

Clerk's stamp

COURT FILE NUMBER
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANT CANADIAN IMPERIAL BANK OF COMMERCE
RESPONDENTS 772921 ALBERTA INC.; SPRUCE IT UP LAND
CORP. and RIDGE MEADOWS PROPERTIES LTD.
DOCUMENT **APPLICATION (RECEIVERSHIP ORDER)**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT
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Lawyers for Canadian Imperial Bank of Commerce

NOTICE TO RESPONDENT(S):

This Application is made against you. You are a Respondent.

You have the right to state your side of this matter before the Justice.

To do so, you must be in Court when the Application is heard as shown below:

Date: November 17, 2023
Time: 11:00 a.m.
Where: Edmonton Law Courts
Before Whom: The Honourable Justice Burns
Via Webex

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. An Order:
 - (a) Abridging, if necessary, the time for service of this Application and deeming service to be good and sufficient;
 - (b) Appointing KSV Restructuring Inc. ("**KSV**") as receiver (the "**Receiver**") over all of the assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of 772921 Alberta Inc. ("**772**") Spruce It Up Land Corp. ("**SIU**") and Ridge Meadows Properties Ltd. ("**Ridge Meadows**", and together with SIU and 772, the "**Debtors**") (collectively, the "**Property**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the "**BIA**"), all by way of an order in substantially in the form of the Receivership Order attached as Schedule "A" hereto;
 - (c) Approving the sale of certain assets and assignment of certain contracts of 772 pursuant to an asset purchase agreement with 7-Eleven Canada, Inc. (the "**Receivership APA**"), free and clear of claims and encumbrances, and a distribution of the net proceeds of sale to various stakeholders, including Canadian Western Bank ("**CWB**") and Canadian Imperial Bank of Commerce ("**CIBC**"), in accordance with their respective priorities, by way of an order in substantially in the form of the Sale Approval and Vesting Order attached as Schedule "B" hereto; and
2. Such further and other relief, advice and directions as counsel may advise and this Honourable Court may deem just and appropriate.

Grounds for making this Application:

The Loan Agreement and Security

3. Carey Management Inc. ("**CMI**"), as borrower, the guarantors party thereto from time to time (the "**Guarantors**") and CIBC, as Agent (the "**Agent**"), and the lenders party thereto from time to time (the "**Lenders**") entered into a Credit Agreement dated as of September 26, 2017, as amended from time to time (the "**Credit Agreement**"), pursuant to which the Lenders agreed to provide CMI with certain credit facilities all on the terms set out therein and in related and amending documents (the "**Credit Facilities**"). The Credit Facilities include:
 - (a) Revolving loans, now in the maximum amount of \$55,000,000 (the "**Revolving Loans**"); and
 - (b) A term loan in the aggregate principal amount of up to \$6,250,000 (together with the Revolving Loans, the "**Loans**").
4. The obligations under the Credit Agreement are guaranteed by, among others, Wallace & Carey Inc. ("**W&C**"), Loudon Bros. Limited ("**Loudon**"), SIU, 772 and Ridge Meadows.
5. W&C and Loudon carry on, or have carried on, a logistics business that has been funded by the Loans.

Forbearance Arrangements and Mortgages

6. The Loans have been in default since June 2023. From June 22, 2023, the Loans were subject to a Forbearance Agreement between CMI, the Guarantors and the Agent (as amended from time to time, the **"Forbearance Agreement"**).
7. The Forbearance Agreement was entered into in the context of a *Companies' Creditors Arrangement Act* (Canada) proceeding to be commenced by CMI, W&C and Loudon (the **"CCAA Proceedings"**). These parties required continued funding to implement a restructuring process and requested that the Agent and the Lenders continue to make available the Revolving Loans to fund working capital requirements during that process. The Lenders agreed to do so subject to the terms and conditions of the Forbearance Agreement.
8. As a condition of the Forbearance Agreement, 772, SIU and Ridge Meadows granted second ranking mortgages on their owned real property assets (collectively, the **"Real Estate Assets"**) on or about July 20, 2023 (the **"CIBC Mortgages"**).
9. The Real Estate Assets are also subject to first ranking mortgages held by Canadian Western Bank (**"CWB"**). The Agent and CWB, have entered into a Subordination and Postponement Agreement providing for the subordination and postponement of the CIBC Mortgages to the mortgages held by CWB on the Real Estate Assets.
10. Each of CMI, W&C, Loudon and the Debtors have also granted first ranking general security interests in favour of the Agent and the Lenders on their personal property.

CCAA Proceedings

11. On June 22, 2023, the CCAA Proceedings were commenced by CMI, W&C and Loudon. KSV was appointed as Monitor (in such capacity, the **"Monitor"**).
12. On August 23, 2023, an order was granted in the CCAA Proceedings that, among other things, approved a sale and investment solicitation process for the business and assets of CMI, W&C and Loudon. Alvarez & Marsal Canada Securities ULC (**"A&M"**) was engaged as advisor to the Applicants in the CCAA Proceedings to assist in the sale and investment solicitation process (the **"SISP"**).
13. The property, assets and undertaking of 772 were included in the SISP, and proceeds derived from the Real Estate Assets of 772 are to first be utilized to repay amounts due and owing to CWB.
14. Through the SISP, CMI, W&C and Loudon, in consultation with A&M and the Monitor, determined that the transaction proposed by 7-Eleven Canada, Inc. (the **"Purchaser"**) was the highest or otherwise best transaction available (the **"7-11 Transaction"**).
15. The 7-11 Transaction includes the sale of the Real Estate Assets of 772 to the Purchaser or its nominee. The Real Estate Assets of 772 are two warehouses upon which the logistics business of W&C relies. The 7-11 Transaction also includes the transfer of two leases for properties located in Calgary and Nanaimo where 772 is the tenant (the **"772 Leases"**).

16. The sale of the Real Estate Assets of 772 and the transfer of the 772 Leases to the Purchaser is therefore a condition to completion of this value maximizing transaction.

Receivership of 772

17. As set out in the Forbearance Agreement and subsequent amendments, the Loans have been in default for an extended period.
18. The Agent, as a secured creditor holding security over the assets, property and undertaking of 772, has delivered a notice of intention to enforce security pursuant to Section 244 of the *Bankruptcy and Insolvency Act* (Canada) to 772 and 772 has consented to a waiver of the ten day notice period provided pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada).
19. The Agent proposes the appointment of KSV as Receiver of the assets, property and undertaking of 772, and the commencement of receivership proceedings to facilitate the 7-11 Transaction for which approval is being separately sought in the CCAA Proceedings. This is the most efficient way to transfer the 772 assets to the Purchaser free and clear of claims and encumbrances as required by the 7-11 Transaction.
20. The appointment of a receiver for this purpose is just and convenient because:
 - (a) The sale of certain of the 772 assets, property and undertaking is a necessary part of the 7-11 Transaction, which resulted from a transparent, comprehensive and court-approved SISF in the CCAA Proceedings.
 - (b) The 7-11 Transaction has the potential to preserve employment for a significant number of the employees of W&C.
 - (c) The sale of these 772 assets is necessary to maximize recoveries to stakeholders, including the amounts owing under the charges granted in the CCAA Proceeding, which benefit not only the Agent but also the tax authorities who may have claims for unpaid tobacco taxes.
 - (d) In the circumstances, the best option to preserve value of the business and assets of CMI and its affiliates is the expedited and orderly realization through the appointment of the Receiver to complete the sale of these 772 assets to 7-11.
21. 772 consents to the appointment of the Receiver.

Receivership of SIU and Ridge Meadows

22. As noted above, SIU and Ridge Meadows are guarantors of the Loans and have provided the second ranking CIBC Mortgages in respect of their Real Estate Assets located at 159 210 Avenue SW, Calgary and 255156 Range Road 25 NW, Calgary, respectively, and first ranking personal property security.
23. The SIU Real Estate Asset is a commercial property on which a retail gardening business is conducted, as well as associated leases and related agreements.
24. The Ridge Meadows Real Estate Asset is a residential real estate asset, as well as associated leases and related agreements.

25. The purpose of the receivership of the SIU and Ridge Meadows assets is to establish a process to market and sell the assets of these parties, including the Real Estate Assets of SIU and Ridge Meadows and associated leases and related agreements, as more fully detailed in the Sixth Report of the Monitor in the CCAA Proceedings and Proposed Receiver (the “**Sixth Report**”). The proceeds of sale will be used to satisfy the obligations owing to the Agent and other priority creditors with charges in the CCAA Proceedings, including the beneficiaries of the tobacco tax charges, if funds are not available to these creditors from the CCAA Proceeding.
26. The appointment of a receiver for this purpose is just and convenient because:
 - (a) the 7-11 Transaction alone may not provide full recovery to CIBC and other priority charge creditors in the CCAA Proceedings, including the beneficiaries of the tobacco tax charges.
 - (b) the sale of these SIU and Ridge Meadows assets is required in conjunction with the 7-11 Transaction to maximize recoveries for priority charge creditors in the CCAA Proceedings.
27. SIU and Ridge Meadows consent to the appointment of the Receiver.

Sale of 772 Assets & Distribution of Proceeds of Sale

28. The Receivership APA sets out the terms pursuant to which KSV, if appointed as Receiver of 772, is to sell to the Purchaser two warehouses owned by 772 (in Kelowna, British Columbia and Calgary, Alberta) that are used by W&C in its business, and to assign to the Purchaser the 772 Leases (collectively, the “**Real Property**”).
29. The Real Property was marketed as part of the SISP and the Real Property sale is part of, and a condition of, the 7-11 Transaction.
30. The 7-11 Transaction maximizes the value of the business and assets marketed under the SISP.
31. Pursuant to the terms of the Receivership APA, the Purchaser shall purchase the Real Property for the purchase price of \$14.92 million.
32. The purchase price for the Real Property is based upon updated value estimates for the properties obtained by the Monitor earlier in the CCAA Proceedings and/or offers received for the Real Property in the SISP.
33. The sale of the Real Property at this time eliminates additional costs that would otherwise continue to be incurred for these properties.
34. The Agent further seeks a distribution of the proceeds of sale of the Real Property to pay to the Receiver any amounts outstanding to the extent it has borrowed funds pursuant to receiver’s certificates, municipal tax authorities, Canada Revenue Agency, CWB and the Agent in accordance with their respective priorities.

Other Grounds

35. KSV has consented to act as receiver of the Real Estate Assets;

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

Material or evidence to be relied on:

37. Affidavit of Geoff Golding to be sworn;
38. The Sixth Report;
39. The proposed form of Receivership Order, attached hereto as Schedule "A";
40. The proposed form of Sale Approval and Vesting Order attached hereto as Schedule "B";
and
41. Such further and other material and evidence as counsel may advise and this Honourable Court may permit.

Applicable rules:

42. Rules 6.3(1), 6.47(e) and (f), 6.9(1) and 11.27.

Applicable Acts and regulations:

43. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, and particularly section 243 and 244 thereof, and such other Rules, Acts and Regulations as counsel may advise and that this Honourable Court may permit.
44. Such further and other Acts as counsel may advise and this Honourable Court may permit

Any irregularity complained of or objection relied on:

45. None.

How the Application is proposed to be heard or considered:

46. Via Webex, on November 17, 2023 at 11:00 a.m. or as soon thereafter as counsel may be heard.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant a reasonable time before the application is to be heard or considered.

SCHEDULE "A"
FORM OF RECEIVERSHIP ORDER

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COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANT(S)

CANADIAN IMPERIAL BANK OF COMMERCE

RESPONDENT(S)

772921 ALBERTA INC.; SPRUCE IT UP LAND
CORP. and RIDGE MEADOWS PROPERTIES
LTD.

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RECEIVERSHIP ORDER

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Lawyers for Canadian Imperial Bank of Commerce

DATE ON WHICH ORDER WAS PRONOUNCED: November 17, 2023
LOCATION OF HEARING: Edmonton
NAME OF JUSTICE WHO GRANTED THIS ORDER: The Honourable Justice Burns

UPON the application of Canadian Imperial Bank of Commerce (the "**Applicant**") in respect of 772921 Alberta Ltd., Spruce It Up Land Corp. and Ridge Meadows Properties Ltd. (collectively, the "**Debtors**"); AND UPON having read the Application, the Affidavit of Geoff Golding, sworn ●; and the Affidavit of Service of [insert], filed; AND UPON reading the consent of KSV Restructuring Inc. to act as receiver (the "**Receiver**") of the Debtors, filed; AND UPON hearing counsel for the Applicant, the Debtors, Canadian Western Bank, and counsel for the proposed Receiver and any other counsel or other interested parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

Service

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

Appointment

2. Pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “**BIA**”), KSV Restructuring Inc. is hereby appointed Receiver, without security, of the Debtors’ right, title and interest in all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of 772921 Alberta Inc. (“**772**”), Spruce It Up Land Corp. and Ridge Meadows Properties Ltd. (collectively, the “**Property**”).

Receiver’s Powers

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
 - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, which shall include the Receiver’s ability to abandon, dispose of, or otherwise release any interest in the Property;
 - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the engaging of independent security personnel, and the placement of such insurance coverage as may be necessary or desirable;
 - (c) to enter into any agreements or incur any obligations in the ordinary course of business;
 - (d) to engage consultants, appraisers, brokers, agents, experts, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver’s powers and duties, including without limitation those conferred by this Order;
 - (e) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors for use of the Property and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;

- (f) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (g) to undertake environmental assessments of the Property;
- (h) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Property, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;
- (i) to market any or all the Property, including engaging brokers or agents on such terms as the Receiver in its discretion may deem appropriate to market the Property, advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (j) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
 - i. without the approval of this Court in respect of any transaction not exceeding \$500,000, provided that the aggregate consideration for all such transactions does not exceed \$750,000; and
 - ii. with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 60(8) of the *Personal Property Security Act*, RSA 2000, c. P-7 or any other similar legislation in any other province or territory shall not be required.

- (k) to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing orders) necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (l) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and

to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (m) to register a copy of this Order and any other orders in respect of the Property against title to any of the Property, and when submitted by the Receiver for registration this Order shall be immediately registered by the Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding Section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles shall accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Property and not in its personal capacity;
- (n) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors or any of them in respect of the Property; and
- (o) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtors, and without interference from any other Person (as defined below).

Duty to Provide Access and Co-operation to the Receiver

- 4. (i) The Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall grant immediate and continued access to the Property to the Receiver.
- 5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which

may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.

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

No Proceedings Against the Receiver

7. No proceeding or enforcement process in any court or tribunal (each, a **"Proceeding"**), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

No Proceedings Against the Debtors or the Property

8. No Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph; and (ii) affect a Regulatory Body's investigation in respect of the debtor or an action, suit or proceeding that is taken in respect of the Debtors by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. **"Regulatory Body"** means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a Province.

No Exercise of Rights of Remedies

9. All rights and remedies of any Person, whether judicial or extra-judicial, statutory or non-statutory (including, without limitation, set-off rights) against or in respect of the Debtors or the Receiver or

affecting the Property are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided, however, that nothing in this Order shall:

- (a) empower the Debtors to carry on any business that the Debtors are not lawfully entitled to carry on;
- (b) prevent the filing of any registration to preserve or perfect a security interest;
- (c) prevent the registration of a claim for lien; or
- (d) exempt the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment.

10. Nothing in this Order shall prevent any party from taking an action against the Debtors where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Receiver at the first available opportunity.

No Interference with the Receiver

11. No Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, except with the written consent of the Debtors and the Receiver, or leave of this Court.

Continuation of Services

12. All persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Debtors, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Debtors,

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Debtors or exercising any other remedy provided under such agreements or arrangements. The Debtors shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Debtors in accordance with the payment practices of the Debtors, or such other practices as may be agreed

upon by the supplier or service provider and each of the Debtors and the Receiver, or as may be ordered by this Court.

Receiver to Hold Funds

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

Employees

14. Subject to employees’ rights to terminate their employment, all employees of the Debtors (if any) shall remain the employees of the Debtors. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, SC 2005, c.47 (“**WEPPA**”).
15. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

Limitations on Environmental Liabilities

16. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
 - i. before the Receiver’s appointment; or

- ii. after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
 - i. if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause ii below, the Receiver:
 - A. complies with the order, or
 - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
 - ii. during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by:
 - A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
 - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
 - iii. if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

Limitation on the Receiver's Liability

17. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

Receiver's Accounts

18. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Property, which charge shall not exceed an aggregate amount of \$400,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) of the BIA.
19. The Receiver and its legal counsel shall pass their accounts from time to time.
20. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

Funding of the Receivership

21. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 (or such greater amount as this Court may by further order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

22. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
23. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.
24. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.
25. The Receiver shall be authorized to repay any amounts borrowed by way of Receiver's Certificates out of the Property or any proceeds, including any proceeds from the sale of any assets without further approval of this Court.

Allocation

26. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various assets comprising the Property.

General

27. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
28. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Receiver's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
29. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

31. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
32. The Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis, including legal costs on a solicitor-client full indemnity basis, to be paid by the Receiver from the proceeds of the Property with such priority and at such time as this Court may determine.
33. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

Filing

34. The Receiver shall establish and maintain a website in respect of these proceedings at <https://www.ksvadvisory.com/experience/case/wallace-and-carey> (the "**Receiver's Website**") and shall post there as soon as practicable:
 - (a) all materials prescribed by statute or regulation to be made publicly available; and
 - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
35. Service of this Order shall be deemed good and sufficient by:
 - (a) serving the same on:
 - i. the persons listed on the service list created in these proceedings or otherwise served with notice of these proceedings;
 - ii. any other person served with notice of the application for this Order;
 - iii. any other parties attending or represented at the application for this Order; and
 - (b) posting a copy of this Order on the Receiver's Websiteand service on any other person is hereby dispensed with.

36. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

Justice of the Court of King's Bench of Alberta

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KSV Restructuring Inc, the receiver (the "**Receiver**") of the property of 772921 Alberta Ltd., Spruce It Up Land Corp. and Ridge Meadows Properties Ltd. appointed by Order of the Court of King's Bench of Alberta and Court of King's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "Court") dated the _____ day of _____, (the "**Order**") made in action numbers *Enter Action Numbers*, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of *Enter Amount*, being part of the total principal sum of *Enter Amount* that the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded *Select an Option* after the date hereof at a notional rate per annum equal to the rate of *Enter Rate* per cent above the prime commercial lending rate of *Name of Institution* from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at *Enter Address*.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20____

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

Per: _____

Name:

Title:

SCHEDULE "B"
SALE APPROVAL AND VESTING ORDER

COURT FILE NUMBER

Clerk's Stamp

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANT(S)

CANADIAN IMPERIAL BANK OF
COMMERCE

RESPONDENT(S)

772921 ALBERTA INC., SPRUCE IT UP
LAND CORP. AND RIDGE MEADOWS
PROPERTIES LTD.

DOCUMENT

**APPROVAL AND VESTING ORDER
(Sale by Receiver)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF PARTY
FILING THIS DOCUMENT

Norton Rose Fulbright Canada LLP
222 Bay Street, Suite 3000
Toronto, Ontario M5K 1E7 CANADA

Evan Cobb

evan.cobb@nortonrosefulbright.com

Tel:+1 416.216.1929

Fax:+1 416.216.3930

Lawyers for Canadian Imperial Bank of Commerce

DATE ON WHICH ORDER WAS PRONOUNCED: November 17, 2023

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice Burns

UPON THE APPLICATION by Canadian Imperial Bank of Commerce, as agent, for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between KSV Restructuring Inc., in its capacity as court-appointed receiver and manager (the "**Receiver**") of the undertakings, properties and assets of 772921 Alberta Inc. (the "**Debtor**") and 7-Eleven Canada, Inc. (the "**Purchaser**") dated November 7, 2023 and appended to the Affidavit of ●, and vesting in the Purchaser (or its nominee) the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**");

AND UPON HAVING READ the Receivership Order dated November 17, 2023 (the "**Receivership Order**"), the Sixth Report of the Monitor and Pre-Filing Report of the Proposed Receiver dated November 8, 2023 (the "**Report**") and the Affidavit of Service; **AND UPON HEARING** the

submissions of counsel for the Debtors, the Receiver, the Purchaser, Canadian Imperial Bank of Commerce and Canadian Western Bank no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service, filed;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTION

2. The Transaction is hereby approved and execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transaction and conveyance of the Purchased Assets to the Purchaser (or its nominee).
3. Upon delivery of a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in Schedule "A" hereto (the "**Receiver's Closing Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets listed in Schedule "B" hereto shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "**Claims**") including, without limiting the generality of the foregoing:
 - (a) any encumbrances or charges created by the Receivership Order;
 - (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta), the *Personal Property Security Act* (British Columbia) or any other personal property registry system;
 - (c) any liens or claims of lien under the *Builders' Lien Act* (Alberta) or the *Builders' Lien Act* (British Columbia); and

- (d) those Claims listed in Schedule "C" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in Schedule "D" (collectively, "**Permitted Encumbrances**"))

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

4. Upon delivery of the Receiver's Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Receiver's Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Purchased Assets subject only to Permitted Encumbrances.
5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Receiver's Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.
6. Without limiting the generality of paragraphs 4 or 5 above:
- (a) the Alberta Registrar of Land Titles ("**Alberta Land Titles Registrar**") for the lands defined below shall and is hereby authorized, requested and directed to forthwith:
- (i) cancel existing Certificates of Title Number 981 361 399 for those lands and premises legally described as:
- PLAN 7911396
BLOCK 1
LOT 3
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 1.06 HECTARES (2.62 ACRES) MORE OR LESS
- (the "**AB Lot 3 Lands**")

- (ii) issue a new Certificate of Title for the AB Lot 3 Lands in the name of the Purchaser (or its nominee), namely, 7-Eleven Canada, Inc.;
 - (iii) transfer to the new Certificates of Title the applicable existing instruments listed in Schedule "D" – Part A, to this Order, and to issue and register against the new Certificate of Title such applicable new caveats, utility rights of ways, easements or other instruments as are listed in Schedule "D" – Part A; and
 - (iv) discharge and expunge the Encumbrances listed in Schedule "C" – Part A to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the AB Lot 3 Lands.
- (b) the Alberta Land Titles Registrar for the lands defined below shall and is hereby authorized, requested and directed to forthwith:
- (i) cancel existing Certificates of Title Number 981 361 399 +1 for those lands and premises legally described as:

PLAN 7911396
BLOCK 1
LOT 4
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 0.502 HECTARES (1.24 ACRES) MORE OR LESS

(the "AB Lot 4 Lands")
 - (i) issue new Certificates of Title for the AB Lot 4 Lands in the name of the Purchaser (or its nominee), namely, 7-Eleven Canada, Inc.;
 - (ii) transfer to the new Certificate of Title the applicable existing instruments listed in Schedule "D" – Part B, to this Order, and to issue and register against the new Certificate of Title such applicable new caveats, utility rights of ways, easements or other instruments as are listed in Schedule "D" – Part B; and
 - (iii) discharge and expunge the Encumbrances listed in Schedule "C" – Part B to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the AB Lot 4 Lands.

- (c) upon presentation for registration in the British Columbia Land Titles Office for the Land Title District of Kamloops of a certified copy of this Order, together with a letter from Cassels Brock & Blackwell LLP, solicitors for the Receiver, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to:
- (i) enter the Purchaser (or its nominee) as the owner of the B.C. Property, as defined and identified in Schedule "B" hereto, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the B.C. Property, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of the Purchaser (or its nominee) in and to the Property is a good, safe holding and marketable title and directs the British Columbia Registrar of Land Titles to register indefeasible title in favour of the Purchaser (or its nominee) as aforesaid; and
 - (ii) having considered the interest of third parties, to discharge, release, delete and expunge from title to the B.C. Property all of the registered Claims as set out in Schedule "C" – Part C hereto, save and except for those Permitted Encumbrances listed in Schedule "D" – Part C.
7. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the Sale Agreement.
8. Upon delivery of the Receiver's Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity.
9. For the purposes of determining the nature and priority of Claims, the net proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Purchased Assets from and after delivery of the Receiver's Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased

Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

10. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further order of this Court, provided however that: (a) the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order; and (b) the Receiver (or its legal counsel, as the case may be) is hereby authorized and directed to distribute the following amounts from the net proceeds from the sale of the Purchased Assets without further order of this Court and free and clear of any Claims:
- (a) first, paying the amounts (if any) owing to the City of Calgary and the City of West Kelowna (collectively, the "**Municipalities**"), on account of municipal property taxes, assessments, penalties and interest and any other charges owing to the Municipalities with respect to the applicable Purchased Assets that: (i) rank in priority to the mortgages and caveats registered by Canadian Imperial Bank of Commerce ("**CIBC**") and Canadian Western Bank ("**CWB**") against the Purchased Assets; and (ii) are the responsibility of the Receiver under the Sale Agreement;
 - (b) second, paying to Canada Revenue Agency, the amount of any Transfer Taxes (as defined in the Sale Agreement), if any, payable by the Receiver under the Sale Agreement;
 - (c) third, paying from the net proceeds from the sale of the following lands, the following amounts:
 - (i) from the sale of AB Lot 3 Lands and AB Lot 4 Lands:
 - (A) a distribution to CWB in such amount so as to fully discharge the obligations owing by the Debtor to CWB as secured by the mortgage and caveat registered by CWB against the AB Lot 3 Lands and AB Lot 4 Lands as instrument numbers 221 026 290 and 221 026 291, which distribution is estimated to be in the amount of \$[●];
 - (B) a distribution to CIBC of the remaining net proceeds from the sale of the AB Lot 3 Lands and AB Lot 4 Lands, provided that such distribution shall not exceed the amount of the obligations owing by the Debtor to CIBC and secured by the mortgage registered by CIBC against the AB Lot 3 Lands

and AB Lot 4 Lands as instrument number 231 275 608, which distribution is estimated to be in the amount of \$[●];

- (ii) from the sale of the B.C. Property:
 - (A) a distribution to CWB in such amount so as to fully discharge the obligations owing by the Debtor to CWB as secured by the mortgage and assignment of rents registered by CWB against the B.C. Property as registration numbers CA9465179 and CA9465180, which distribution is estimated to be in the amount of \$[●]; and
 - (B) a distribution to CIBC of the remaining net proceeds from the sale of the B.C. Property, provided that such distribution shall not exceed the amount of the obligations owing by the Debtor to CIBC and secured by the mortgage and assignment of rents registered by CIBC against the B.C. Property as registration numbers CB806751 and CB806752, which distribution is estimated to be in the amount of \$[●].

11. Except as expressly provided for in the Sale Agreement or by section 5 of the Alberta *Employment Standards Code*, if and to the extent it applies, the Purchaser (or its nominee) shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtor.
12. Upon completion of the Transaction, the Debtor and all persons who claim by, through or under the Debtor in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
13. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtor, or any person claiming by, through or against the Debtor.
14. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.

15. The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to the Purchaser (or its nominee).
16. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the Alberta *Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser (or its nominee) all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees. The Purchaser (or its nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use (of such information) to which the Debtor was entitled.

ASSIGNMENT OF ASSIGNED CONTRACTS

17. Upon delivery by the Receiver to the Debtor and the Purchaser of the Receiver's Closing Certificate, all of the rights and obligations of the Debtor under and to the Assumed Contracts (as defined in the Sale Agreement) shall be assigned, conveyed and transferred to, and assumed by, the Purchaser pursuant to this Order.
18. The assignment of the Assumed Contracts is declared to be valid and binding upon all of the counterparties to the Assumed Contracts notwithstanding any restriction, condition or prohibition contained to the Assumed Contracts relating to the assignment thereof, including any provision requiring the consent of any party to the assignment.
19. The assignment and transfer of the Assumed Contracts shall be subject to the provisions of this Order.
20. No counterparty under any Assumed Contract, nor any other person, upon the assignment and transfer to, and assumption by, the Purchaser of the Assumed Contracts hereunder shall make or pursue any demand, claim, action or suit or exercise any right or remedy under any Assumed Contract against the Purchaser relating to:
 - (a) the Debtor having sought or obtained relief under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "**BIA**");
 - (b) the insolvency of the Debtor; or
 - (c) any failure by the Debtor to perform a non-monetary obligation under the Assumed Contract,

and all such counterparties and persons shall be forever barred and estopped from taking such action. For greater certainty, nothing herein shall limit or exempt the Purchaser in respect of obligations accruing, arising or continuing after the Closing Date (as defined in the Sale Agreement) under the Assumed Contracts other than in respect of items (a)-(b) above.

MISCELLANEOUS MATTERS

21. Notwithstanding:
- (a) the pendency of these proceedings and any declaration of insolvency made herein;
 - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the BIA, in respect of the Debtor, and any bankruptcy order issued pursuant to any such applications;
 - (c) any assignment in bankruptcy made in respect of the Debtor; and
 - (d) the provisions of any federal or provincial statute:

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order and the distributions provided for herein shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

22. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
23. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such order and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
24. Service of this Order shall be deemed good and sufficient by:

- (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) the Purchaser or the Purchaser's solicitors; and
- (b) Posting a copy of this Order on the Receiver's website at:
www.ksvadvisory.com/experience/case/wallace-and-carey

and service on any other person is hereby dispensed with.

25. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

Justice of the Court of King's Bench of Alberta

Schedule "A"
Form of Receiver's Certificate

COURT FILE NUMBER

Clerk's Stamp

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

PLAINTIFF

CANADIAN IMPERIAL BANK OF COMMERCE

DEFENDANT
APPLICANT772921 ALBERTA INC.,
KSV RESTRUCTURING INC., in its capacity as
court-appointed receiver and manager of 772921
ALBERTA INC.

DOCUMENT

RECEIVER'S CERTIFICATEADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENTCassels Brock & Blackwell LLP
Suite 3810, Bankers Hall West
888 3rd Street SW
Calgary, Alberta T2P 5C5Attention: Jeff Oliver / Jane Dietrich
Telephone: 403-351-2920
Email: joliver@cassels.com / jdietrich@cassels.com

File No. 54670-4

RECITALS

- A. Pursuant to an Order of the Honourable Justice [●] of the Court of King's Bench of Alberta, Judicial District of Calgary (the "**Court**") dated [●], 2023, KSV Restructuring Inc. was appointed as the receiver (the "**Receiver**") of the undertakings, property and assets of 772921 Alberta Inc. (the "**Debtor**").
- B. Pursuant to an Order of the Court dated [●], 2023, the Court approved the agreement of purchase and sale made as of October [●], 2023 (the "**Sale Agreement**") between the Receiver and 7-Eleven Canada, Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section [●] of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section [●] of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at [Time] on [Date].

KSV Restructuring Inc., in its capacity as Receiver of the undertakings, property and assets of 772921 Alberta Inc., and not in its personal capacity.

Per; _____

Name:

Title:

Schedule "B"
Purchased Assets

The lands legally described as:

PLAN 7911396
BLOCK 1
LOT 3
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 1.06 HECTARES (2.62 ACRES) MORE OR LESS

and

PLAN 7911396
BLOCK 1
LOT 4
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 0.502 HECTARES (1.24 ACRES) MORE OR LESS

and

Parcel Identifier: 003-862-682
Legal Description: LOT C DISTRICT LOT 506 OSOYOOS DIVISION YALE DISTRICT PLAN 30698
(the "**B.C. Property**")

**Schedule "C"
Encumbrances**

Schedule "C" – Part A

Encumbrances for lands legally described as:

PLAN 7911396
BLOCK 1
LOT 3
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 1.06 HECTARES (2.62 ACRES) MORE OR LESS

Registration Number	Date	Particulars
221 026 290	08/02/2022	MORTGAGE MORTGAGEE - CANADIAN WESTERN BANK
221 026 291	08/02/2022	CAVEAT RE : ASSIGNMENT OF RENTS AND LEASES CAVEATOR - CANADIAN WESTERN BANK
231 275 608	12/09/2023	MORTGAGE MORTGAGEE - CANADIAN IMPERIAL BANK OF COMMERCE

Schedule "C" – Part B

Encumbrances for lands legally described as:

PLAN 7911396
BLOCK 1
LOT 4
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 0.502 HECTARES (1.24 ACRES) MORE OR LESS

Registration Number	Date	Particulars
221 026 290	08/02/2022	MORTGAGE MORTGAGEE - CANADIAN WESTERN BANK
221 026 291	08/02/2022	CAVEAT RE : ASSIGNMENT OF RENTS AND LEASES CAVEATOR - CANADIAN WESTERN BANK
231 275 608	12/09/2023	MORTGAGE MORTGAGEE - CANADIAN IMPERIAL BANK OF COMMERCE

Schedule "C" – Part C

Encumbrances for lands legal described as:

Parcel Identifier: 003-862-682
Legal Description: LOT C DISTRICT LOT 506 OSOYOOS DIVISION YALE DISTRICT PLAN 30698

Registration Number	Date	Particulars
CA9465179	2021-10-28	MORTGAGE

		CANADIAN WESTERN BANK
CA9465180	2021-10-28	ASSIGNMENT OF RENTS CANADIAN WESTERN BANK
CB806751	2023-08-03	MORTGAGE CANADIAN IMPERIAL BANK OF COMMERCE
CB806752	2023-08-03	ASSIGNMENT OF RENTS CANADIAN IMPERIAL BANK OF COMMERCE

Schedule "D"
Permitted Encumbrances

Schedule "D" – Part A

Permitted encumbrances for lands legally described as:

PLAN 7911396
BLOCK 1
LOT 3
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 1.06 HECTARES (2.62 ACRES) MORE OR LESS

Registration Number	Date	Particulars
761 116 078	20/09/1976	EASEMENT
771 000 659	05/01/1977	EASEMENT
771 147 064	20/10/1977	ZONING REGULATIONS
791 207 758	10/12/1979	UTILITY RIGHT OF WAY
791 207 759	10/12/1979	RESTRICTIVE COVENANT
821 061 067	07/04/1982	EASEMENT

Schedule "D" – Part B

Permitted encumbrances for lands legally described as:

PLAN 7911396
BLOCK 1
LOT 4
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 0.502 HECTARES (1.24 ACRES) MORE OR LESS

Registration Number	Date	Particulars
761 116 078	20/09/1976	EASEMENT
771 000 659	05/01/1977	EASEMENT
771 147 064	20/10/1977	ZONING REGULATIONS
821 061 067	07/04/1982	EASEMENT

Schedule "D" – Part C

Permitted encumbrances for lands legal described as:

Parcel Identifier: 003-862-682
Legal Description: LOT C DISTRICT LOT 506 OSOYOOS DIVISION YALE DISTRICT PLAN 30698

Registration Number	Date	Particulars
CA5940341	2017-04-20	STATUTORY RIGHT OF WAY BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
CA5940342	2017-04-20	STATUTORY RIGHT OF WAY TELUS COMMUNICATIONS INC. INCORPORATION NO. BC1101218