



Court File No. CV-17-11669-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)
MR JUSTICE *Hainey*)

FRIDAY THE 20th
DAY OF JANUARY, 2016

DOWNING STREET FINANCIAL INC., IN TRUST

Applicant

- and -

**HARMONY VILLAGE-SHEPPARD INC., AS GENERAL PARTNER OF
HARMONY VILLAGE-SHEPPARD LP and CITY CORE DEVELOPMENTS INC.**

Respondents

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

ORDER
(appointing Receiver)

THIS MOTION made by the Applicant for an Order (i) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing Rosen Goldberg Inc. as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Harmony Village-Sheppard Inc., as general partner of Harmony Village Sheppard LP and City Core Developments Inc. (the "Respondents") acquired for, or used in relation to a business carried on by each of the Respondents (the "Debtors"), (ii) authorizing and directing the Receiver to enter into an Agreement of Purchase and Sale with

Fortress Sheppard (2016) Inc. (the “**Stalking Horse Agreement**”) (iii) approving a Stalking Horse Sale Process and (iv) sealing and treating as confidential the Appendices to the Receiver’s Pre-Filing Report, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Robert Shiller sworn January 17, 2017 and the Exhibits thereto and reading the Receiver’s Pre-Filing Report dated January 17, 2017 and on hearing the submissions of counsel for the Applicant, Mr. Jack Pong appearing for the Respondents and no one else appearing although duly served as appears from the affidavit of service of Beverly Rusk sworn January 18, 2017 and on reading the consent of Rosen Goldberg Inc. to act as the Receiver,

SERVICE

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

APPOINTMENT

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

RECEIVER’S POWERS

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

- a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

- b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;

- g) to settle, extend or compromise any indebtedness owing to the Debtors;
- h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof in accordance with paragraphs 32 to 34 hereof;
- k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, in accordance with paragraphs 32 to 34 hereof, and that notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- o) 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;
- p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.
- s) and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other

Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (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 forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.
5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the 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 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.
6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the

information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

8. THIS COURT ORDERS that 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.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the Property, including without limitation the right of Tarion to terminate and registrations held by the Debtors, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest or lien, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

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

RECEIVER TO HOLD FUNDS

12. THIS COURT ORDERS that 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

13. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or

relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

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

RECEIVER'S ACCOUNTS

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

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

19. THIS COURT ORDERS that 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 legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise (from the Applicant or such other entity as the Receiver may select), such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

22. THIS COURT ORDERS that 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.

23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates

evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

24. THIS COURT ORDERS that the Receiver be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

25. THIS COURT ORDERS that the Applicant, the Receiver, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Receiver may post a copy of any or all such materials on its website at www.rosengoldberg.com/files.

GENERAL

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

27. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

28. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

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

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

SALE PROCEDURE

32. THIS COURT ORDERS that the Sale Procedure substantially in the form attached as **Schedule "B"** attached hereto is hereby approved.

33. THIS COURT ORDERS that the Receiver is hereby authorized to carry out the Sale Procedure and to take such steps and execute such documentation as may be necessary or incidental to the Sale Procedure.

STALKING HORSE AGREEMENT

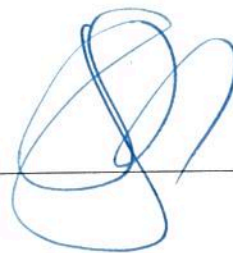
34. THIS COURT ORDERS that the execution by the Receiver of the Stalking Horse Agreement is hereby authorized, *nunc pro tunc*, provided that nothing herein approves the sale of the Purchased Assets (as defined therein) on the terms set out in the Stalking Horse Agreement, and that the approval of any sale of the Purchased Assets by the Court will be subject to a subsequent motion to be held in accordance with the Sale Procedure.

SEALING OF THE CONFIDENTIAL APPENDICES

35. THIS COURT ORDERS that Confidential Appendices to the Receiver's Pre-Filing Report be and are hereby sealed pending further Order of the Court

DISCHARGE OF PRIVATE RECEIVER

36. THIS COURT ORDERS that Rosen Goldberg Inc. is hereby discharged as the privately appointed receiver of HARMONY VILLAGE-SHEPPARD INC., AS GENERAL PARTNER OF HARMONY VILLAGE-SHEPPARD LP.



Jeanne Nicoara

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

JAN 23 2017

PER / PAR: JN

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Rosen Goldberg Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties Harmony Village-Sheppard Inc., as general partner of Harmony Village Sheppard LP and City Core Developments Inc. acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ 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, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

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

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

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

DATED the _____ day of _____, 20__.

Rosen Goldberg, solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

SCHEDULE "B"

TERMS AND CONDITIONS OF SALE

Attached hereto is an Agreement of Purchase and Sale dated January 17th, 2017 (the "**Agreement**") between ROSEN GOLDBERG INC. solely in its capacity receiver of HARMONY VILLAGE - SHEPPARD INC. as general partner of HARMONY VILLAGE - SHEPPARD LP, (the "**Vendor**") and not in its personal capacity and FORTRESS SHEPPARD (2016) INC. (the "**Purchaser**" or "**Stalking Horse Bidder**") whereby Purchaser has offered to acquire all of the right, title and interest of HARMONY VILLAGE - SHEPPARD INC. as general partner of HARMONY VILLAGE - SHEPPARD LP, if any, in and to the assets set out on Schedule "A" hereto, referred to herein as the "Purchased Assets".

By Order of the Court dated January 20, 2017 the Agreement, and in particular the Purchase Price which represents a baseline or "stalking horse bid" (the "**Stalking Horse Bid**") was approved by the Court.

The terms and conditions as set out in the Agreement represent the terms upon which the Vendor is prepared to offer the assets described hereafter for sale, subject to the terms hereof.

The Agreement is subject to the completion of the sale process described therein, which the Vendor will conduct with the following timelines:

January 23, 2017	<ul style="list-style-type: none">• Receiver to distribute to prospective purchasers identified by the Receiver a brief interest solicitation letter detailing the opportunity;• Opportunity to be advertised in the <i>Globe and Mail</i> (National Edition) and <i>National Post</i>
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Throughout the sale process	<ul style="list-style-type: none"> • Brief information package to be distributed to interested parties who identify themselves to the Receiver; • Prospective purchasers to be given an opportunity to review additional information in an online 'data room' • Receiver will facilitate due diligence efforts by arranging site visits for <i>bona fide</i> prospective purchasers; • Prospective purchasers will be provided with a hard copy and soft copy of an Unconditional Offer to Purchase form (the "Competing Bid"), to be executed and submitted to the Receiver, if such prospective purchasers desire to submit an offer.
March 14, 2017	<ul style="list-style-type: none"> • The First, Second and Third mortgagees will provide the Receiver with a Mortgage payout statement which can be relied on by any purchaser (subject to the reasonable accrual of interest or costs) for the purpose of making a credit bid to assume any or all of those Mortgage as a component of any Competing Bid;
March 21, 2017 (5:00pm EST)	<ul style="list-style-type: none"> • Deadline for submission of Competing Bids • Competing Bids must be accompanied a duly executed Unconditional Offer to Purchase, blacklined against the Stalking Horse Bid, showing any and all variations from the Stalking Horse Bid, and a deposit payable by way of certified cheque or bank draft, which shall be the greater of \$350,000 or 1.0% of the cash component of the purchase price;
March 24, 2017	<ul style="list-style-type: none"> • If no qualifying Competing Bid is received within the time prescribed, the Receiver will file a certificate with this Honourable Court confirming that the Sale Process has come to an end, and will complete the transaction in accordance with the Initial Approval and Vesting Order • If more than one acceptable Superior Bid is received, the Receiver to determine whether to complete transaction with the Superior Bidder or hold an auction

March 27, 2017	<ul style="list-style-type: none"> • If two or more Superior Bids are received and auction to be held, the Receiver to distribute an invitation to auction to be held March 3, 2017
April 3, 2017	<ul style="list-style-type: none"> • Closed Bid Auction to be held
On or before April 7, 2016	<ul style="list-style-type: none"> • Approval and Vesting Order to be obtained

Bidding Procedure

Notwithstanding the existence of the Stalking Horse Bid, as per the above timeline, any other party is entitled to submit a bid to purchase the Purchased Assets. In order to be accepted by the Vendor, any such competing bid ("**Competing Bid(s)**") for the Purchased Assets must be on substantially the same terms and conditions as the terms and conditions contained in the Stalking Horse Bid, except with respect to price (any Competing Bid(s) that are accepted by the Vendor as superior bid(s) to the Stalking Horse Bid are referred to herein as the "**Superior Bid(s)**").

The Vendor is offering for sale all of the right, title and interest of the Respondents, if any, in the Purchased Assets.

All offers are subject to the approval of the Court and the issuance by the Court of an Order approving the offer and vesting the assets in the purchaser (the "Approval and Vesting Order").

The Purchase Price may be paid in part by the assumption of debt owing by the Respondents on the terms no less favourable than those set out in the Stalking Horse Bid.

In order for any Competing Bids to be accepted by the Vendor as Superior Bids to the Stalking Horse Bid, the Competing Bid must meet all of the following minimum criteria:

- (a) the Competing Bid must be received by the Vendor, in its entirety, by no later than 5:00 p.m. E.S.T. on March 21, 2017;
- (b) the Competing Bid must be accompanied by a duly executed agreement of purchase and sale, blacklined against the Stalking Horse Bid, showing any and all variations from the form of Stalking Horse Bid, and a cash deposit equal to the greater of \$350,000 or 1.00% of the cash component of the Bid Price payable pursuant to the terms of the subject Competing Bid and which is

not subject to any encumbrances;

- (c) the Competing Bid must remain open for acceptance and completion until 11:59 p.m. on April 3, 2017;
- (d) the Competing Bid must be on terms no less favourable and no more burdensome or conditional than the terms of the Stalking Horse Bid;
- (e) the Competing Bid must not contain any contingency relating to due diligence or financing or any other material conditions precedent to the bidder's obligation to close that are not otherwise contained in the Agreement;
- (f) the Competing Bid must be made by one or more bidders who can demonstrate, in the aggregate in the event that the Competing Bid is made by more than one bidder, the financial ability to consummate the transaction contemplated by the Competing Bid on the terms specified therein; and
- (g) the Competing Bid must be for an aggregate purchase price at least equal to the Purchase Price, as provided herein, plus a minimum overbid of \$200,000.

In the event that no Competing Bid meets the above criteria, the Stalking Horse Bidder will be the Winning Bidder and the agreement contemplated by the Stalking Horse Bid will proceed to close in accordance with its terms. In the event that a Competing Bid or Competing Bids meet all of the above criteria, the Vendor shall, in its sole discretion either:

- i. select one such Bidder as the Winning Bid pursuant to the Sale Process Order and proceed to close a transaction contemplated thereby in accordance with its terms and subject to the approval of the Court; or
- ii. provide any or all of the Competing Bids as the Vendor deems fit, in its sole and absolute discretion, the opportunity to submit a final Closed Bid for review of the Vendor on such terms as the Vendor determines to be reasonable at that time. The Vendor will then review that Closed Bid and advise the successful party that it has been selected as the Winning Bid. The Vendor will then proceed to complete the transaction contemplated thereby in accordance with its terms and subject to approval of the Court.

Thereafter, the Vendor will make a motion to the Court in order to obtain the Approval and Vesting Order. The Proposed Timeline of the sale process is as follows:

Bids must be received by the Vendor by no later than 5:00 p.m. E.S.T. on March 21, 2017

and must be sealed and marked "CONFIDENTIAL" and addressed to:

Rosen Goldberg Inc.
5255 Yonge Street, Suite 804 Toronto,
Ontario
M2N 6P4
Attention: Brahm Rosen

It is acknowledged and agreed that the Vendor shall have no personal or corporate liability under these Terms of Sale.

All stipulations herein as to time shall be of the essence.

Any notices, requests, demands or other communications to be given under this Agreement (herein referred to as "**Notice**") shall be in writing and shall be either hand delivered, or mailed (prepaid registered mail) and addressed as follows:

- i. As to any party who submitted a bid, at the address set forth in its bid.
- ii. As to the Vendor:
- iii. With a copy to:
- iv. Notice shall be effective upon the date of delivery.

Any term and condition herein which the Vendor might otherwise insist upon may be waived at the sole discretion of the Vendor, in whole or in part, and a purchaser will be bound by any such waiver.

Unless otherwise specifically stated herein, all obligations of the parties contained in these Terms and Conditions Sale shall survive the completion of the transaction contemplated in the Agreement.

The validity and interpretation of these Terms and Conditions of Sale, and of each provision and part thereof, and the Agreement shall be governed by the laws of the Province of Ontario, and the applicable laws of Canada.

DOWNING STREET FINANCIAL INC., IN TRUST and

Court File No.
HARMONY VILLAGE-SHEPPARD INC., AS GENERAL PARTNER OF HARMONY VILLAGE-SHEPPARD LP et al.

Applicant

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

ORDER

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