate of, (a) its liabilities, and (b) its stated capital of all classes;
- (d) the Transaction does not and will not result in any breach or violation of, or be in conflict with, or constitute, or create a state of facts which, after notice or lapse of time, or both, would constitute a default under any term or provision of the constating documents or by-laws of the Corporation;
- (e) the execution, delivery and performance of this Agreement and the performance by the Corporation of its obligations hereunder does not require the authorization, consent, approval or licence of any third person; and
- (f) the Corporation is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

3.3 Limitation on Representations and Warranties

Neither the Vendor nor the Corporation make any representation or warranty whatsoever except as and to the extent expressly set forth in this Article 3. In particular and without limitation, the Corporation hereby waives any right it may have to make any claim against the Vendor for loss or damages in relation to its acquisition of the Spruce It Up Shares from the Vendor, except to the extent such loss or damages is a direct result of a breach of the Vendor's representations and warranties hereunder.

ARTICLE 4 RELEASE UPON CLOSING

4.1 Release in Favour of Vendor and Monitor

Upon completion of the Closing, the Corporation, on its own behalf as well as on behalf of all of its respective directors, officers, employees, agents, representatives, successors, affiliates, securityholders, insurers, heirs and assigns hereby release and forever discharge the Vendor, the Monitor and all of their directors, officers, employees, agents, representatives, successors, affiliates, securityholders, insurers, heirs and assigns from any and all liabilities, causes of action, claims,

proceedings, demands, suits, debts, duties, losses, damages, injuries, interest, costs and legal costs of any nature or kind whatsoever whether known or unknown, presently existing or which hereafter may exist, which either has or hereafter can, shall, or may have in any way result from, arise out of or relate to the Corporation or the Spruce It Up Shares.

4.2 Release in Favour of Corporation

Upon completion of the Closing, the Vendor, on its behalf as well as on behalf of all of its respective directors, officers, employees, agents, representatives, successors, affiliates, securityholders, insurers, heirs and assigns hereby release and forever discharge the Corporation and all of its directors, officers, employees, agents, representatives, successors, affiliates, securityholders, insurers, heirs and assigns from any and all liabilities, causes of action, claims, proceedings, demands, suits, debts, duties, losses, damages, injuries, interest, costs and legal costs of any nature or kind whatsoever whether known or unknown, presently existing or which hereafter may exist, which either has or hereafter can, shall, or may have in any way result from, arise out of or relate to the Corporation or the Spruce It Up Shares.

4.3 Limitation of Release

Notwithstanding the terms of this Article 4, it is expressly understood and agreed that this Article 4 does not release or discharge any party from the performance of any of its respective obligations or with respect to the accuracy or truthfulness of its representations or warranties pursuant to this Agreement.

ARTICLE 5 COVENANTS

5.1 Commercially Reasonable Efforts

The Parties shall cooperate with each other and shall use their commercially reasonable efforts to cause the conditions set forth in Article 7 to be satisfied and to facilitate and cause the consummation of the Transaction contemplated herein.

5.2 Motion for Approval and Vesting Order

The Vendor shall schedule with the Court of King's Bench of Alberta, within 5 days from the execution and delivery of this Agreement, an application seeking the Court's issuance of an order that vests all of the Vendor's right, title, estate and interest in and to the Spruce It Up Shares in the Corporation, free and clear of all liens, charges, pledges, mortgages and encumbrances, effective at the Closing Time (an "**Approval and Vesting Order**"). The Corporation will concurrently apply for a restricted court access order (a "**Sealing Order**") to attempt to maintain the confidentiality and non-disclosure of the Purchase Price until further order of the Court or, if the Court will not issue a Sealing Order without a specified sunset date, until the Closing Time. The Vendor shall diligently use commercially reasonable efforts to seek the issuance and entry, as soon as possible after the date of this Agreement, of the Approval and Vesting Order.

5.3 New Commitments

Upon execution and delivery of this Agreement, the Vendor shall not enter into any new agreement or commitment for the sale, assignment or transfer of the Spruce It Up Shares without the prior written consent of the Corporation.

ARTICLE 6 CLOSING

6.1 Closing Time

Subject to the terms and conditions of this Agreement, the Closing shall take place at the Closing Time.

6.2 Vendor's Closing Deliveries

At the Closing Time:

- (a) the Vendor shall deliver a filed copy of the Approval and Vesting Order to the Corporation;
- (b) the Vendor shall deliver, or cause to be delivered, to the Corporation the original share certificate(s) representing the Spruce It Up Shares, duly endorsed for transfer to the Corporation, for cancellation;
- (c) the Vendor shall deliver an executed counterpart of the Promissory Notes to the Corporation;
- (d) the Vendor shall deliver an executed receipt for the Closing Payment (less the amount of the Deposit); and
- (e) the Vendor shall deliver any other documents, instruments or certificates as may be required of the Corporation pursuant to this Agreement, or as may be reasonably requested by the Corporation or the Corporation's legal counsel.

6.3 Corporation's Closing Deliveries

At the Closing Time:

- (a) subject to Section 2.4, the Corporation shall deliver to the Vendor the Closing Payment (less the amount of the Deposit);
- (b) the Corporation shall deliver a filed copy of the Sealing Order to the Vendor;
- (c) the Corporation shall deliver an executed counterpart of the Promissory Notes to the Vendor;
- (d) the Corporation shall deliver a certificate of solvency executed by an officer of the Corporation, such certificate to be in form and substance satisfactory to the Corporation;

- (e) the Corporation shall update their share register to reflect the purchase for cancellation of the Spruce It Up Shares from the Vendor; and
- (f) the Corporation shall deliver any other documents, instruments or certificates as may be required of the Corporation pursuant to this Agreement, or as may be reasonably requested by the Vendor or the Vendor's legal counsel.

6.4 Effect of Closing

The Parties hereby acknowledge and agree that, upon Closing, all of the Vendor's right, title and interest in and to the Spruce It Up Shares shall transfer, free and clear of all mortgages, liens, charges, encumbrances, security interests and adverse claims, in full to the Corporation, and immediately thereafter, the Spruce It Up Shares shall be cancelled by the Corporation.

ARTICLE 7 CONDITIONS PRECEDENT

7.1 Vendor's Conditions

The obligation of the Vendor to complete the Transaction is subject to all of the representations and warranties of the Corporation contained in this Agreement being true at the Closing Time.

7.2 Corporation's Conditions

The obligation of the Corporation to complete the Transaction is subject to all of the representations and warranties of the Vendor contained in this Agreement being true at the Closing Time.

7.3 Mutual Conditions

The obligations of both Parties to complete the Transaction is subject to the approval of this Agreement and the Transaction , and the issuance of an Approval and Vesting Order, which Approval and Vesting Order shall be in form and substance satisfactory to the Vendor and the Corporation.

ARTICLE 8 GENERAL

8.1 Time

Time shall be of the essence of this Agreement.

8.1 Costs and Expenses

All profits and receipts in respect of the Spruce It Up Shares and all costs, expenses and outgoings in respect thereof up to the Closing Time shall belong to, or as the case may be, be paid and discharged by the Vendor. From and after the Closing Time, all profits and receipts in respect of the Spruce It Up Shares and all costs, expenses and outgoings in respect thereof shall belong to, or as the case may be, be paid and discharged by the Corporation except to the extent that said costs, expenses and outgoings are related to or arising from events or circumstances occurring prior to the

Closing Time, in which case the costs, expenses and outgoings shall remain the full responsibility of the Vendor.

8.2 Enurement

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

8.3 Governing Law

This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein, without regard to principles of conflicts of laws and shall be treated in all respects as an Alberta contract. The Parties hereby irrevocably and unconditionally attorn to the exclusive jurisdiction of the courts of the Province of Alberta and all courts competent to hear appeals therefrom.

8.4 Entire Agreement

This Agreement expresses and constitutes the entire agreement between the Parties hereto with respect to the matters addressed herein and supersedes any previous agreements or understandings with respect thereto. This Agreement may be amended only by written instrument executed by the Vendor and the Corporation.

8.5 Further Assurances

Each of the Vendor and the Corporation hereby covenant and agree that at any time from and after the date hereof it will, at the request of the other, do, execute, acknowledge and deliver or cause to be done, executed acknowledged and delivered all such further acts, deeds, assignments, transfers, conveyances and assurances as may be required for the better carrying out and performance of this Agreement.

8.6 Waiver

No waiver by either party shall be effective unless in writing, and a waiver shall affect only the matter, and the occurrence thereof, specifically identified in the writing granting such waiver and shall not extend to any other matter or occurrence.

8.7 Non-Merger

The provisions contained in this Agreement shall survive the Closing and shall not merge upon any transfer or other document or instrument issuing pursuant hereto or in connection herewith. Without limiting the generality of the foregoing, the liability of a Party for any breach of any of its representations, warranties, covenants, agreements or other obligations hereunder prior to the completion of the purchase and sale contemplated hereby shall not be extinguished or in any manner diminished by such completion.

8.8 Severability

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

8.9 Headings

Headings to the articles and sections herein are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

8.10 Construction

Words importing singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and words importing persons shall include individuals, companies, cooperatives, corporations, partnerships, unincorporated associations, syndicates, trusts and any number or aggregate of persons.

8.11 Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. To evidence his, her or its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Party by facsimile or email transmission and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving Party.


8.12 Electronic Execution

Delivery of an executed signature page to this Agreement by any Party by electronic transmission will be as effective as delivery of a manually executed copy of this Agreement by such Party.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF the Parties have executed and delivered this Agreement as of the date first above written.

SPRUCE IT UP GARDEN CENTRE INC.

Per: 
Meryl Coombs, President

CAREY MANAGEMENT INC.

Per: _____
Patrick Carey, President

IN WITNESS WHEREOF the Parties have executed and delivered this Agreement as of the date first above written.

SPRUCE IT UP GARDEN CENTRE INC.

Per: _____
Meryl Coombs, President

CAREY MANAGEMENT INC.

Signed by: 
Per: _____
Patrick Carey, President