

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**C & K MORTGAGE SERVICES INC. o/a RESCOM CAPITAL**

Applicant

and

**1000032146 ONTARIO INC.**

Respondent

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

**MOTION RECORD OF THE RECEIVER**

June 27, 2025

**MANIS LAW**

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Lawyers for the Receiver, Rosen Goldberg  
Inc.

**TO: SERVICE LIST**

**SERVICE LIST**

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<p><b>1000032146 ONTARIO INC.</b> 260 Fandango Dr Brampton, ON L6X 0M5</p> <p><b>Respondent</b></p>	
<p><b>GOVERNMENT / SECURITY ENTITIES</b></p>	
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**ONTARIO  
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# TAB 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**C & K MORTGAGE SERVICES INC. o/a RESCOM CAPITAL**

Applicant

and

**1000032146 ONTARIO INC.**

Respondent

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

**NOTICE OF MOTION**

**ROSEN GOLDBERG INC.**, in its capacity as Court-appointed receiver (“**RGI**” or the “**Receiver**”), without security, of the lands and premises municipally known as 12281 Highway 35, Minden Hills, Ontario K0M 2K0, owned by the Respondent, 1000032146 Ontario Inc. (the “**Debtor**”), will make a motion to the Ontario Superior Court of Justice on a date to be set by the registrar, at 10:00AM, or as soon after that time as the motion can be heard, by judicial videoconference via Zoom, for among other things, an approval and vesting order.

**PROPOSED METHOD OF HEARING:** This motion is to be heard over videoconference.

**THE MOTION IS FOR:**

1. If necessary, an order abridging the time for and validating the service of this motion record and dispensing with service on any other person than those served such that the motion is properly returnable this day.

2. An Order substantially in the form attached at Tab 3 of the Motion Record (the “**Approval and Vesting Order**”), *inter alia*:
  - a. Approving the sale transaction (the “**Transaction**”) contemplated by the Agreement of Purchase and Sale between the Receiver, on behalf of the Debtor, and Amit Kumar Khara In Trust for 1001152527 Ontario Inc. (the “**Purchaser**”) dated May 7, 2025;
  - b. Authorizing the Receiver to disclaim the Assignment and Assumption Agreement of the Retailer Supplier Agreement and Other Applicable Agreements Related to the Property, dated April 22, 2022, as entered into by In Hwan Lee and Eun Jin Lee, 1621377 Ontario Limited, the Debtor and Shell Canada Products;
  - c. Authorizing and directing the Receiver to complete the Transaction and convey to the Purchaser all the Debtor’s right, title and interest in and to the lands and premises municipally known as 12281 Highway 35, Minden Hills, Ontario (the “**Property**”) and vesting the Property on closing of the Transaction free and clear of claims and encumbrances other than the Permitted Encumbrances particularized in Schedule “D” of the Approval and Vesting Order.
3. An Order substantially in the form attached at Tab 4 of the Motion Record (the “**Distribution and Discharge Order**”), *inter alia*:
  - a. Approving the first report of the Receiver dated June 27, 2025 (the “**First Report**”) and the activities of the Receiver described therein;
  - b. Sealing and keeping confidential the Summary of Offers submitted to the Receiver;

- c. Sealing and keeping confidential the Agreement of Purchase and Sale dated May 7, 2025 as between the Receiver and Purchaser;
  - d. Approving the fees and disbursements of the Receiver and its counsel, including the Fee Accrual as detailed in the fee affidavits appended to the First Report and making payment thereon from the sale proceeds of the Property;
  - e. Authorizing the Receiver to distribute the net cash proceeds from the sale of the Property to the Applicant;
  - f. Discharging the Receiver upon the filing of a certificate with the Court certifying that all matters in the Receivership Proceedings have been completed to the satisfaction of the Receiver; and
  - g. Releasing and discharging the Receiver, upon the filing of the Discharge Certificate, from any and all liabilities that it now has or may hereafter have by any reason of, or in any way arising out of, its acts or omissions while acting as Receiver, save and except for its gross negligence or willful misconduct.
4. Such further and other relief as counsel may advise and this Court may permit.

**THE GROUNDS FOR THE MOTION ARE:**

**Background**

1. On February 7, 2025, the Honourable Justice Cudjoe granted an order (the “**Receivership Order**”) 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 *Ontario Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), appointing RGI as Receiver over the Debtor, without security of the Property (the “**Receivership Proceedings**”).

2. The Debtor is a provincially incorporated company with a head office located at 260 Fandango Drive, Brampton, Ontario.
3. On or about February 16, 2022, the Applicant, C & K Mortgage Services Inc., operating as Rescom Capital (the “**Lender**”), entered into a mortgage loan commitment with the Debtor in the principal amount of \$2,200,000.00 (the “**Loan**”).
4. The Lender registered a first charge (the “**Charge**”) against title to the Property on April 26, 2022 as Instrument No. HA78207. The Lender also holds a General Security Agreement dated April 8, 2022.
5. In addition to the Lender’s Charge, the following charges are registered on title to the Property:
  - a. a second Charge/Mortgage of Land in the principal amount of \$120,000 registered on April 27, 2022, as Instrument No. HA78220 in favour of Shell Canada Limited (“**Shell**”); and
  - b. a third Charge/Mortgage of Land in the principal amount of \$480,000 registered on June 1, 2022, as Instrument No. HA78916 in favour of 2009339 Ontario Inc. (“**2009**”).

## **Default**

6. The Debtor operated a Shell gas station and convenience store operating as “Jug Convenience” at the Property. The Property additionally has four commercial tenants.
7. The Debtor operated the Shell gas station pursuant to a Assignment and Assumption Agreement of the Retailer Supplier Agreement and Other Applicable Agreements Related to the Property, dated April 22, 2022, as entered into by In Hwan Lee and Eun Jin Lee, 1621377 Ontario Limited, the Debtor and Shell Canada Products.

8. On March 11, 2024, the third mortgagee, 2009, issued a Notice of Default, indicating that, among other things, the Debtor was in default of a mortgage agreement.
9. 2009 demanded payment of the full principal, plus interest, penalties and legal costs, failing which power of sale proceedings would be commenced.
10. The Lender issued a Notice of Intention to Enforce Security on or about March 15, 2024. The Loan matured on May 1, 2024.
11. On October 9, 2024, the Lender delivered a second Notice of Intention to Enforce Security.
12. Despite demand for payment, the Debtor has failed to repay the outstanding balance of the Loan. As of November 25, 2024, the amount outstanding was approximately \$2,408,909.21.
13. On January 9, 2025, the Lender issued a Notice of Application for, *inter alia*, the appointment of the Receiver over the Property.
14. On February 7, 2025, the Lender's motion for the appointment of the Receiver was heard and granted by the Honourable Justice Cudjoe. RGI was appointed as Receiver over the Property.

### **Sale Process and the Transaction**

15. On April 8, 2025, the Receiver entered into a listing agreement with Gate Real Estate Inc. ("**Gate**") for the Property. The Property was marketed as a turn-key operation, but not as a Shell gas station.
16. Thereafter, Gate conducted the marketing process, which included listing the Property for sale on MLS and related websites, prepared an information package and videos, showed the Property and prepared a form of offer.

17. The marketing process produced four offers, all of which required financing and three of which were conditional.
18. On April 23, 2025, the Purchaser submitted an offer to the Receiver. A revised offer was submitted by the Purchaser on May 7, 2025. The Receiver entered into the APS with the Purchaser on May 9, 2025.
19. The Offer was subject to a due diligence period and certain conditions. On or about May 21, 2025, the Purchaser waived all conditions.
20. The closing is scheduled to occur five days after the Receiver obtains court approval of the Transaction.
21. The Receiver has marketed the Property and believes that no superior offer will be received if further marketing efforts are undertaken, given the current market conditions of gas stations for sale in southern Ontario.
22. The Applicant, who is suffering a shortfall on the outstanding Loan, supports the Transaction and is prepared to provide financing to the Purchaser.

### **Distribution and Discharge**

23. The accounts of the Receiver and its legal counsel, Manis Law, are set out in the Receiver's First Report and are appropriate and reasonable in the circumstances.
24. The Receiver seeks approval of its fees, disbursements and the Fee Accrual, and those of its counsel, Manis Law.
25. The Receiver further seeks authorization to apply part of the net proceeds of sale from the Property to the said fees, disbursements and Fee Accrual of the Receiver and its counsel.

26. The Receiver is requesting that it be discharged upon the filing of the Discharge Certificate certifying that all matters in the Receivership Proceedings have been completed to the satisfaction of the Receiver, as subject to, among other things, the completion of the Transaction and the distribution of the sale proceeds in accordance with the Distribution and Discharge Order, the Receiver's duties and responsibilities under the Receivership Order will have been materially completed.

27. Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.

28. Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

29. Rules 1.04, 1.05, 2.01, 2.03, 3.02, 37 and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.

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

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

1. The First Report of the Receiver dated June 27, 2025;
2. The Factum of the Receiver to be filed; and
3. Such further and other material as counsel may submit and this Court may permit.

June 27, 2025

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Lawyers for the Receiver, Rosen Goldberg  
Inc.

**TO: SERVICE LIST**

**C & K MORTGAGE SERVICES INC. o/a  
RESCOM CAPITAL**  
Applicant

- and -

**1000032146 ONTARIO INC.**

Respondent

Court File No. CV-25-00000128-0000

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at  
BRAMPTON

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**NOTICE OF MOTION**

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Lawyers for the Receiver, Rosen Goldberg  
Inc.

# TAB 2



ROSEN GOLDBERG  
INSOLVENCY & RESTRUCTURING

Court File No. CV-25-00000128-000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

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

BETWEEN:

**C & K MORTGAGE SERVICES INC. o/a RESCOM CAPITAL**

Plaintiffs

-and-

**1000032146 ONTARIO INC.**

Defendants

**FIRST REPORT OF ROSEN GOLDBERG INC.**

**June 27, 2025**



## I. INTRODUCTION

1. By Order of the Honourable Mr. Justice Cudjoe dated February 7, 2025, Rosen Goldberg Inc. was appointed as receiver (the “**Receiver**”) of the assets, undertakings and properties of 1000032146 Ontario Inc. (the “**Debtor**”), which includes the property municipally known as 12281 Highway 35, Minden Hills, Ontario (“**12281 Highway 35**” or “**Property**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (“**BIA**”), section 101 of the *Courts of Justice Act* (the “**Receivership Order**”). A copy of the Receivership Order is attached as **Appendix “A”** to this Second Report.

## II. TERMS OF REFERENCE

2. In preparing this First Report, the Receiver has relied upon information from third party sources (collectively, the “**Information**”). Certain information contained in this First Report may refer to, or be based on, the Information. As the Information has been provided by other parties or obtained from documents filed with the Court in this matter, the Receiver has relied on this Information, and to the extent possible reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
3. The purpose of this First Report is to:
  - a) to report on and seek approval of the actions of the Receiver since its appointment;
  - b) to seek approval of the transaction contemplated in the Agreement of Purchase and Sale in respect of the Property (the “**Transaction**”) between the Receiver and Amit Kumar Kera, in trust for 1001152527 Ontario Inc. (the “**Purchaser**”) dated May 7, 2025 (the “**APS**”), convey to the Purchaser all the Debtor’s right, title and interest in and to Property, and on the closing of the Transaction, vesting of the Property free and clear of claims and encumbrances other than those Permitted Encumbrances particularized in Schedule D of the Approval and Vesting



Order;

- c) seek authorization for the Receiver to disclaim the Assignment and Assumption Agreement of the Retailer Supplier Agreement and Other Applicable Agreements Related to the Site, dated April 22, 2022, between the In Hwan Lee and Eun Jin Lee, 1621377 Ontario Limited, the Debtor and Shell Canada Products;
- d) seek authorization and direction, *nunc pro tunc*, to redact from the First Report, served on the parties on the service list, the summary of offers which is attached as **Confidential Appendix 1** and the APS, which is attached as **Confidential Appendix 2**;
- e) seek authorization to distribute the net cash proceeds from the sale of the Property to C & K Mortgage Services Inc. (“C&K”);
- f) seek approval of the fees of the Receiver and its counsel, Manis Law; and
- g) discharging and releasing the Receiver upon the filing of a certificate with the Court certifying that all matters in the Receivership administration have been completed to the satisfaction of the Receiver.

### III. BACKGROUND

4. 12281 Highway 35 operated as a Shell gas station and a convenience store operating as “Jug City”. The Property additionally has four commercial tenants. The Property is zoned Highway Commercial and the site is 1.13 acres and houses 10,350 square feet of useable space.
5. C&K registered a first mortgage against the Property with a face amount of \$2.2 Million (the “**First Charge**”) on April 26, 2022. Additionally, C&K have registered GSA against the personal property of the Debtor.
6. In addition to the First Charge, the following mortgages/charges are registered against the Property:
  - (a) A \$120,000 charge/mortgage in favour of Shell Canada Limited registered against title to the Property on April 27, 2022; and



(b) A \$480,000 charge/mortgage in favour of 2009339 Ontario Inc. registered against title to the Property on June 1, 2022.

7. We additionally understand that there is realty tax and water arrears owed to the Township of Minden Hills.
8. Upon its appointment, the Receiver, in consultation with C&K, decided that it would cease operations of the gas station and the convenience store. The primary factors in reaching this decision were based on the likelihood that the operations would continue to lose money and would be required to be funded by C&K as well as the view that a purchaser would not wish to continue operations as a Shell and would rebrand the gas station after the completion of a sale.

#### **IV. ACTIVITIES OF THE RECEIVER**

9. Since its appointment, the Receiver has undertaken the following activities;
  - undertook all aspects of the sale process as described in the First Report;
  - ongoing communications with representatives of C&K;
  - ongoing consultations with legal counsel;
  - Attendance at Property as required;
  - Dealing with insurance;
  - Dealing with representatives of Shell
  - Dealing with prospective purchasers;
  - Dealing with tenants
  - Dealing with various real estate agents;
  - Preparation of statutory reports
  - Dealing with offers; and
  - Communications with CRA.



## V. SALES PROCESS

10. Upon its appointment, the Receiver considered the optimal manner in which to market the Property and after considering the option whether to undertake a Receiver's tender process, determined that a listing process on the MLS would result in the widest exposure of the Property. On April 8, 2025, the Receiver entered into a listing agreement with Gate Real Estate Inc. ("**Gate**"). Gate has significant experience in the sale of gas station properties. The listing price was \$2.8 million.
11. The Property was marketed as a turn-key operation but did not market it specifically as a Shell station, the brand it previously operated under. We understand that the Debtor previously operated under the Assignment and Assumption Agreement of the Retailer Supplier Agreement and Other Agreements Related to the Site dated April 22, 2022 with Shell Canada Products ("**Shell Agreement**"). We attach the agreement as **Appendix B**.
12. Gate undertook a sales process which included:
  - Listed on MLS;
  - Listing was posted on Realtor.ca and other social media sites;
  - Prepared an information package and videos of the site;
  - Gate communicated the listing to its client list;
  - Attended at Property on a regular basis to show the Property;
  - Prepared a form of offer.
13. The marketing process produced four offers. A summary of the offers received is attached as **Confidential Appendix 1**. The Receiver assessed each of the offers and discussed with Gate and representatives of C&K. Each offer received required financing and three of the four offers were conditional.



## VI. PROPOSED TRANSACTION

14. On April 23, 2025, the Purchaser submitted an offer to the Receiver. After discussions with the Gate and the Purchaser a revised offer was submitted on May 7, 2025 with a significantly improved purchase price. As a result of further negotiations, the Receiver entered into the APS with the Purchaser on May 9, 2025. An unredacted copy of the APS is attached as **Confidential Appendix 2**. A redacted copy of the APS is attached as **Appendix C**.
15. The APS provides that approximately 80% of the purchase price is to be financed by a mortgage provided by C&K.
16. The offer was subject to a due diligence period until May 20, 2025. The purchaser waived conditions on May 21, 2025. We attach the waiver as **Appendix D**.
17. The salient terms of the Transaction are summarized below:
  - The Property is being sold on an “as is where is” and “without recourse” basis and without any representations and warranties regarding the historical performance of the gas station and convenience store;
  - The assets being conveyed include the land and building, gas station equipment and convenience store chattels;
  - Except for the customary condition of court approval; the transaction is unconditional;
  - The Receiver is holding a deposit of \$250,000;
  - The purchase price, net of the mortgage being provided by C&K, will be satisfied by cash on closing;
  - Closing is scheduled to occur five days after obtaining court approval.
18. The Purchaser has advised that they will be rebranding the operations and will not be continuing as a Shell. We therefore ask that the Court authorize the Receiver to disclaim the Shell Agreement.



## **VIII. RECEIVER'S RECOMMENDATION REGARDING PROPOSED TRANSACTION**

19. The Receiver recommends that the Transaction be approved for the following reasons:
- (a) The Property was widely marketed through a MLS listing process;
  - (b) The Receiver accepted the highest offer received;
  - (c) C&K, who is suffering a shortfall supports the Transaction and is prepared to provide financing to the Purchaser;
  - (d) It is the opinion of the Receiver, that further marketing of the Property will not result in a superior offer. The current market conditions are not optimal, and we understand that there is currently a significant number of gas stations for sale in southern Ontario.

## **VIII. DISTRIBUTION TO C&K**

20. Manis Law has provided the Receiver with an independent legal opinion which confirms, subject to the usual qualifications and assumptions that the Plaintiff's Charge and other security is valid and enforceable in accordance with its terms and registered first-in-time against the Property. A copy of the opinion is attached as **Appendix E**.
21. As of November 25, 2024, the aggregate amount outstanding under its loans to the Debtor, was \$2,408,909. C&K has not received any recoveries since that time.
22. Accordingly, upon completing the Transaction, the Receiver seeks authorization to distribute the sale proceeds to C&K, net of administration fees and expenses.

## **IX. PROFESSIONAL FEES**

23. Pursuant to paragraph 19 of the Receivership Order, the Receiver and its legal counsel are required to pass their accounts.
24. The fees and disbursements of the Receiver from January 28, 2025 to June 23, 2025, exclusive of HST amount to \$28,591.00. The fee affidavit of Brahm Rosen, President of Rosen Goldberg Inc., is attached as **Appendix F**.



25. The fees and disbursements of the Receiver's counsel, Manis Law, from April 10, 2025 to June 25, 2025 amounts to \$11,240.00, exclusive of HST. The fee affidavit of Howard Manis is attached as **Appendix G**.
26. The Receiver estimates that its costs and the costs of its counsel to complete the administration will be approximately \$40,000.

#### **X. DISCHARGE OF THE RECEIVER**

27. The primary remaining work remaining in the Receiver's administration is to complete the Transaction and distribute the sales proceeds. There will additionally likely be some ancillary administrative matters to deal with. The Receiver is requesting that it be discharged upon the filing of a Discharge Certificate, that will certify that the administration has been completed to the satisfaction of the Receiver.
28. The Receiver is of the view that this relief will avoid the costs of a subsequent motion in these proceedings solely for the purpose of the Receiver seeking its discharge. The Receiver intends to file the Discharge Certificate once all post-closing matters are dealt with, including distributing the proceeds of the Transaction.

#### **XI. RECOMMENDATION**

29. On the basis of the foregoing, the Receiver respectfully requests that this Honourable Court grant the relief requested in paragraph 3 above.



ROSEN GOLDBERG  
INSOLVENCY & RESTRUCTURING

All of which is respectfully submitted.

Dated at Toronto, Ontario, this 27<sup>th</sup> day of June 2025.

**ROSEN GOLDBERG INC., SOLELY IN ITS CAPACITY AS  
COURT-APPOINTED RECEIVER OF  
1000032146 ONTARIO INC. AND NOT IN A PERSONAL OR CORPORATE CAPACITY**

*Rosen Goldberg Inc.*

# APPENDIX A

Court File No. CV-25-00000128-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE ) FRIDAY, THE 7<sup>th</sup>  
 )  
JUSTICE CUDJOE ) DAY OF FEBRUARY, 2025  
 )

B E T W E E N:

**C & K MORTGAGE SERVICES INC. o/a RESCOM CAPITAL**

Applicant

- and -

**1000032146 ONTARIO INC.**

Respondent



**ORDER**

**THIS APPLICATION**, made by the Applicant for an Order 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. (“**RGI**”) as receiver (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and properties of 1000032146 Ontario Inc. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor and all proceeds therefrom, including but not limited to the real property municipally known as 12281 Highway 35, Minden Hills, Ontario and legally described within PIN 39198-0046 (LT) (the “**Property**”), was heard this day by Zoom videoconference at 7755 Hurontario Street, Brampton, Ontario.

**ON READING** the affidavit of Eric Kis sworn December 24, 2024, and the Exhibits thereto, the affidavit of Hamza Khalid sworn February 6, 2025 and the Exhibits thereto, the consent

of RGI to act as Receiver, and on hearing the submissions of counsel for the Applicant and the submissions of counsel for the Respondent, no one else appearing for any other person,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this application 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, RGI is hereby appointed Receiver, without security, of 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 Debtor, 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 Debtor;

- (d) to engage consultants, appraisers, agents, real estate brokers, 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 Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (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 Debtor, 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 Debtor, 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 and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) 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 transactions not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; 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 63(4) of the Ontario *Personal Property Security Act* and notice under section 31 of the Ontario *Mortgages Act* shall not be required;

- (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 Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and

- (f) 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 (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its 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 Debtor, 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 DEBTOR OR THE PROPERTY**

8. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor 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 Debtor 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 Debtor, the Receiver, or affecting the Property, 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 Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor 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 (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVER**

10. **THIS COURT ORDERS** that no Person 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 Debtor, 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 Debtor 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 Debtor 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 Debtor's 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 Debtor 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 Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's 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 Debtor, 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 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, 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, 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.

## RETENTION OF COUNSEL

24. **THIS COURT ORDERS** that the Receiver may retain lawyers to represent and advise the Receiver in connection with the exercise of the Receiver's powers and duties, including without limitation, those conferred by this Order. Such lawyers may include Chaitons LLP, lawyers for the Applicant herein, in respect of any matter where there is no conflict of interest. The Receiver shall, however, retain independent lawyers in respect of any legal advice or services where a conflict of interest exists, or may exist.

## SERVICE AND NOTICE

25. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL '<[@](#)>'.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide is not practicable, the Receiver is at liberty to serve or distribute 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 facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile 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.

27. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably

required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Respondents' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

## GENERAL

28. **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.

29. **THIS COURT ORDERS** that 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 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.

31. **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.

32. **THIS COURT ORDERS** that 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 to be paid by the Receiver from the net realizations from the Property with such priority and at such time as this Court may determine.

33. **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.

34. **THIS COURT ORDERS** that this order is effective from the date it is made, and it is enforceable without the need for entry and filing, provided that any party may nonetheless submit a formal order for original, signing, entry and filing, as the case may be.

*Cudjoe J.*

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**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 of 1000032146 Ontario Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (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 Inc., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity**

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

Name:

Title:

**C & K MORTGAGE SERVICES INC. o/a RESCOM  
CAPITAL**

-and-

**1000032146 ONTARIO INC.**

Applicant

Respondent

Court File No. CV-25-00000128-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
BRAMPTON

**DRAFT ORDER**

**CHAITONS LLP**

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**Lawyers for the Applicant**

**G63**

# APPENDIX B

Location No: C22354

GID No: 10053426

**ASSIGNMENT AND ASSUMPTION AGREEMENT OF  
RETAILER SUPPLY AGREEMENT AND  
OTHER APPLICABLE AGREEMENTS RELATING TO THE SITE**

**THIS AGREEMENT** is made effective as of the 26<sup>th</sup> day of April, 2022 (the “**Effective Date**”), and replaces any previous agreements between Shell and In Hwan Lee and Eun Joo Lee (as assignors) to assign the RSA and/or the Shell Agreements (as each term is defined below).

**BETWEEN:**

**IN HWAN LEE AND EUN JOO LEE**

**AND**

**1621377 ONTARIO LIMITED**

(collectively, hereinafter called “**Assignor**”)

**OF THE FIRST PART**

- and -

**1000032146 ONTARIO INC.**

(hereinafter called “**Assignee**”)

**OF THE SECOND PART**

- and -

**SHELL CANADA PRODUCTS**

P.O. Box 100, Station "M"

Calgary, Alberta T2P 2H5

(hereinafter called “**Shell**”)

**OF THE THIRD PART**

**WHEREAS:**

- A. Shell and Assignor are parties to a Retailer Supply Agreement, dated August 13, 2021, as may have been previously amended, renewed, supplemented, or assigned with respect to the Site identified therein (the “**RSA**”), a copy of which is annexed hereto as Schedule “A”.
- B. In addition to the RSA, Shell and Assignor entered into the following agreements pertaining to the Site, all as may have been previously amended, renewed, supplemented, or assigned, including but not limited to the following (copies of which are annexed hereto as Schedule “B”):
  - Shell Convenience Retail Dealer Program Agreement, dated 13<sup>th</sup> of August 2021; and
  - Amending Agreement to Retailer Supply Agreement dated December 23, 2021.
- C. In connection with a proposed transaction between Assignor and Assignee, Assignor wishes to assign the Shell Agreements to Assignee and Assignee has agreed to accept same and to assume all of the Assignor’s obligations to Shell under or by virtue of the above-referenced agreements (with the documents described in the recitals above collectively referred to herein as the “**Shell Agreements**”).

- D. Assignor and Assignee have requested that Shell consent to such assignment, which Shell has agreed to do upon and subject to the terms and conditions hereinafter contained.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that, in consideration of one (\$1.00) dollar paid by Assignor to Assignee and the completion of the proposed transaction between Assignor and Assignee, the consent of Shell to the assignment set forth herein, the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the parties hereto covenant and agree with one another as follows:

1. Assignor hereby grants, transfers, assigns and sets over unto Assignee all of the Assignor's right, title and interest in and to the Shell Agreements.
2. Assignor covenants with Assignee that, notwithstanding any act of Assignor, the Shell Agreements are good, valid and subsisting, and the covenants and agreements therein have been duly observed and performed by Assignor up to the Effective Date; that Assignor now has in it good right, full power and absolute authority to assign the Shell Agreements in the manner aforesaid to the true intent and meaning of this Agreement.
3. Assignee hereby assumes all the payments, covenants and obligations of Assignor under and by virtue of the Shell Agreements and covenants with Shell that Assignee will from time to time and at all times during the currency thereof perform the covenants, conditions and agreements on the part of Assignor in the Shell Agreements contained or implied. Assignee hereby covenants and agrees to indemnify Assignor against any cost, claim or liability incurred by Assignor resulting from Assignee's failure to perform the covenants, conditions and agreements of the Shell Agreements as required under this Agreement.
4. Shell consents to the assignment of the Shell Agreements on the terms and conditions set out herein and without prejudice, however, to its rights under the Shell Agreements with respect to any future assignment or otherwise (all of which rights are expressly reserved) and without releasing Assignor from any covenants or obligations on its part under or by virtue of the Shell Agreements. Notwithstanding anything to the contrary contained in this Agreement, Assignor and Assignee acknowledge that Shell's consent as contemplated herein is conditional on the execution and delivery of the documents outlined in Section 5 below and that any assignment shall not take effect until such conditions are satisfied to Shell's sole satisfaction.
5. Assignor irrevocably directs Shell to make all future payments due under the Shell Agreements to the Assignee from and after the Effective Date. **However, Assignor and Assignee acknowledge that Shell has no obligation to redirect payments to Assignee or to supply Motor Fuel to Assignee, and that Shell shall continue to make all payments due under the Shell Agreements to Assignor, until such time as any conditions of assignment as contained in the RSA are satisfied and Shell receives the following to its sole satisfaction:**
  - (a) this Agreement duly executed by Assignor and Assignee;
  - (b) evidence of completion of the aforementioned transaction between Assignor and Assignee, including public registry searches evidencing the transfer of title to the Site or such updates as may be filed at corporate/partnership registries to reflect the transaction, as applicable;
  - (c) a guarantee and postponement of claims together with a certificate of independent legal advice and guarantees acknowledgement act certificate (if applicable) in the form supplied by Shell, to be executed by the directors of Assignee and their respective solicitors, as applicable; and

- (d) such additional security as required by Shell's credit department based on its assessment of Assignee, in such form required by Shell.

**Assignee and Assignor acknowledge that it is their responsibility, and shall direct their respective solicitors, to ensure that all of the above requirements are met as a condition of the completion of the above-referenced transaction between Assignor and Assignee. To the extent that there are any delays in the completion of the above-referenced transaction or in the parties' satisfaction of any conditions of assignment, Assignee and Assignor acknowledge and agree that they are solely responsible for making any adjustments as to debits, credits or other payments, charges, rebates, proceeds or other amounts paid to or by Shell as contemplated under the Shell Agreements as between themselves and that Shell will not be responsible for reimbursing either party or making adjustments or completing or facilitating any reconciliations as between the parties on account of any delays associated with the transaction or the fulfillment of any of the above-referenced conditions to Shell's satisfaction.** Provided the prior paragraph is complied with, it is hereby acknowledged that any payments owing by Shell under the Shell Agreements shall be paid to Assignee and Assignee shall be responsible for any amounts payable to Shell.

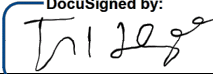
6. The parties hereby acknowledge and confirm that no further sums will be advanced by Shell to either Assignor or Assignee in respect of Schedule 3 of the RSA, except any rebates that are due and owing thereunder from and after the Effective Date and subject always to the terms of Section 5 of this Agreement. To the extent that there are any unearned balances owing to Shell under Schedule 3 of the RSA, then Assignee acknowledges and confirms that it is responsible for the repayment of any unearned portion, if required, as set out in Schedule 3 of the RSA.
7. The Assignee warrants that it is a GST registrant under the *Excise Tax Act* (Canada) and that its Canada Revenue Agency number is 76462 4102 RT 0001.
8. As additional consideration for Shell consenting to the assignment of the Shell Agreements to Assignee, Assignee hereby covenants and agrees with Shell to participate and be bound by the terms of the Operational Excellence Assurance Program as further detailed on the attached Exhibit 1, which shall be deemed to be incorporated into the RSA as an additional Addendum. In the event there is any dispute or discrepancy between the terms of the RSA and this provision or if the RSA already contains an Operational Excellence Assurance Program Addendum, this provision and the terms and conditions outlined in Exhibit 1 shall prevail.
9. This Agreement will not effect a novation, nor will this Agreement release or constitute a waiver of any of the obligations of Retailer to Shell under the Shell Agreements.
10. Wherever the singular or masculine pronoun is used herein the same shall be deemed to include the plural, the feminine or the body corporate where the context or the parties so require. If Assignee is more than one person, the covenants herein contained shall be construed as being joint and several.
11. The covenants and agreements herein contained shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns, as the case may be.
12. If any provision of this Agreement is or becomes illegal or unenforceable, it shall be considered separate and severed from this Agreement and the remaining provisions will remain in force and be binding upon the parties.

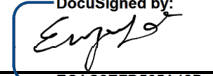
13. This Agreement shall be governed by and construed in accordance with the laws of the Province where the Site is located, excluding any conflict of laws rules or principles embodied therein that would permit or require the application of the laws of another jurisdiction and the parties each irrevocably and unconditionally agree to exclusively attorn to the jurisdiction of the courts of that Province and agree to conduct any suit or action arising out of this Assignment and Assumption Agreement in those courts.
14. The parties agree that time is of the essence of this Agreement. The parties agree to execute such further documents or agreements and generally do or cause to be done such other acts and things that may be necessary or desirable from time to time to give full effect to this Agreement, including to allow Shell to register any interests that it may hold under the Shell Agreements or under any additional documents to be provided by Assignee against the property identified therein.
15. Capitalized terms used in this Agreement but not defined herein shall have the respective meanings as specified in the RSA.

***[The remainder of this page has intentionally been left blank; signature page follows.]***

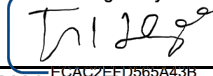
16. This Agreement may be executed by the parties in separate counterparts and each separate executed counterpart shall, for all purposes be deemed an original, all of which when taken together, will constitute one and the same instrument. This Agreement may be executed by the parties and transmitted by facsimile or by Portable Document Format (PDF) sent by e-mail and if so executed and transmitted, this Agreement will be for all purposes effective as if the parties had delivered an executed original Agreement.

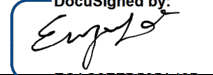
**IN WITNESS WHEREOF** the parties hereto have executed this agreement on the date first above written.

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\_\_\_\_\_  
**IN HWAN LEE**

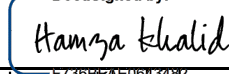
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**EUN JOO LEE**

**1621377 ONTARIO LIMITED**

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Per: \_\_\_\_\_  
**IN HWAN LEE**

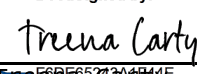
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Per: \_\_\_\_\_  
**EUN JOO LEE**

**1000032146 ONTARIO INC.**

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Per: \_\_\_\_\_  
**Hamza Khalid**  
Director

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

**SHELL CANADA PRODUCTS,  
by its managing partner,  
SHELL CANADA LIMITED**

DocuSigned by:  
  
669E6523A444E...  
Per: \_\_\_\_\_  
**Treena Carly**

District Manager DO and Wholesale  
Per: \_\_\_\_\_

**SCHEDULE "A"**  
**to this Assignment and Assumption Agreement**

**RETAILER SUPPLY AGREEMENT**

- Retailer Supply Agreement, dated August 13 2021

**Location No. C22354**  
**GID: 10053426**

**SHELL CANADA PRODUCTS**  
  
**and**  
  
**IN HWAN LEE AND EUN JOO LEE**

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**RETAILER SUPPLY AGREEMENT**

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## **RETAILER SUPPLY AGREEMENT**

1. Motor Fuel
2. Stocks, Ordering and Deliveries
3. Price for Motor Fuel
4. Payments for Motor Fuel

Schedule 1 — List of Sites

Schedule 2 — Motor Fuel and Optimum Load Size

Schedule 3 — Retrospective Rebate and Forgivable Loan

**ADDENDUM “A” — GENERAL TERMS AND CONDITIONS**

**ADDENDUM “B” — TRANSACTION CARD ADDENDUM**

**ADDENDUM “C” — IT SYSTEM SUPPORT AGREEMENT**

**ADDENDUM “D” — LOYALTY SCHEME ADDENDUM**

**ADDENDUM “E” — OPERATIONAL EXCELLENCE ADDENDUM**

## RETAILER SUPPLY AGREEMENT

**THIS AGREEMENT** is dated the 13<sup>th</sup> day of August, 2021 between:

**SHELL CANADA PRODUCTS,**  
an Alberta partnership  
("Shell")

And

**IN HWAN LEE AND EUN JOO LEE**  
("Retailer")

and replaces any previous contract between Shell and Retailer with regard to the operation of the Business at each and all of the Sites.

- (A) Shell has entered or intends to enter into supply agreements with the owners or operators of a number of service stations in Canada in order for them to operate under the "Shell" brand.
- (B) This Agreement sets out the terms and conditions upon which Shell will sell and supply Motor Fuel for resale by Retailer and Retailer will purchase, receive and pay for such Motor Fuel, all with respect to the Sites.
- (C) Retailer acknowledges that the quality of customer service and the high standards of performance required by Shell from Retailer will ensure that customers may use "Shell" branded service stations with confidence, knowing that the range, presentation and quality of products and services provided will be of a consistently high standard.
- (D) All capitalized terms used but not defined herein are defined in Addendum "A".

### **1. MOTOR FUEL**

- 1.1 The Mandated Motor Fuels which Shell will sell to Retailer and which Retailer must sell at the Sites are set out in Schedule 2, which may be amended by Shell from time to time in accordance with this section.
- 1.2 Shell may at any time make additions, deletions, changes, or revisions to any grade, brand name, delivery package, formulation, and specification of Motor Fuel.
- 1.3 Retailer may refuse to sell any Mandated Motor Fuel that was added to Schedule 2 after the Start Date relevant to the Site but only if Retailer would incur substantial cost to accommodate such addition.
- 1.4 Retailer will purchase its total requirements of motor fuel for the Sites from Shell. Retailer must not store, sell or dispense, or allow to be stored, sold or dispensed, at any Site any motor fuel except Motor Fuel supplied by Shell or a nominee of Shell.
- 1.5 Ownership and risk of loss of Motor Fuel will pass to Retailer on delivery when the Motor Fuel passes the fill pipe connection into Retailer's storage facilities.

## 2. STOCKS, ORDERING, DELIVERIES & QUALITY

### 2.1 Retailer will:

- 2.1.1 ensure that there is sufficient inventory of Motor Fuel at each Site in order to meet customer demand at the Site;
- 2.1.2 make orders and accept deliveries of Motor Fuel strictly in accordance with the Delivery System; and
- 2.1.3 order Motor Fuel in quantities not less than the optimum load size set out in Schedule 2, which amounts may be reasonably amended by Shell from time to time.

2.2 Shell's standard fuel ordering and delivery system is VMI. Shell may suggest that Retailer participate in VMI. So long as Retailer accepts and complies with the relevant VMI Acceptance Document, Retailer is deemed to comply with Retailer's obligations as set out in clause 2.1 above. Where Retailer has accepted VMI, Retailer can only cancel VMI with the consent of Shell.

2.3 If Shell has suggested that Retailer participates in VMI, but Retailer does not meet the participation criteria as set out in the Manual or elects not to participate in VMI, then Shell will be entitled to charge Retailer a fee reflecting the additional costs to Shell involved in handling manual orders.

2.4 Shell reserves the right to charge Retailer an administration fee of \$150 each time Retailer fails to adhere to the Delivery System in place at the time of any order of Motor Fuel. This fee may be amended by Shell upon thirty (30) days' prior written notice to Retailer.

### 2.5 Retailer will:

- 2.5.1 carry out Motor Fuel reconciliations in accordance with all Applicable Laws;
- 2.5.2 comply with Shell's requirements as set out in the Manuals concerning the Delivery System for each grade of Motor Fuel;
- 2.5.3 exercise proper and professional care in the receipt and storage of Motor Fuel at each Site, as set out in the Manuals;
- 2.5.4 maintain records of delivery, stock and sale of Motor Fuels and exercise control of the stock of Motor Fuel at all times as required by law, regulations, licences or as set out in the Manual; and
- 2.5.5 provide Shell with such information as Shell reasonably requires relating to fuel volume sales, fuel stocks and the operation of the Site and retain on Site records of the same for at least 5 years or such period as required by Applicable Laws, whichever period is longer.

2.6 Although Shell will use its reasonable endeavours to make deliveries of Motor Fuel as requested by Retailer, Shell cannot guarantee the delivery of quantity ordered or on the times or dates requested by Retailer. Where Shell cannot deliver on any date agreed with Retailer or determined by the VMI, if applicable, it will use its reasonable endeavours to deliver within a reasonable time thereafter.

2.7 The volume of Motor Fuel sold and delivered to Retailer under this Agreement means the volume equal to zero (0) kiloPascal gauge pressure and a temperature of 15° Celsius.

2.8 All deliveries are subject to the terms and conditions set out in the Agreement and on the Delivery Document provided by Shell at the time of delivery. If there is any conflict between the provisions of this Agreement and the conditions set out on the Delivery Document, the provisions of this Agreement shall prevail.

- 2.9 The Delivery Document presented upon delivery of Motor Fuel at each Site indicates the volumes and grades of Motor Fuel delivered. Notwithstanding any provision to the contrary in this Agreement, Retailer must, within 48 hours of delivery, notify Shell in writing of any suspected discrepancy between the volume or grades of Motor Fuel as indicated on the Delivery Document and that actually delivered. In such event, Shell will investigate the circumstances. Otherwise, Shell has no obligation to investigate.
- 2.10 Retailer will ensure that the Site complies with all applicable legal and regulatory requirements for delivery of motor fuel without risk to property or persons, as further specified in the Manuals. Save for other rights Shell may have, Shell may suspend the supply of Motor Fuel for as long as these requirements are not met.
- 2.11 In addition to any rights and remedies Shell has, Shell may suspend the supply of Motor Fuel to Retailer and, in connection thereto, suspend Retailer's right to display the Shell Trade Marks:
- (a) if Shell is notified, or otherwise becomes aware, that Retailer is, or is believed to be, experiencing a loss of Motor Fuel, which loss is of a magnitude such that it would be required to be reported to government authorities,
  - (b) if Retailer fails to provide Shell with sufficient evidence of its compliance with clause 5.1 of Addendum "A", or
  - (c) if Retailer is in default of any payment obligation it has to Shell.

and Shell will give Retailer fourteen (14) days from written notice to Retailer to remedy the problem or default. When Shell is satisfied, at its sole discretion, that Retailer has remedied the problem or default, Shell will lift the suspension and resume supply under this Agreement. If Retailer fails to remedy the problem within the time given, Shell may terminate this Agreement forthwith.

### **3. PRICE FOR MOTOR FUEL**

- 3.1 The Purchase Price per litre of Motor Fuel payable by Retailer to Shell is determined by Shell at the time of delivery of Motor Fuel to the Site. As such, the Purchase Price may vary with each delivery.
- 3.2 The Purchase Price is exclusive of any Taxes. All applicable Taxes will be added to the Purchase Price and will be payable to Shell by Retailer at the time of delivery of the Motor Fuel.
- 3.3 The Motor Fuels purchased from Shell for sale at the Site may be sold by Retailer at such prices as Retailer determines and, if Shell makes price information available to Retailer, Retailer understands that such price information, including any suggested retail price, creates no obligation upon Retailer to accept any suggested price and that Retailer may sell Motor Fuel at any price Retailer chooses. In so doing, Retailer will not suffer in its business relations with Shell or any other corporation or individual over which or whom Shell has control or influence.

### **4. PAYMENTS FOR MOTOR FUEL**

- 4.1 Payment for Motor Fuel is due on the date of delivery of the Motor Fuel to the Site.
- 4.2 The only currently acceptable method of payment by Retailer is by automated debit transaction initiated by Shell from Retailer's bank account specified by Retailer. Retailer will ensure that there are sufficient funds in the bank account to satisfy payment to Shell. In the event an automated debit transaction fails to complete due to the act or omission of Retailer, Shell may revoke the aforesaid method of payment and require payment at the time of delivery in the form of money order, bank draft, certified cheque only or any other form of payment specified by Shell.

The parties have executed this Agreement effective as of the date first written above.

**SHELL CANADA PRODUCTS,  
by its managing partner,  
SHELL CANADA LIMITED**

DocuSigned by:  
*Treena Carty*  
Per: \_\_\_\_\_  
Name: **Treena Carty**  
Title: **Disrict Manager**

Date: 8/31/2021

\_\_\_\_\_  
**WITNESS**

\_\_\_\_\_  
**WITNESS**

Date: 8/19/2021

DocuSigned by:  
*IN HWAN LEE*  
\_\_\_\_\_  
**IN HWAN LEE**

DocuSigned by:  
*EUN JOO LEE*  
\_\_\_\_\_  
**EUN JOO LEE**

**SCHEDULE 1  
LIST OF SITES**

<b>C Location/ GID:</b>	<b>Site Name</b>	<b>Site Address</b>	<b>Site Specifics</b>	<b>Start Date</b>
<b>Location No. C22354 GID: 10053426</b>	Hwy 35 - Minden.	12281 Hwy 35, Minden, Ontario, K0M 2K0	Gas Bar, and Convenience Store	August 1, 2021

**SCHEDULE 2**  
**MOTOR FUEL AND OPTIMUM LOAD SIZE**

<b>Motor Fuel Brand Name</b>	<b>Mandated? (Yes/No)</b>	<b>Optimum Load Size</b>
<b>Location No. C22354</b> <b>GID: 10053426</b>  Brand #1: Regular Brand #2: Premium Brand #3: Diesel	Yes Yes Yes	55,000 Litres

**NOTE:** The list of Motor Fuels and Mandated Motor Fuels may be amended by Shell from time to time in its sole discretion.

**SCHEDULE 3****RETROSPECTIVE REBATE & FORGIVABLE LOAN****RETROSPECTIVE REBATE**

Shell shall rebate to the Retailer:

1. Retrospective Rebate of 2.25 cents for every litre of Diesel fuel and/or Premium gasolines purchased every Contract Year from Shell for resale at retail from the Site payable annually in arrears within fifteen (15) days following the Contract Year in question plus Applicable Taxes. The amount (subject to any set-offs) shall be paid into the Retailer's bank account by Shell subject to the terms set out in the Agreement; and
2. Retrospective Rebate calculated in accordance with the number of litres of Bronze gasoline purchased every Contract Year from Shell for resale at retail from the Site as set out in the following table:

	Rebate (not cumulative)
1 - 1,000,000	1.00 - ¢ per litre (cpl)
1,000,001 - 2,000,000	1.50 - ¢ per litre
2,000,001 - 2,550,000	1.80 - ¢ per litre
Over - 2,550,000	2.00 - ¢ per litre

payable annually in arrears within fifteen (15) days following the Contract Year in question plus applicable Taxes. The amount shall be paid into the Retailer's bank account by Shell subject to the terms set out in this Agreement.

The maximum aggregate amount of each Annual Retrospective Rebate is \$102,000.00. In the event the total Retrospective Rebate exceeds \$102,000.00 in any Contract Year, the Retrospective Rebate is reduced to zero cpl until the end of that Contract Year.

The amount purchased shall be determined from Shell's records which shall be determinative.

**"Contract Year"** means any 12 month period ending on the day before any anniversary of the Start Date of the Initial Term; however, if the Start Date is not the first day of a month, the First Contract Year End Date shall mean the date that is 12 months from the first day of the month following the Start Date. If the Start Date is not the first day of a month, any volume purchased from the Start Date to the end of the month following the Start Date shall be included with the volume for the first contract month. Every subsequent Contract Year shall mean the 12-month period ending on the anniversary of the First Contract Year End Date.

**FORGIVABLE LOAN**

1. Shell grants to the Retailer an amount of One Hundred and Twenty Thousand (\$120,000.00) Dollars (the **"Forgivable Loan"**) plus applicable Taxes.

The Forgivable Loan which shall be paid into the Retailer's bank account by Shell subject to the terms set out in the Agreement.

2. This Forgivable Loan shall be paid by Shell to the Retailer upon:
  - (a) confirmation that the Works of Improvement by Retailer have been completed by the Retailer to the reasonable satisfaction of Shell; Retailer acknowledges that Shell's approval of same is without warranty by Shell, and Shell, by granting approval, does not represent that the Works of Improvement have been properly installed nor any other aspect of the

Works of Improvement; Retailer acknowledges that Retailer is solely responsible to ensure the proper installation of the Works of Improvement and Shell will have no liability with respect to same, nor their operation;

- (b) receipt by Shell from Retailer of:
  - (i) a fuel system Precision Test by a Shell-approved testing company which meets Shell's standards with respect to Retailer's installation of the new pumps (or dispensers), pump islands and fuel supply lines, which Test is to be completed subsequent to the installation of the new fuel supply lines;
  - (ii) copies of commissioning test results that were submitted to the applicable provincial regulator and a copy of the applicable provincial regulator Registration Certificate(s) with respect to the Retailer's installation of the new tanks, pumps (or dispensers), pump islands and piping.
- (c) execution of:
  - (i) this Retailer Supply Agreement;
  - (ii) an Irrevocable Direction to Pay;
  - (iii) an Irrevocable Direction to Pay re Forgivable Loan and Retrospective Rebates;
  - (iv) a Shell Convenience Retail Dealer Program Agreement; and
  - (v) Acknowledgement and Direction with a copy of Charge/Mortgage, in favour of Shell's managing partner, Shell Canada Limited, securing the principal amount of \$120,000.00.
- (d) registration of the Charge/Mortgage in subparagraph (c) above (the "**Shell Charge**") on title as a second Charge/Mortgage, and the Site at the time of registration being free and clear of all liens, work orders, deficiency notices, executions or financial encumbrances, *except for (i) a first Mortgage in favour Shinhan Bank of Canada (the "**First Charge**")*; the combined principal sum of the First Charge and the Shell Charge shall not exceed seventy-five (75%) percent of the appraised value of the Site (the "**LTV Ratio**"). The appraised value of the Site shall be determined by an independent accredited third party appraiser, licensed by the Appraisal Institute of Canada, experienced in, and qualified to appraise the market value of commercial real estate properties in the metropolitan area of Minden, Ontario such appraisal to be at the expense of the Retailer and to be current. Notwithstanding the foregoing, in the event that the combined principal amount of First Charge and the Shell Charge exceeds the LTV Ratio then at Shell's sole discretion the Forgivable Loan is not payable or this Retailer Supply Agreement may be terminated;
- (e) receipt by Shell of a Certificate of Insurance covering the Site reflecting Shell and Shell Canada Limited as second mortgagee/loss payee;
- (f) receipt by Shell from Retailer of a statutory declaration that either all contractors completing the Works of Improvement have been paid or that Retailer is withholding (and will withhold) statutorily required holdbacks pursuant to the applicable Provincial lien legislation.

- (g) Subject to the following conditions, Retailer will not be required to make any payments to reduce the amount of the Forgivable Loan during the Initial Term:
  - (i) provided and for so long as this Agreement remains in effect, Shell will on each anniversary of the commencement of the Initial Term of this Agreement reduce the balance of the Forgivable Loan then payable to Shell by \$12,000.00; and
  - (ii) in the event this Agreement is terminated (for any reason whatsoever) prior to the expiry of the Initial Term, any amount of the Forgivable Loan unearned in accordance with subsection 3Error! Reference source not found.(i) of this Schedule shall become immediately due and payable by Retailer to Shell. Interest at the compounding rate of two (2%) per month (26.84% per annum), from the due date until such payment is received in full shall be payable on the balance owing pursuant hereto until paid in full.

**WORKS OF IMPROVEMENT BY RETAILER**

- 1. In consideration of receiving the Forgivable Loan (as set out above), Retailer agrees to promptly commence and diligently proceed to complete the following Works of Improvement on the Site on or before December 31, 2021, in a good and workmanlike manner, without defect, and in compliance with the applicable provincial fuel handling laws and codes, and all building, zoning and other governmental requirements:
  - (i) complete the Essential Site Improvements set out in Attachment "A.2" of Addendum "A" to this Retailer Supply Agreement; and
  - (ii) install the Listed RVI Components set out in Attachment "A.3" of Addendum "A" to this Retailer Supply Agreement.

(collectively, the "**Works of Improvement**")
- 2. At Shell's option, if the Works of Improvement are not completed on or before December 31, 2021:
  - (a) the Forgivable Loan shall not be payable to the Retailer; however, in all other respects the contract shall continue in effect; or
  - (b) this Retailer Supply Agreement may be terminated and Shell shall remove all of its equipment from the Site shortly thereafter.

**GENERAL TERMS AND CONDITIONS**  
**(to the Retailer Supply Agreement)**

CONTENTS

1. Definitions
2. Relationship Between the Parties
3. Application & Term
4. Operation of the Site(s)
5. Technical Conditions of the Site(s)
6. Letters of Credit
7. Transaction Cards and Methods of Payment
8. Loyalty Schemes and Promotions
9. Shell Trademarks
10. Training
11. Integrated System and RVI Package
12. Audit
13. Payment & Set-Off
14. Breach and Termination
15. Effect of Expiry or Termination
16. Confidentiality
17. Compliance
18. Liability & Indemnity
19. Insurance
20. Supply Disruption and Force Majeure
21. Entire Agreement
22. Notices
23. Assignment
24. Non-Competition and Corporate Information
25. Miscellaneous

Attachment A.1 — Business Principles Expectations for Shell Canada Suppliers and Contractors & Shell General Business Principles

Attachment A.2 — Essential Site Improvements

Attachment A.3 — RVI Package, Scope of Work

Attachment A.4 — Site Business Hours

**1 DEFINITIONS**

1.1 The following capitalized terms shall have the meaning as defined herein:

<b>Affiliate:</b>	in reference to a Party, any other entity which (a) directly or indirectly controls or is controlled by the Party; or (b) is directly or indirectly controlled by an entity which also directly or indirectly controls the Party. For the purpose of this definition, 'control' means the power to direct or cause the direction of the management and policies whether directly or indirectly, through one or more intermediaries or otherwise, and whether by ownership of shares or other equity interest, the holding rights or contractual rights, by being the general partner of a limited partner or otherwise.
<b>Agreement:</b>	Retailer Supply Agreement including all Schedules, Attachments and Addenda which are incorporated by reference, and any amendments or additions thereto.
<b>Air Miles Handbook:</b>	The Air Miles Handbook (including any amendments thereto) as provided to the Retailer by Shell from time to time.
<b>Applicable Laws:</b>	in relation to any Party, property or circumstance, any federal, provincial and municipal statutes, regulations and bylaws, judgments, orders of courts of competent jurisdiction, regulatory approvals, permits, licenses, approvals and authorizations, which are applicable to such Party, property or circumstances.
<b>Breach Warning Letter:</b>	notice in writing by Shell to Retailer pursuant to section 14 of this Addendum "A".
<b>Business:</b>	the service station business operated by the Retailer at the Site.
<b>Business Day</b>	any weekday other than a weekday on which banks are not open for general business in the province of a Site.
<b>Confidential:</b>	Shell's trade secrets, know-how, sales information, organization and operational
<b>Information:</b>	methods and other information concerning the operations of a Shell service station.
<b>Contractors:</b>	third party engineering contractors, designated by Shell pursuant to section 11 of this Addendum "A", who will contract with and install the RVI Package for the Retailer.
<b>Customer Value Proposition:</b>	Shell's customer offers as detailed in the Manual.
<b>Delivery Document:</b>	the invoice for each load of Motor Fuel delivered to the Site.
<b>Delivery System:</b>	the order and delivery systems for Motor Fuel set out in the Manual, as amended by Shell from time to time on notice to Retailer.
<b>Essential Site Improvements:</b>	the improvements required by Shell to be made to the Site by Retailer and listed in Attachment "A.2".
<b>Extension Term:</b>	as defined in Section 3 of this Addendum "A".
<b>Force Majeure:</b>	defined in section 20 of this Addendum "A".
<b>GST/HST (if applicable):</b>	Goods and Services Tax and Harmonized Sales Tax under the <i>Excise Tax Act</i> (Canada).
<b>HSSE standards:</b>	Shell's standards on health, safety, security and the environment and, as it relates to this Agreement, are further detailed in the Manual.

## ADDENDUM "A" – GENERAL TERMS AND CONDITIONS

<b>Initial Term:</b>	as defined in Section 3 of this Addendum "A".
<b>Integrated System:</b>	as defined in Addendum "C".
<b>Listed RVI Components:</b>	as defined in section 11.2 of this Addendum "A".
<b>Loyalty Scheme:</b>	defined in Addendum "D".
<b>Mandated Motor Fuel:</b>	the grades and brands of Motor Fuel mandated by Shell for sale at the Sites in accordance with section 1 of the Retailer Supply Agreement.
<b>Mandatory Training Course:</b>	as defined in Section 10.1 of this Addendum "A".
<b>Manual:</b>	the operating manual issued by Shell containing mandatory and suggested specifications, standards, procedures and rules applicable to the operation of the Site prescribed from time to time by Shell and provided to Retailer in electronic or paper form.
<b>Method of Payment Guide:</b>	the Shell-issued guide for Retailer's use that sets out the accepted methods of payment for purchases of Motor Fuel made by consumers at the Site.
<b>Month:</b>	a calendar month.
<b>Motor Fuel:</b>	such grades and brands of gasoline, automotive diesel, automotive liquefied petroleum gas and any other fuels that may be developed, selected or provided as such from time to time by Shell.
<b>Nominated Principals:</b>	as defined in section 10.5 of this Addendum "A".
<b>Parties:</b>	means Shell and Retailer and " <b>Party</b> " means either of them, as the context requires.
<b>Personal Information:</b>	any information about an identifiable individual.
<b>Purchase Price:</b>	the price at which Shell sells to Retailer, and Retailer buys from Shell, Motor Fuels under this Agreement, and is exclusive of any applicable Taxes.
<b>RVI Package:</b>	the "Retail Visual Identification" package which includes the prime sign, canopy, forecourt and other like equipment such as decals, pole signs and all replacements for or additions to the same but does not include the structure supporting the equipment listed in this definition.
<b>Shell Card:</b>	any payment card designated as a Shell Card by Shell in the Method of Payment Guide.
<b>Shell Sponsored Training:</b>	as defined in section 10.5 of this Addendum "A".
<b>Shell Trademarks:</b>	includes all of the manifestations, trademarks and service marks, house marks and marks of ownership, trading names, brand names, service names, registered and unregistered designs, retail and other formats, slogans, signage, communications materials, distinctive colour schemes, devices, styles of labelling, emblems and other manifestations associated with Shell or any Affiliate of Shell.
<b>Shell Trademark Owner:</b>	Shell or any Affiliate of Shell, which is the owner of the legal title and/or other rights in the Shell Trademarks.
<b>Site:</b>	each and any of the sites identified in Schedule 1 of the Agreement, which list of

**ADDENDUM "A" – GENERAL TERMS AND CONDITIONS**

sites may be amended from time to time and "**Sites**" shall be construed accordingly.

<b>Staff:</b>	defined in section 4.4.3 of this Addendum "A".
<b>Start Date:</b>	defined in section 3 of this Addendum "A".
<b>Taxes:</b>	sales taxes and other similar levies or duties on the sale of goods or services, as applicable to Motor Fuels and includes, without limitation, the GST/HST (if applicable) and applicable provincial sales tax (" <b>P.S.T.</b> ").
<b>Term:</b>	The Initial Term, together with the Extension Term if applicable, as each is defined in section 3 of this Addendum "A".
<b>Training Fee:</b>	Any fee applicable to a Mandatory Training Course or Shell Sponsored Training, as further described in Section 10 of this Addendum "A".
<b>Transaction Card:</b>	credit cards including Shell Cards, debit cards, pre-pay cards, and other transaction authorisation cards referenced in the Method of Payment Guide.
<b>VMI:</b>	"Vendor Managed Inventory", an automated fuel inventory management programme, and includes any processes from time to time added to or substituted for all or any of such programmes. VMI is the process for Motor Fuel stock replenishment by Shell at Retail sites whereby Retailer, instead of placing orders for Motor Fuel, provides Shell with inventory related information (via manual or automated means) and Shell maintains Motor Fuel stocks at the site for Retailer, subject to section 20 of this Addendum "A".
<b>VMI Acceptance Document:</b>	the document presented and amended by Shell from time to time setting out the rules for application of VMI to a Site (in conjunction with the Manual), for the time being and is a service level arrangement.

1.2 The terms "including" and "includes" mean "including without limitation".

## **2 RELATIONSHIP BETWEEN THE PARTIES**

2.1 This Agreement does not create any agency, fiduciary, or trust relationship between the Parties. Retailer is an independent contractor with the right to complete control and direction of the Site, subject to the terms herein. No agency, trust, employment or partnership is created or implied by the terms of this Agreement. Retailer's business is separate from Shell. Neither Party to this Agreement will represent to anyone that it may act for the other Party or that it has an agency, trust, employment or partnership relationship with the other. Neither Party has authority to act for or on behalf of the other in any manner except as expressly set out in this Agreement. Neither Party may create obligations, expenses or debts of the other. No employee of Retailer is an employee of Shell and no employee of Shell is an employee of Retailer.

## **3 APPLICATION & TERM**

3.1 This Agreement is intended to apply individually to each of the Sites, namely those listed in Schedule 1. Application of this Agreement will apply to each Site when added, or deemed to be added, to the Schedule upon mutual agreement. This Agreement will terminate and cease to apply for any Site that is removed, or deemed to be removed, from Schedule 1.

3.2 Unless earlier terminated in accordance with the terms hereof, the initial term of this Agreement ("**Initial Term**") shall commence on the Effective date and shall continue in force for a period of ten (10) years in relation to each Site from the corresponding start date listed in Schedule 1 for the Site ("**Start Date**"), subject to the following:

3.2.1 If the Start Date is not the first day of a month, the Initial Term in relation to a Site will continue for ten (10) years from the first day of the month following the Start Date.

3.2.2 Shell may, at its option, terminate the Agreement effective on the fifth anniversary of the Start Date, upon at least ninety (90) days written notice to Retailer.

## ADDENDUM "A" – GENERAL TERMS AND CONDITIONS

- 3.2.3 If the Agreement is not otherwise terminated pursuant to any provisions hereof, immediately following the end of the Initial Term the Agreement shall automatically extend on a month-to-month basis on the same terms and conditions contained herein until terminated by either Party upon 60 days' written notice to the other Party, ("**Extension Term**").
- 3.2.4 The Retrospective Rebate for the second five (5) years of the Initial Term and any Extension Term (if applicable), shall be equal to the Retrospective Rebate during the first five (5) years of the Initial Term. However in the event that there is a change in market conditions affecting either or both of the Retailer or Shell, then the Parties will negotiate in good faith with a view to amending the Retrospective Rebate to reflect the then-existing market conditions, failing which the Retrospective Rebate will remain the same as the first five (5) years of the Initial Term.

**4 OPERATION OF THE SITES**

- 4.1 Retailer will operate the business at each Site in a proper and safe manner, having regard to the nature of the products stored and handled at such Site.
- 4.2 Retailer may sell Motor Fuel at prices as Retailer determines. Retailer understands that it has no obligation to Shell relating to the retail price of Motor Fuel and that Retailer may sell Motor Fuel at any price it chooses and in so doing will not suffer in its business relations with Shell or any other entity over whom Shell has control or influence.
- 4.3 In operating Retailer's business at the Site, Retailer shall act in accordance with the Business Principles Expectation for Shell Canada Suppliers and Contractors as detailed in Attachment "A.1" hereto, as may be amended from time to time. Any other businesses from time to time operated at the Site by, or with the permission of, Retailer and Shell must not conflict with these Business Principles Expectations or with the Shell General Business Principles of Shell companies, also set out in Attachment "A.1" hereto, which may be amended from time to time and reflected on Shell's website.
- 4.4 In addition to the terms and conditions set out in this Agreement, mandatory and optional specifications, standards, procedures and rules are set out by Shell in the Manual, the Method of Payment Guide and the Air Miles Handbook.
- 4.4.1 Retailer will strictly comply with all mandatory specifications thereof.
- 4.4.2 The Manual, Method of Payment Guide, Air Miles Handbook and designation of mandatory sections thereto may be amended by Shell from time to time. Notwithstanding anything to the contrary in this Agreement, Shell has no liability whatsoever for any loss or damage suffered by Retailer or its Affiliates resulting from the implementation and use of any non-mandatory advice or information provided to Retailer.
- 4.4.3 With respect to Retailer's employees and agents, including the managers at the Site, Retailer will have the sole authority and responsibility for the employment, remuneration and training of all its employees, agents, contractors and representatives ("**Staff**") required by Retailer in connection with this Agreement and be responsible and liable to Shell under this Agreement for all acts and omissions of its Staff.
- 4.5 Retailer will ensure that the Site is fully open to the public for the sale of Motor Fuel during the business hours set out in Attachment "A.4" hereto.
- 4.6 Retailer shall not use, or permit the use of the Site or any adjoining land owned or leased by Retailer for any unlawful, offensive, hazardous, unsightly or other objectionable purpose and shall not offer for sale merchandise that, in Shell's sole discretion, may prejudice or adversely affect Shell's reputation or goodwill, including without limitation, materials with dominant themes of sex, nudity, prurient interest, or pornography; and merchandice or paraphernalia that may be used in connection with illegal drugs, is morally offensive, or distasteful to the general public, as reasonably determined by Shell. Retailer is obliged to remove, within five (5) Business Days any of the foregoing materials or merchandise reasonably deemed by Shell to be offensive.
- 4.7 Retailer shall notify Shell of any proposed change of use by Retailer of any part of the Site or any adjoining land owned or leased by Retailer and shall not proceed with any such change of use if Shell reasonably objects on any of the following grounds:

**ADDENDUM "A" – GENERAL TERMS AND CONDITIONS**

- 4.7.1 conflict with the Business Principles Expectations for Shell Canada Suppliers and Contractors or the Shell General Business Principles;
  - 4.7.2 that such use would contravene section 4.6 of this Addendum "A"; or
  - 4.7.3 that such use directly competes with the use of the Site for the sale of Motor Fuel.
- 4.8 Retailer shall not sell at a Site any automotive products of any kind or nature that is manufactured or branded by a competitor of Shell or Shell's Affiliate regardless of whether Shell or Shell's Affiliate manufactures or brands products of that kind or nature.

**5 TECHNICAL CONDITIONS OF THE SITES**

- 5.1 Retailer warrants that, throughout the Term of this Agreement, the fuel pumps, tanks and any other equipment used to store and dispense Motor Fuel comply with all Applicable Laws. Retailer will ensure that all fuel pumps and the tanks at the Sites are in good working order at all times and that all installations and equipment used in relation to the Motor Fuel are installed, maintained and operated in a manner to avoid accidents. Retailer shall do everything necessary to prevent the release of Motor Fuel into the environment including entering drainage, sewage systems, water courses or soil. Upon request by Shell, Retailer shall provide evidence acceptable to Shell of compliance with this clause from a third party company approved by Shell. All cost related to providing such compliance shall be borne solely by Retailer.
- 5.2 Retailer warrants that the Sites are and will, throughout the Term, remain in compliance with all Applicable Laws and the requirements set out in the Agreement and that the Sites are and will remain in a clean, sanitary and safe condition and all property and equipment thereat is and will remain in good operating condition and repair.
- 5.3 Shell may, from time to time, require the Retailer at any time during the term to complete, to Shell's satisfaction and at Retailer's cost, certain site improvements as detailed in Attachment "A.2".
- 5.4 Except as notified otherwise by Shell, Retailer shall be responsible for purchasing, installing and maintaining at Retailer's own expense all equipment and facilities necessary for the operation of the Sites.
- 5.5 Shell will provide Retailer with a copy of its HSSE standards for information purposes. Shell gives no warranty as to the effectiveness of the HSSE standards and Retailer shall be wholly responsible for developing and implementing Retailer's own such standards at the Sites. Shell may provide Retailer with access to Shell's emergency response plan and procedures to be used in the event of an HSSE emergency occurring at a Site.
- 5.6 Retailer will promptly notify Shell about any major events, which adversely, or potentially adversely, affects the health, safety, security or the environment in accordance with guidelines set out in the Manual.
- 5.7 The Retailer shall notify Shell immediately of any suspected defects in the quality of the Motor Fuel or if any water or other adulterant is detected in the fuel storage tanks.
- 5.8 The Retailer will be responsible for handling and resolving all customer complaints and shall provide Shell, upon request, with evidence of resolution. Concerning customer complaints relating to Motor Fuel quality, Retailer agrees to handle such complaints in accordance with the instructions set out in the Manual.

**6 LETTERS OF CREDIT**

- 6.1 Prior to the Start Date, Shell may require Retailer to provide a letter of credit or security deposit, as determined by Shell, for an amount set by Shell. Shell is entitled to draw on such security for any monies owing and outstanding to Shell by Retailer under the Agreement. If Shell draws on the letter of credit or security deposit, then Retailer must top up the letter of credit or security deposit to the original amount. Upon the expiry or termination of this Agreement, Shell will return any amounts remaining under the letter of credit or the security deposit, subject to set-off rights set out in section 13 herein, within a reasonable period thereafter.
- 6.2 In addition to any letters of credit or security deposit requested by Shell, Shell may further require Retailer to provide a personal or corporate guarantee from any person or entity as determined by Shell to guarantee the performance of Retailer's obligations under this Agreement.

**7 TRANSACTION CARDS AND METHODS OF PAYMENT**

- 7.1 Retailer will accept all Transaction Cards and certain methods of payments, as detailed in Addendum "B".
- 7.2 Shell may require Retailer to accept discount vouchers, reward points and other loyalty scheme methods of payment issued by Shell, Shell's Affiliate or a third party as payment for Motor Fuel.

**8 LOYALTY SCHEMES AND PROMOTIONS**

- 8.1 As part of its business operations at the Site, Retailer will promote Shell and Shell's goodwill and will deliver Shell's Customer Value Proposition to the high standards required by Shell. Retailer will participate in all Loyalty Schemes mandated by Shell as further detailed in Addendum "D".
- 8.2 Shell will from time to time create advertisements and promotional campaigns, including Loyalty Schemes, defined in Addendum "D", the participation in which will be either mandatory or elective for Retailer, as determined by Shell.
- 8.3 With the exception of any mandatory Loyalty Scheme, Shell will pay for Retailer's cost of participation in any mandatory advertisement or promotional campaign. For all elective advertisement or promotional campaigns where Retailer elects to participate, Retailer must pay all costs of such participation. Such costs will be set by Shell.
- 8.4 If Retailer participates in promotional campaigns, Retailer will:
- 8.4.1 be liable for any fraud committed at each Site and ensure that no benefits associated with the promotion are misappropriated. The full value of any misappropriated benefits is due to Shell immediately upon Shell's demand;
  - 8.4.2 to the extent permitted by Applicable Laws, promote such promotions and Loyalty Schemes as instructed by Shell maximizing the tools and materials provided by Shell in relation thereto;
  - 8.4.3 keep reasonable stocks of goods and provide services which are the subject of such promotions for the duration of the promotion to ensure that customers are able to obtain the goods or services advertised
- 8.5 Participation in any promotion required by Shell will not restrict Retailer's freedom to set its retail prices for Motor Fuel, or any other product sold by Retailer at the Site.
- 8.6 Provided that it does not conflict with any of Shell's promotional campaigns conducted at the Site and on the condition that such promotion is not likely to be injurious to the Shell brand or reputation, Retailer may participate in any other promotion as Retailer sees fit, provided it is undertaken within the confines of the main Site building. All other promotions conducted outside of the main Site building, including without limitation, those conducted on the forecourt of the Site, require prior written approval from Shell.
- 8.7 Any advertisements and promotional materials created independent of Shell for display on the forecourt must be approved for Retailer's use by Shell in writing.

**9 SHELL TRADEMARKS**

- 9.1 Shell, acting as the representative of the Shell Trademark Owner, permits Retailer to display Shell Trademarks at the Sites. Retailer acknowledges that the Shell Trademarks are the property of the Shell Trademark Owner and Retailer will not claim any rights in the Shell Trademarks. Retailer further acknowledges that all goodwill arising out of Retailer's use and display of the Shell Trademarks shall accrue to the Shell Trademark Owner.
- 9.2 Retailer acknowledges that Shell and/or the Shell Trademark Owner may at any time, introduce additional or substituted Shell Trademarks or may withdraw any of them from use, and Retailer shall implement such changes.
- 9.3 Retailer acknowledges that in relation to Motor Fuel bearing Shell Trademarks, Shell and/or the Shell Trademark Owner may at any time change the Shell Trademarks applicable, add, change or modify the grade, brand name, delivery package or other distinctive designation; change or modify the formulations and specifications or discontinue at any time the sale or supply of any particular Motor Fuel.

## ADDENDUM "A" – GENERAL TERMS AND CONDITIONS

- 9.4 Notwithstanding that these General Terms and Conditions do not grant Retailer any rights with regard to Shell Trademarks except as expressly stated herein or unless otherwise agreed to in writing by Shell, Retailer will:
- 9.4.1 use its reasonable endeavours to protect the Shell Trademarks which have been affixed or applied to each Site and to any property on the Site by Shell and to maintain them in good condition;
  - 9.4.2 comply with Shell's requirements to the manner and context of the reproduction, use and display of the Shell Trademarks and the wording to accompany them, and will not use them in any way that may impair their distinctiveness, reputation, or validity;
  - 9.4.3 not alter, remove or obliterate any Shell Trademarks and will notify Shell immediately on becoming aware that any of the Shell Trademarks has been damaged, defaced, removed or stolen;
  - 9.4.4 in relation to Shell Trademarks used at any Site, not alter, amend, adapt or adulterate them in any way, nor obscure them or remove them from the Site.
- 9.5 Retailer shall use and display Shell Trademarks only in connection with the availability of Motor Fuel and other Shell-branded products at the Site.
- 9.6 Retailer shall immediately notify Shell upon becoming aware of:
- 9.6.1 any infringement or suspected infringement of any of the Shell Trademarks by a third Party;
  - 9.6.2 any application for the registration of a trademark which Retailer believes should be opposed because of its similarity to a Shell Trademark;
  - 9.6.3 any allegation that any of the Shell Trademarks is invalid or liable to revocation, or any other attack on any of the Shell Trademarks, or
  - 9.6.4 any matter or circumstance of whatsoever nature which in the opinion of Retailer might affect the interests of Shell or of the Shell Trademark Owner under this Agreement.
- 9.7 Retailer shall take such reasonable action as Shell requires relating to any infringement or possible infringement, at Shell's expense, but shall not institute any action or proceeding for infringement, opposition or otherwise or take any other steps for the protection of any of the Shell Trademarks unless requested or agreed to by Shell.
- 9.8 Retailer shall not employ or register or cause to be registered a Shell Trademark, or any word or mark which in the reasonable opinion of Shell is confusingly similar to a Shell Trademark, as part of any corporate name, business name or trading style, or as a trademark in respect of any goods or services, or as a domain name.
- 9.9 Retailer shall not conduct the whole or any part of its business under a corporate or business name, which in the opinion of Shell might impair the validity, reputation or distinctiveness of any of the Shell Trademarks.
- 9.10 Except with the prior written consent of Shell, no other marks or symbols of a trademark character (other than the trade name or corporate name of Retailer) shall appear on or in relation to Motor Fuels. Any display of the Shell Trademarks in connection with Retailer's corporate, business, or trade name on any business card, letterhead, invoice, receipt, advertisement, promotional material, or other printed matter, as approved in this Agreement or in the Manual (as amended from time to time), must clearly bear the following notation: "*Authorized Retailer of Shell Products*", or such other notation as may be specified from time to time in the Manual.
- 9.11 Retailer will at Shell's request give to Shell or its nominee any information as to its use of the Shell Trademarks which Shell or its nominee may require and will render any assistance reasonably required by Shell in maintaining or renewing the registrations of the registered Shell Trademarks or in prosecuting any application to register any new trademarks.
- 9.12 Unless prior agreed to in writing by Shell, Retailer shall not:
- 9.12.1 negotiate or enter into any sponsorship or similar arrangement which would involve the use or display of the Shell Trademarks, or

**ADDENDUM "A" – GENERAL TERMS AND CONDITIONS**

- 9.12.2 commission, release or use any advertising or promotional materials in any media involving the use or display of the Shell Trademarks, other than those materials and templates provided, made available, or prior approved by Shell in writing.
- 9.13 Without prejudice to the remaining provisions of this section 9, on any termination (partial or total) or expiry of the Agreement or on the suspension of Retailer's right to use and display the Shell Trademarks at the Site,
- 9.13.1 Retailer shall cease all use or display of the Shell Trademarks other than those displayed on branded products (e.g. lubricants), and
- 9.13.2 Shell shall be entitled to remove the RVI Package at the Retailer's expense. If Retailer fails to cease use and display in contravention of section 9.13.1 hereof, Shell, its agents or its subcontractors, may enter the Site without notice to remove, at Retailer's cost, all Shell Trademarks.

**10 TRAINING**

- 10.1 Shell shall provide an operations training course in relation to the Business, having content as determined by Shell from time to time, ("**Mandatory Training Course**"). The Mandatory Training Course shall be offered at least twice annually at a metropolitan location (or locations) in Canada, as determined by Shell.
- 10.2 Retailer (if an individual) or an officer of Retailer responsible for the operation of the Business (if Retailer is not an individual) shall attend and complete the Mandatory Training Course within 6 months of the Effective Date of the Agreement or within 6 months of the date of an assignment of this Agreement to a third party in accordance with Section 23 hereof.
- 10.3 If the Mandatory Training Course is not completed successfully in the first instance, Retailer shall be obligated to retake the Mandatory Training Course within the following 6 months, and such retake shall be subject to the Training Fee specified in Section 10.4 below.
- 10.4 Retailer shall pay to Shell a Training Fee for any Mandatory Training Course attended by Retailer. Such fee shall be payable within one month after the Mandatory Training Course attended.
- 10.5 From time to time, Shell offers retailer training courses ("**Shell Sponsored Training**") to assist the development of sound management practices, enhancement of the customer value proposition at the Site, effectiveness of a retailer's management of its business and obligations. Individuals nominated by the Retailer ("**Nominated Principals**") may participate in Shell Sponsored Training.
- 10.6 Retailer and/or its Nominated Principals may be charged a Training Fee for attending any Shell Sponsored Training. This training fee will be communicated in advance to Retailer. The training fee applicable to Retailer and/or its Nominated Principals for Shell Sponsored Training will be payable within one month after the date of such Shell Sponsored Training.
- 10.7 In addition to any applicable Training Fee, Retailer will be responsible for any travel expenses, including accommodation and meals, incurred by Retailer and/or its Nominated Principals in attending any Mandatory Training Course and any Shell Sponsored Training, regardless of whether such training is compulsory or elective.

**11 INTEGRATED SYSTEM & RVI PACKAGE**

- 11.1 (a) Retailer will use the POS Equipment, defined in Addendum "C", to process all Motor Fuel-related transactions at the Sites. Shell will support, and Retailer will receive support of, the Integrated System in accordance with the IT System Support Agreement set out in Addendum "C".
- (b) Retailer agrees that, upon Shell's request, it will upgrade the Integrated System hardware at its expense and if the Retailer fails to upgrade as requested, Shell may terminate this agreement immediately upon notice. Retailer agrees to pay any fines and penalties imposed by Shell and to assume all responsibility and costs incurred by Shell arising from Retailer's failure to upgrade the Integrated System hardware.
- 11.2 Shell will determine the appropriate RVI Package for the Site. Shell may require certain components of the RVI Package be purchased by Retailer, namely those listed in Attachment A.3 ("**Listed RVI Components**").

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- 11.3 Retailer agrees to purchase the Listed RVI Components from, and have it installed by, the Contractors. Retailer agrees to enter into the standard terms of business of the Contractors to effect such purchase and installation. Shell will reimburse the Retailer the invoiced amount paid by the Retailer for purchase and installation of the Listed RVI Components. Reimbursement shall be effected as follows:
- 11.3.1 Shell will reimburse the Retailer the amount of fifty (50%) percent of the Contractors' estimate of costs for the sale and installation of the Listed RVI Components upon: (a) Shell's approval of Contractor's estimate and (b) Retailer's execution of Contractors' standard contract;
- 11.3.2 Upon Shell's approval and confirmation of (a) the Contractors' invoiced costs for the sale and installation of the Listed RVI Components, (b) the satisfactory completion of the Listed RVI Components installation, and (c) reasonable evidence of receipt by the Contractors of the amount set out in section 11.3.1 hereof by the Contractors, then Shell will reimburse Retailer the invoiced amount less the amount previously reimbursed by Shell pursuant to section 11.3.1 above;
- 11.3.3 Shell may at its option require the Retailer to execute a direction to pay in respect of one or more of the payments referred to in sections 11.3.1 and 11.3.2 hereof, and upon execution of such direction(s) to pay, Shell will make the requisite payments under sections 11.3.1 and 11.3.2 directly to the Contractor.
- 11.4 Except in the case of a genuine dispute, any default by Retailer in paying the Contractors in accordance with the Contractors' terms shall entitle Shell to terminate the Agreement pursuant to section 14.3.2 of this Addendum "A", exercisable at Shell's discretion.
- 11.5 Following installation of the Listed RVI Components Shell will, or will cause its contractor to, repair the sign faces of the RVI Package or any components thereto. The costs of such repair shall be borne by Shell, unless such repair is required due to the default, act or omission of Retailer, in which case all costs of such repair shall be borne by Retailer. All repaired or replaced items shall form part of the RVI Package and ownership of such items will remain with or pass to the Retailer on the same terms as this Agreement.
- 11.6 Retailer acknowledges and agrees that it is Retailer's responsibility to repair or replace all parts of the RVI Package other than the sign faces.
- 11.7 Retailer will:
- 11.7.1 allow Shell and its representatives and the Contractors access to the Site to undertake any work required under this Agreement, including without limitation, to install, maintain or remove the RVI Package;
- 11.7.2 at its cost, clean and maintain the RVI Package as set out further in the Manual including, but not limited to, keeping fully lighted and in full working order any lighted components. Retailer will not add to, alter, amend, adapt, adulterate or interfere with the RVI Package, unless prior approved in writing by Shell;
- 11.7.3 remove, or, at Retailer's cost, allow the Contractors or their agents to remove, any signage, pole signs, canopy edging or other installed at any Site in conflict with the RVI Package; and
- 11.7.4 be responsible for any loss of or damage caused to the RVI Package by Retailer's default, act or omission, howsoever caused.
- 11.8 On termination or expiry of the Agreement, Retailer will offer to sell the RVI Package to Shell. Shell may then elect to purchase some or all of the RVI Package at the purchase price of \$1.00 CAD plus applicable taxes. Shell will remove, at its sole cost, those RVI Package components that Shell elects to purchase. Retailer will remove and dispose of, according to Shell's instructions, those RVI Package components that Shell does not elect to purchase. If Retailer refuses or fails to comply with such instructions, Shell will remove those components and Retailer shall reimburse Shell for the removal and disposal costs incurred by Shell.

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- 11.10 If this Agreement is terminated, due to the fault of the Retailer, sooner than ten (10) years after the initial actual installation of the Listed RVI Components at the Site, then Retailer will pay Shell an amount calculated as follows:

$$\text{Shell's initial cost} \quad \times \quad \frac{n}{120 \text{ months}}$$

where: "n" = 120 months – [length of time (months) of Retailer's use of the Listed RVI Components]

"initial cost" = invoiced amount referenced in section 11.3

- 11.10 In circumstances where Retailer is not the registered owner of the land at the Site, Retailer will provide to Shell written confirmation from the registered owner of the Site and any landlord (provided that landlord is not either the Retailer or the registered owner) that the registered owner and landlord do not claim any right or interest in the RVI Package. Such written confirmation will in all cases be provided by Retailer to Shell prior to receipt of the RVI Package or any portion thereof.
- 11.11 Retailer will not display additional signage related to Shell Trade Marks and to the RVI Package at the Sites unless previously approved by Shell in writing.
- 11.12 Retailer shall obtain all permits, approvals, licenses, and variances necessary to install the RVI Package and make any Essential Site Improvements required under this Agreement.
- 11.13 Interest shall accrue on all amounts due to Shell in accordance with section 13.3.
- 11.14 In the event this Agreement, or a part thereof, terminates or expires before the outstanding amount is paid in full, this section shall survive such termination or expiry such that Shell may demand payment of the principal of any outstanding amount due to Shell and interest accruing up to and including the date of payment of the outstanding amount.

## 12 **AUDIT**

- 12.1 Retailer will keep all accounts and other financial records for such period of time as may be required by law.
- 12.2 Shell, its agents and representatives may enter any Site at all reasonable times to inspect the facilities, procedures and materials being used in the purchase and sale of Motor Fuel, to obtain samples of and conduct tests on the Motor Fuel, to inspect the books and records pertaining to the purchase and sale of Motor Fuel and to audit, observe and otherwise verify Retailer's compliance with the Agreement.

## 13 **PAYMENT AND SET-OFF**

- 13.1 Shell will conduct settlement of the payments, except for payments of Motor Fuel, required under this Agreement and made between the Parties by setting off the net amount owing between the Parties against credit card sales made by Retailer's customers. The payment obligations owed by Retailer to Shell are, for example and are not limited to, Transaction Card Fee, chargebacks on Transaction Cards, Air Miles Fee, POS Fee, and Training Fee. The payment obligations owed by Shell to Retailer are, for example and are not limited to, Transaction Card Fee refunds.
- 13.2 Retailer shall pay and be responsible for all taxes, excise duties and other assessments and charges of any kind and nature, now or in the future, levied by any governmental authority relating to the operation of the business at the Site including but not limited to the purchase, sale, storage or use of the Motor Fuel insofar as the same is not expressly included in the price for the Motor Fuel.
- 13.3 Any outstanding payments past due to Shell will accrue interest at the compounding rate of 2% per month (26.84% per annum) from the date such payment is due to the date of payment of the outstanding amount. In the event this Agreement, or a part thereof, terminates or expires before the outstanding amount is paid in full, this section shall survive such termination or expiry such that Shell may demand payment of the interest accruing up to and including the date of payment of the outstanding amount.

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- 13.4 Shell reserves the right to retain any monies owing to Retailer by Shell or any Affiliate of Shell and apply them in reduction of monies owing to Shell by Retailer or to deduct any monies owing to Shell from any letters of credit or security deposits lodged with Shell by Retailer.
- 13.5 Upon termination of the Agreement, all sums owed by Retailer to Shell shall become immediately due and payable. Should Shell incur any reasonable costs in the recovery of monies owed, Shell may add these costs to the monies owed by Retailer.
- 13.6 Each Party represents and warrants to the other that it is a GST/HST (if applicable) registrant and will continue to be a registrant in accordance with the provisions of the Excise Tax Act (Canada) for the term of this Agreement. The Parties' respective GST/HST (if applicable) registration numbers, unless changed by notice to the other Party from a Party who has changed its number, are as follows:

Shell Canada Products G.S.T./H.S.T. # 13740 0032 RT 0001

Retailer G.S.T./H.S.T.. # \_\_\_\_\_

- 13.7 Any payment by Shell to Retailer may be made by electronic funds transfer directly to Retailer's bank account and Retailer shall execute such documentation necessary so that payments may be made in this manner.

#### 14 **BREACH AND TERMINATION**

- 14.1 The rights and remedies of Shell in this section are without prejudice to the rights and remedies that Shell has at law or in equity.
- 14.2 Upon default of any of the Retailer's obligations under this Agreement including the Manual, Shell may give notice to Retailer, in the form of a Breach Warning Letter, requiring the Retailer to remedy the default(s) within fourteen (14) days of the Breach Warning Letter.
- 14.3 Without prejudice to any remedy Shell may have against Retailer for breach or non-performance, Shell may terminate the Agreement as it relates to one, some or all Sites, at Shell's option, immediately upon notice if any of the following occurs:

##### 14.3.1 *Retailer*

- (a) If the Retailer or any director or officer of Retailer becomes bankrupt or has a bankruptcy petition presented against it or him, or has an application made for an interim order, or has a receiver and/or manager appointed in respect of it or his assets, or has any receiving order made against him or has a receiver appointed, or enter into any composition or arrangement with creditors generally or has a proposal made for a voluntary arrangement, or becomes apparently insolvent, or grants a trust deed for creditors or enters into any sort of composition with creditors generally, and if Retailer makes a composition or arrangement with its creditors, or has a winding up order made, except by way of corporate reorganisation of a solvent company, or a resolution for voluntary winding up passed or has a provisional liquidator, receiver or manager of its or his business or undertaking appointed, or has possession taken by or on behalf of the holders of any debentures secured by a floating charge, or has a petition presented for an administration order or has an administration order made against it or him or has a proposal made for a voluntary arrangement or a scheme of arrangement or if being an unlimited company shall apply to become limited or an application made to and granted by the Court for an administration order or the appointment of an administrator. Failure by an administrator to give statutory notice will also give rise to the right of termination under this section;
- (b) If a director or officer (who is a principal person in the business) of Retailer dies or becomes physically or mentally incapable of operating the Sites;
- (c) If Retailer or Shell loses its right of possession of a Site, or part thereof, for any reason whatsoever;
- (d) If Retailer assigns or transfers any Site or its rights or obligations under the Agreement without Shell's prior written consent;

## ADDENDUM "A" – GENERAL TERMS AND CONDITIONS

- (e) If Retailer has not purchased a supply of Motor Fuel for the Site within thirty (30) days after the Start Date;
- (f) If Retailer performs any act which transfers (directly or indirectly) the effective management, control or beneficial ownership of Retailer's business at any Site without Shell's prior written consent; and
- (g) If Retailer makes any changes to its corporate structure, directors, shareholders, or registered office without Shell's prior written consent;

14.3.2 *Operational* — If Retailer:

- (a) fails to open the Site for business for a period exceeding seven consecutive days or any seven days in any twelve month period or for a lesser period where the failure to operate the business during that period is unreasonable to Shell having regard to the interests of Shell, the normal operation of the business, and the reason for the failure;
- (b) fails to maintain or procure the maintenance of the operating standards and obligations set out in the Agreement in any material, persistent or substantive manner and, without limiting the generality of the foregoing, if Retailer fails to meet the mystery shopper program targets as further set out in the Manual, regardless of whether such failure is material, persistent or substantive;
- (c) operates or permits the operation of the Site in a manner which causes or is likely to cause injury to persons or property;
- (d) fails to obtain or maintain all licenses and permits required for the sale of Motor Fuel in respect of any Site or fails to strictly adhere to their terms, conditions and requirements;
- (e) ceases to participate in any mandatory promotion or Loyalty Scheme or misappropriates any property or benefits offered as part of any promotion or Loyalty Scheme;
- (f) uses the Site, or cannot prevent the use of the Site from being used, in a manner that substantially restricts, impairs or prevents the sale of Motor Fuel;
- (g) allows or does, or omits doing, anything which impairs or jeopardizes any interest of Shell or Shell's Affiliates in any lease, sublease or other agreement in connection with the Site; and
- (h) fails to obtain and maintain insurance as required by the Agreement;
- (i) fails to pay the third party contractor engaged to install the Listed RVI Components in accordance with its terms of business, except in the case of a genuine dispute;
- (j) fails to provide Shell with sufficient evidence of its compliance with section 5.1; and
- (k) Fails to upgrade the Integrated System hardware at Shell's request.

14.3.3 *Product* —

- (a) If Shell has reasonable grounds for believing Retailer has taken a supply of motor fuel from a supplier other than Shell;
- (b) If Retailer misrepresents the grade or specification of, or adulterates, Motor Fuel; and
- (c) If Retailer fails to immediately notify Shell of any serious incident relating to a delivery of Motor Fuel;

14.3.4 *Illegal/Fraudulent/Reputational* — If Retailer:

- (a) makes any material misrepresentation to Shell in connection with the conduct of the business at the Site;

**ADDENDUM "A" – GENERAL TERMS AND CONDITIONS**

- (b) or any of Retailer's directors or officers is convicted of any criminal offence or acts, omits to act, makes a statement or behaves in a manner which brings the business at the Site or Shell into disrepute, or tends to show Retailer or its operations at the Site is dishonest or is not otherwise of good character;
- (c) permits or fails to cease the use or consumption of drugs, alcohol or tobacco at the Site, whether such is used while performing any business operations;
- (d) does anything illegal or fails to comply with Applicable Laws at the Site; and
- (e) uses, permits or fails to cease the use of the Site or adjoining land owned or lease by Retailer for activities to which Shell has objected;

**14.3.5 Payment — If Retailer:**

- (a) fails to provide or maintain a letter of credit, security deposit or any other security in the amount required by Shell;
- (b) is indebted to Shell on any account, whether under this Agreement or not, and fails to pay such debt as and when the same falls due for payment;

**14.3.6 Other —**

- (a) If Retailer fails to remedy the breach as required under a Breach Warning Letter issued to Retailer;
- (b) If Shell has issued a second Breach Warning Letter to Retailer within a twelve month period;
- (c) If any other agreement between Retailer and Shell or an Affiliate of Shell terminates; and
- (d) If Retailer has committed a breach at one Site resulting in termination of the Agreement as it relates to that Site

14.4 Shell may terminate this Agreement as it relates to one, some or all Sites, at Shell's option:

14.5 if in Shell's reasonable discretion, it becomes no longer possible to sell Motor Fuel at the Site for any reason whatsoever and Shell provides at least thirty (30) days' prior written notice to the Retailer, and

14.6 if at any time for a period of ninety (90) consecutive days, the costs incurred by Shell for Motor Fuel, transportation, storage costs and other costs directly attributable to the Site exceed payments due from the Retailer to Shell for such period and Shell provides at least thirty (30) days prior written notice to the Retailer.

14.7 This Agreement as it relates to one, some or all Sites, at Shell's option will automatically terminate upon the termination of any lease or sublease agreement in force at a Site, if any, between the Parties or their Affiliates.

**15 EFFECT OF EXPIRY OR TERMINATION**

15.1 The Parties will promptly provide the other Party with a final accounting upon the expiration or termination of this Agreement. Any monies owing by either Party to the other will be paid promptly.

15.2 All confidentiality obligations of Retailer under this Agreement shall continue to apply after the expiry or termination of this Agreement. Retailer shall return all Confidential Information (including all copies thereof) expressed in tangible form, including electronic form, acquired before the expiry or termination of this Agreement.

15.3 Upon termination, any rights or obligations, including but not limited to trademark rights, audit rights, warranties and indemnities arising prior to the termination and any post-termination rights and obligations to which either of the Parties may be entitled or be subject to shall remain in full force and effect.

**ADDENDUM "A" – GENERAL TERMS AND CONDITIONS**

15.4 Termination shall not affect or prejudice any right to damages or other remedy which Shell may have in respect of the breach which gave rise to the termination or any other right to damages or other remedy which Shell may have in respect of any breach of the Agreement which existed at or before the date of termination.

15.5 Upon termination of the Agreement, Retailer will permit Shell reasonable access onto the Site so that Shell may remove all property provided by Shell for Retailer's use but not ownership.

**16 CONFIDENTIALITY**

16.1 Retailer will treat as strictly confidential (and will not disclose or use other than for the purposes of the performance of its obligations and exercise of its rights under the Agreement) all Confidential Information and all information received or obtained as a result of entering into or performing the Agreement which relates to:

16.2 the negotiations relating to the Agreement;

16.3 the subject matter, provisions or performance of the Agreement;

16.4 the terms of any settlement between the Parties; or

16.5 Shell or any aspect of its business or operations (including without limitation all information contained in the Manual, and any formulation or other information relating to Motor Fuels).

16.6 The confidentiality obligations will continue to apply after the termination or expiry of the Agreement.

**17 COMPLIANCE**

17.1 Retailer will comply with all Applicable Laws in its operation of the Site including, but not limited to, all applicable provincial fuel handling laws.

17.2 Retailer will, and not Shell, identify, secure and pay for all licences, permits and inspections required by Applicable Laws. Retailer will pay all property, business, use, employment, income, harmonized, goods and services, provincial and other taxes attributable to Retailer's operation, ownership or lease, and occupation of the Site. Upon Shell's request, Retailer shall produce a copy of any licences, certificates or other permits relevant to the operation or occupation of the Site.

17.3 All Personal Information collected, used, or disclosed by Retailer will be handled in accordance with the principles of the Personal Information Protection and Electronic Documents Act (Canada) and any applicable provincial privacy legislation. Retailer must protect Personal Information that is in its custody or under its control by making reasonable security arrangements against risks such as unauthorized access, collection, use, disclosure, copying, modification, disposal or destruction. If point of sale receipts become eligible for disposal from time to time, Retailer must destroy all point of sale receipts by shredding and disposing in such a way as to render the receipt unreadable.

17.4 Retailer must be able to demonstrate compliance with its privacy policy and applicable privacy legislation and, upon request, must provide access to records or systems sufficient to verify such compliance. Retailer must promptly notify Shell and cooperate fully in connection with any complaint, claim, investigation, or inquiry regarding the collection, storage, use or disclosure of any customer's Personal Information. Retailer will advise Shell of any request to access a customer's Personal Information if such a request is made by a person, including an organization or government department, other than the individual whose Personal Information is being requested.

**18 LIABILITY & INDEMNITY**

18.1 Retailer will be liable for and will indemnify and hold harmless Shell against all actions, injury, claims, proceedings, liabilities, losses, damages, demands, penalties, fines, costs and expenses (including legal expenses on a solicitor and his own client basis) of every kind and nature whatsoever including:

18.1.1 any injury to, disease or illness suffered by, or the death of, any person whomsoever;

18.1.2 any loss, damage or destruction (including environmental damage) of any property (including Shell's property and the property of any Shell's Affiliates or any third party);

**ADDENDUM "A" – GENERAL TERMS AND CONDITIONS**

- 18.1.3 any and all environmental liabilities, past, current or future, relating to the Site; and
- 18.1.4 any failure by Retailer to comply with any Applicable Laws, or any term or condition of this Agreement;
- 18.2 for or in respect of, or arising in any way whatsoever out of a breach of this Agreement, the acts or omissions of Retailer, its agents or employees, the operation of the Business at the Site and in the performance of the Agreement, save and except to the extent caused by the gross negligence or wilful misconduct of Shell or its employees or agents.
- 18.3 Neither Party shall be liable to the other Party under or in connection with the Agreement for any indirect, special or consequential cost, expense, loss or damage.
- 19 INSURANCE**
- 19.1 Without limitation to Retailer's liabilities, Retailer shall procure and maintain adequate insurance to cover the liabilities set out above including but not limited to:
- 19.1.1 Workers' Compensation — workers' compensation coverage as required by Applicable Law;
- 19.1.2 Commercial General Liability Insurance — including non-owned automobile liability, products and completed operations liability, premises and operations liability, blanket contractual liability, owners and contractors protective liability, with a combined single limit of no less than five million dollars (\$5,000,000.00) for each occurrence for bodily injury, death or property damage
- 19.1.3 Environmental Liability Insurance — with a limit of no less than one million dollars (\$1,000,000.00) for each occurrence; and
- 19.1.4 Automobile Public Liability and Property Damage Insurance — covering all vehicles owned, leased, operated and/or licensed by with a single combined limit of no less than two million dollars (\$2,000,000.00) for each occurrence involving bodily injury, death or property damage, including pollution liability cover.
- 19.2 Retailer, at Shell's cost, shall obtain such additional insurance coverage with insurance carriers satisfactory to Shell as Shell may reasonably require. Retailer shall ensure that any deductible under each policy of such additional insurance is of an amount which is reasonable, taking into consideration the particular type of insurance policy.
- 19.3 Insurance required to be obtained by Retailer under this Agreement shall be primary insurance and shall not seek contribution from or be in excess of any other insurance maintained by Shell.
- 19.4 Any indemnity or relief from or limit on liability in favour of Shell or Retailer under the General Terms and Conditions shall extend to and apply for the benefit of their respective Affiliates, and their Affiliates' directors, employees, officers, servants and agents.
- 19.5 Retailer shall ensure that each insurance policy required to be obtained by Retailer under this Agreement includes a cross liability section and shall name Shell as an "additional insured", save and except any policy which by law an insurer cannot name Shell as an "additional insured".
- 19.6 Retailer shall obtain from each of its insurers a waiver of subrogation in favour of Shell and its Affiliates with respect to losses arising in connection with this Agreement, under each policy of insurance required to be maintained by Retailer hereunder, save and except any policy under which by law an insurer cannot grant a waiver of subrogation.
- 19.7 Retailer shall ensure that any deductible under each policy of Retailer's Insurance is of an amount which is reasonable, giving consideration to the particular type of policy. All required deductible payments under each policy of Retailer's Insurance shall be the responsibility of Retailer. Any deductible payable by Retailer under Retailer's Insurance shall not be reimbursable by Shell.
- 19.8 Upon written request of Shell, Retailer shall cause its insurers to issue certificates of insurance satisfactory to Shell evidencing that the coverages, coverage extensions, policy endorsements, and waivers of subrogation

**ADDENDUM "A" – GENERAL TERMS AND CONDITIONS**

required under this Agreement are in force, and that not less than thirty (30) days' written notice will be given to Shell prior to any cancellation or material change of the policies. If such certificates are not delivered to Shell within fourteen (14) days of Shell's written request, Shell may, at its option terminate this Agreement.

- 19.9 Neither the requirement of Retailer to purchase and maintain insurance, nor Shell's acceptance of evidence of such insurance shall, in any manner, limit or qualify the liabilities and obligations otherwise assumed by Retailer under this Agreement.
- 19.10 Retailer will promptly report to Shell, or as directed by Shell, (a) any claim resulting from or connected with the operation of any Sites under the Agreement, the Sites themselves or any Integrated System or RVI Package at any of the Sites and (b) every serious incident whether or not it may give rise to a claim.
- 19.11 Retailer will ensure full details of every accident or other occurrence that gives or may give rise to a claim are recorded in accordance with the Manual.

**20 SUPPLY DISRUPTION & FORCE MAJEURE**

- 20.1 Shell may apportion or discontinue deliveries of Motor Fuel in the event Shell's or its Affiliates' inventories are or are anticipated to be insufficient to meet its supply obligations to Retailer or to the customers of Shell or Shell's Affiliates. In the event of an anticipated apportionment or discontinuance, Shell will notify Retailer of same within a commercially reasonable period. In such event, Retailer may not use the event as a reason to take supply of motor fuel from a supplier other than Shell without the prior written consent of Shell. Shell will not be required to make up shortages of Motor Fuel supply or be responsible for any economic loss or consequential damages.
- 20.2 The obligations of each of the Parties to the Agreement, other than the obligations to make payments of money, shall be suspended during the period and to the extent that such Party is prevented or hindered from complying with them by Force Majeure, defined below.
- 20.3 In such event, the affected Party shall give notice of suspension as soon as reasonably possible to the other Party stating the date and extent of suspension and the cause. Any Party whose obligations have been so suspended shall resume the performance of such obligations as soon as reasonably possible after the removal of the cause and shall so notify the other Party.

**"Force Majeure"** means:

- 20.3.1 any circumstance, except financial, which is not within the reasonable control of Shell or Retailer or Shell's suppliers as the case may be, including, but not limited to, acts of nature, unavoidable accidents, acts of terrorism or war or conditions arising out of or attributable to war or terrorism; or
- 20.3.2 any curtailment, failure or cessation of supplies of gasoline from any of Shell's or Shell's supplier's sources of supply (whether in fact sources of supply for the purposes of the Agreement or not); or
- 20.3.3 any compliance with any law, regulation or ordinance, or with order, demand or request of any international, national, port transportation, local or other authority or agency, or of anybody or person purporting to be or to act for such authority or agency or any corporation directly or indirectly controlled by any of them; or
- 20.3.4 any strike, lockout or labour dispute (whether or not Shell's or Shell's suppliers, as the case may be, are party to such matter). A labour dispute is beyond a Party's reasonable control if that Party considers settlement incompatible with its best interests.
- 20.4 If, by any reason of any of the Force Majeure events listed above, either the availability from any of Shell's sources of supply of oil, whether deliverable under the Agreement or not, or the normal means of transport of such oil is delayed, hindered, interfered with, curtailed or prevented, then Shell shall be at liberty to withhold, reduce or suspend supplies of Motor Fuel under the Agreement to such extent as Shell in its absolute discretion may think fit, and Shell shall not be bound to purchase or otherwise make good shortages resulting from any such cause. Any additional quantities that Shell does acquire from other suppliers or from alternative sources may be used by Shell at its complete discretion and need not be taken into account by Shell for the purpose of determining the extent to which it is to withhold, reduce or suspend deliveries under the Agreement.

**ADDENDUM "A" – GENERAL TERMS AND CONDITIONS**

20.5 No curtailment or suspension of deliveries, or acceptance of deliveries, pursuant hereto shall operate to extend the Term or to terminate the Agreement. Shipments of petroleum or petroleum products, the delivery of or acceptance of which has been prevented by any of the said Force Majeure events shall be deducted from the amount of Motor Fuel required to be delivered and received hereunder unless otherwise agreed. Retailer may not use any of the Force Majeure events as a reason to take supply of motor fuel from a supplier other than Shell without the prior written consent of Shell. Performance under the Agreement shall resume to the extent made possible by the end or amelioration of any of the Force Majeure events

**21 ENTIRE AGREEMENT**

21.1 The Agreement together with any documents referred to in it constitutes the whole and only agreement between the Parties relating to its subject matter and supersedes and extinguishes any other agreement, document or pre-contractual statement relating to the same subject matter.

21.2 Each Party acknowledges that it has not relied upon any pre-contractual statements in agreeing to enter into the Agreement. Except in the case of fraud or if restricted by law, no Party shall have any right of action against any other Party arising out of or in connection with any pre-contractual statement except to the extent that it is repeated in the Agreement. For the purposes of this section, "pre-contractual statement" includes but is not limited to any agreement, undertaking, representation, warranty, promise, assurance, arrangement or draft of any nature whatsoever, whether or not in writing, relating to the subject matter of the Agreement and which is not repeated in writing or incorporated by reference into the Agreement made at any time before the date of the Agreement.

21.3 A variation to the Agreement shall have no effect unless it is in writing and signed by Shell and Retailer.

**22 NOTICES**

22.1 Unless expressly stated otherwise in this Agreement, any notice to be given under this Agreement must be in writing and delivered to the other Party. Any notice to be given will be deemed to be properly provided if delivered in any of the following modes:

22.2 personally, if to Shell, by delivering notice to Shell's territory manager for the Site and, if to Retailer, by delivering notice to the Retailer's Site. Personally delivered notices are deemed to be received by the addressee where actually received by the territory manager or Retailer's Site, as applicable; and

22.3 by facsimile or email to the Party to which it is delivered at that Party's facsimile number or email address, as applicable. A notice so delivered is deemed to be received by the addressee when transmitted by the Party delivering the notice (provided transmission of the facsimile or email is successful and further provided in the case of email that an acknowledgement is received by the Party delivering the notice) if transmitted during the addressee's normal business hours or on the next business day following transmission if such notice is not transmitted during business hours.

22.4 In order to enable the Parties to communicate with each other by electronic or telephonic means (subject to any requirements of law), Retailer must have at all times during the term of this Agreement:

22.4.1 access to a computer that meets Shell's specifications as notified to Retailer from time to time;

22.4.2 access to the internet;

22.4.3 access to such other electronic and telephonic equipment as is necessary for the purpose of receiving and sending information under this section; and

22.4.4 an active e-mail address (or equivalent contact address as required by Shell from time to time) and will promptly advise Shell of such address and of any change to it.

**23 ASSIGNMENT AND RIGHT OF FIRST REFUSAL**

23.1 Shell may assign or transfer the Agreement and its rights and obligations under it in whole or in part. Retailer expressly agrees that none of the rights and obligations on the part of Shell is capable of performance only by Shell. If Shell assigns this Agreement or any part of it, this Agreement will be conclusively considered to be novated from Shell to the assignee to the extent of the assignment, and Shell will not be responsible for the

**ADDENDUM "A" – GENERAL TERMS AND CONDITIONS**

performance of the assigned obligations that accrue or come due on or after the effective date of the assignment.

- 23.2 Retailer may assign the Agreement, only upon Shell's prior written approval, which approval must be obtained no later than (90) ninety days prior to the proposed assignment.
- 23.3 Shell, at its discretion, may require any or all of the following as conditions of approval of an assignment of this Agreement pursuant to Section 23.2:
- a) Retailer to satisfy all accrued monetary obligations of Retailer to Shell, except those obligations specifically assumed by the assignee;
  - b) Assignee to submit to Shell financial statements and other documentation reasonably required by Shell, sufficient to demonstrate to Shell's satisfaction that the assignee meets Shell's managerial and business standards, possesses good moral character, business reputation and credit rating, has the aptitude to operate the Business, and has adequate financial resources to meet the obligations of Retailer under the Agreement;
  - c) Assignee to complete the Mandatory Training Course in accordance with provisions of Section 10 of this Addendum "A"; and
  - d) Payment by Retailer to Shell of a transfer fee, in the amount of five thousand dollars (**CDN\$5,000.00**), as compensation for the administration related to such assignment.

23.4 Right of First Refusal:

23.4.1 If the Retailer receives a bona fide offer to dispose of the Site, or a part of the Site or the Site together with other property to a third party ("**Third Party Offer**"), the Retailer shall notify the third party that the Retailer must first offer the Site for sale to Shell on identical terms and conditions as the Third Party Offer ("**Retailer Offer**"). Shell will have 30 days after presentation of the Retailer Offer to accept or refuse the Retailer Offer ("**Decision Period**"). If Shell rejects the Retailer Offer, the Retailer may then sell or lease the Site at any time within the next three months but not on terms more favourable to the purchaser than those in the Retailer Offer. After such period, if the Site has not been sold, the Retailer shall re-offer the Site to Shell pursuant to this section before proceeding with any subsequent disposal. The Retailer will permit Shell to protect the right contained in this section by endorsement or registration against the Retailer's title to the Site or other appropriate procedure. If the Third Party Offer involves a trade of any non-monetary consideration or a part of the Site or the Site together with other property, Shell shall be entitled to exercise its option for the Site portion only and the price for the Site shall be at fair market value based on existing use. If fair market value cannot be agreed between the Parties, then it shall be determined by arbitration in accordance with the Arbitration Act in effect at the time of the province where the Site is located. If no such Arbitration Act is in effect, then the Arbitration Act (Alberta) shall govern.

- 23.5 If Retailer disposes of the Site in breach of section 23.3 of this Addendum "A", Shell shall (in addition to any other remedies available at law or pursuant to this Agreement), be entitled to terminate this Agreement under section 14.3.6.

**24 NON-COMPETITION AND CORPORATE INFORMATION**

- 24.1 Unless prior approved by Shell in writing, Retailer shall neither (a) compete, directly or indirectly, with Shell or its' affiliates, nor (b) have, directly or indirectly, a financial interest in any entity which competes against or is in conflict with Shell's and its' Affiliates as a Motor Fuel marketer. Nothing in this Agreement is intended to, or does, prohibit any ownership by the Retailer or any of its shareholders, officers, directors or employees of less than two (2%) percent beneficial interest in the equity securities of any publicly-traded corporation.
- 24.2 Retailer is one of many retail businesses operating outlets for the sale of Motor Fuel and nothing in this Agreement grants Retailer an exclusive right geographically or otherwise to market and resell any Motor Fuel.
- 24.3 The Retailer shall obtain Shell approval prior to making changes to its corporate structure, directors, shareholders, or registered officers or directors.

**25 MISCELLANEOUS**

- 25.1 Shell may send Retailer information about other goods and services offered by Shell and/or by third parties, which Shell believes may be of interest to Retailer. Shell may also provide details of a Retailer name, address and other information as part of a mailing list to third parties to enable them to market goods and services which Shell believes may be of interest to Retailer. Retailers may be contacted about other goods and services by any means, including telephone and e-mail. If Retailer does not wish to receive this information, Retailer must provide Shell with such written notice
- 25.2 The Agreement shall be governed by and construed in accordance with the laws of the province of Canada where the Site is situated, and the laws of Canada applicable therein. Shell and Retailer each irrevocably submits to the exclusive jurisdiction of the courts of such province over any claim or matter arising under or in connection with the Agreement.
- 25.3 No waiver by either Party of any default by the other in carrying out its obligations under the Agreement shall operate or be construed as a waiver of any other or further default, whether of a like or different nature.
- 25.4 Any provision of the Agreement which is held to be void, illegal or unenforceable shall to the extent of such invalidity be deemed severable and the offending provisions excluded and the remaining provisions of the Agreement will be unaffected by such severance.
- 25.5 The parties will execute such further documents or agreements and generally do or cause to be done other acts and things that may be necessary or desirable from time to time to give full effect to the Agreement.
- 25.6 If Retailer omits to do anything required for the proper and punctual performance of the Agreement, Shell may, without prejudice to its other rights, attend to it as it sees fit and Retailer will repay on demand all monies paid and expenses properly and reasonably incurred by Shell or the value of any work carried out by Shell.
- 25.7 The rights and remedies provided by the Agreement are cumulative and are not exclusive of any rights or remedies provided in law, equity or otherwise and shall extend to the Parties, their successor and assigns.
- 25.8 If the Retailer is comprised of more than one party, the obligations of the parties comprising the Retailer are joint and several.
- 25.9 The parties acknowledge and confirm that they have requested and consented to have this Agreement and all communications and documents that may be ancillary to it drafted in the English language exclusively. Les parties reconnaissent et confirment qu'elles ont requis et consenti à ce que la présente convention et toute communication ou document pouvant y être accessoires soient rédigés en anglais exclusivement.

## ATTACHMENT "A.1"

**Business Principles Expectations for Shell Canada Suppliers and Contractors**Introduction

Shell values its relationship with suppliers and contractors as an external resource integral to its business success. Alignment with suppliers and contractors who act with honesty and integrity and abide by applicable laws is fundamental to Shell's compliance with its Statement of General Business Principles.

Shell commits to deal openly and honestly with suppliers and contractors and expects its suppliers and contractors to strive for excellence and professionalism in their dealings with Shell. Following is a summary of the Shell Business Principles fundamental to our relationship with you as a supplier or contractor.

Business Integrity

Shell companies insist on honesty, integrity and fairness in all aspects of their business and expect the same in their relationships with those with whom they do business. The direct or indirect offer, payment, solicitation or acceptance of a bribe in any form is unacceptable.

All business transactions conducted on behalf of a Shell company must be conducted fairly and recorded accurately in accordance with established Shell procedures and policies.

Compliance with Laws

Shell's suppliers and contractors are required to strictly comply with applicable laws and regulatory requirements respecting all aspects of occupational health, safety and the protection of the environment.

Shell companies seek to compete fairly and ethically within the framework of applicable competition laws and expect their suppliers and contractors to do the same.

Conflict of Interest

Shell employees must strictly comply with the provisions of Shell's Code of Ethics governing their dealings with suppliers and contractors. Any activity or arrangement that could compromise their judgement or objectivity in the performance of their duties with Shell must be avoided. It is equally important for Shell employees to avoid apparent conflicts of interest, where a reasonable observer could assume a conflict of interest exists, and therefore a loss of objectivity.

For you, as supplier or contractor, this means not giving inappropriate gifts or entertainment to any Shell employee involved in awarding, approving or administering your contract or work for Shell, and not performing services or favours for their personal benefit. This does not preclude customary gifts and entertainment limited in value; however, any benefit, gift or entertainment in return for which an obligation could be expected or is perceived to be expected, should not be offered or provided.

Reports of Misconduct

Shell employees are expected to report any attempt by a Shell supplier or contractor to influence the honest or objective performance of their Shell duties. Shell also expects suppliers and contractors to report any attempt by a Shell employee to use their control or influence over the business relationship to gain personal advantages. If you find yourself in these circumstances, please report the matter to Shell's Corporate Security department at (403) 691-4327.

Conclusion

Shell's ability to promote its Business Principles effectively will be an instrumental factor in its decision to enter into or remain in supplier and contractor relationships.

To obtain a copy of Shell's Statement of General Business Principles or for any questions respecting these principles please call your Shell contact in Supply Chain Management

## SHELL GENERAL BUSINESS PRINCIPLES



# SHELL GENERAL BUSINESS PRINCIPLES



The Shell General Business Principles govern how each of the Shell companies which make up the Shell Group\* conducts its affairs.

\* Royal Dutch Shell plc and the companies in which it directly or indirectly owns investments are separate and distinct entities. But in this publication, the collective expressions 'Shell' and 'Shell Group' may be used for convenience where reference is made in general to those companies. Likewise, the words 'we', 'us', 'our' and 'ourselves' are used in some places to refer to the companies of the Shell Group in general. These expressions are also used where no useful purpose is served by identifying any particular company or companies.

## LIVING BY OUR PRINCIPLES

The objectives of the Shell Group are to engage efficiently, responsibly and profitably in oil, gas, chemicals and other selected businesses and to participate in the search for and development of other sources of energy to meet evolving customer needs and the world's growing demand for energy.

Our shared core values of honesty, integrity and respect for people underpin all the work we do and are the foundation of our Business Principles.

The Business Principles apply to all transactions, large or small, and drive the behaviour expected of every employee in every Shell company in the conduct of its business at all times.

We are judged by how we act. Our reputation will be upheld if we act in accordance with the law and the Business Principles. We encourage our business partners to live by them or by equivalent principles.

It is the responsibility of management to lead by example, to ensure that all employees are aware of these principles, and behave in accordance with the spirit as well as with the letter of this statement.

The application of these principles is underpinned by a comprehensive set of assurance procedures, which are designed to make sure that our employees understand the principles and confirm that they act in accordance with them.

As part of the assurance system, it is also the responsibility of management to provide employees with safe and confidential channels to raise concerns and report instances of non-compliance. In turn, it is the responsibility of Shell employees to report suspected breaches of the Business Principles to Shell.

The Business Principles have for many years been fundamental to how we conduct our business and living by them is crucial to our continued success.

Ben van Beurden  
Chief Executive Officer

## ADDENDUM "A" – GENERAL TERMS AND CONDITIONS



## OUR VALUES

Shell employees share a set of core values – honesty, integrity and respect for people. We also firmly believe in the fundamental importance of trust, openness, teamwork and professionalism, and pride in what we do.

## SUSTAINABLE DEVELOPMENT

As part of the Business Principles, we commit to contribute to sustainable development. This requires balancing short- and long-term interests, integrating economic, environmental and social considerations into business decision-making.

## RESPONSIBILITIES

Shell companies recognise five areas of responsibility. It is the duty of management continuously to assess the priorities and discharge these inseparable responsibilities on the basis of that assessment.

### a. To shareholders

To protect shareholders' investment, and provide a long-term return competitive with those of other leading companies in the industry.

### b. To customers

To win and maintain customers by developing and providing products and services which offer value in terms of price, quality, safety and environmental impact, which are supported by the requisite technological, environmental and commercial expertise.

### c. To employees

To respect the human rights of our employees and to provide them with good and safe working conditions, and competitive terms and conditions of employment.

To promote the development and best use of the talents of our employees; to

create an inclusive work environment where every employee has an equal opportunity to develop his or her skills and talents.

To encourage the involvement of employees in the planning and direction of their work; to provide them with channels to report concerns.

We recognise that commercial success depends on the full commitment of all employees.

### d. To those with whom we do business

To seek mutually beneficial relationships with contractors, suppliers and in joint ventures and to promote the application of these Shell General Business Principles or equivalent principles in such relationships. The ability to promote these principles effectively will be an important factor in the decision to enter into or remain in such relationships.

### e. To society

To conduct business as responsible corporate members of society, to comply with applicable laws and regulations, to support fundamental human rights in line with the legitimate role of business, and to give proper regard to health, safety, security and the environment.

### Principle 1

#### Economic

Long-term profitability is essential to achieving our business goals and to our continued growth. It is a measure both of efficiency and of the value that customers place on Shell products and services.

It supplies the necessary corporate resources for the continuing investment that is required to develop and produce future energy supplies to meet customer needs. Without profits and a strong financial foundation, it would not be possible to fulfil our responsibilities.

Criteria for investment and divestment decisions include sustainable development considerations (economic, social and environmental) and an appraisal of the risks of the investment.

**Principle 2****COMPETITION**

Shell companies support free enterprise. We seek to compete fairly and ethically and within the framework of applicable competition laws; we will not prevent others from competing freely with us.

**Principle 3****BUSINESS INTEGRITY**

Shell companies insist on honesty, integrity and fairness in all aspects of our business and expect the same in our relationships with all those with whom we do business. The direct or indirect offer, payment, soliciting or acceptance of bribes in any form is unacceptable. Facilitation payments are also bribes and must not be made. Employees must avoid conflicts of interest between their private activities and their part in the conduct of company business. Employees must also declare to their employing company potential conflicts of interest. All business transactions on behalf of a Shell company must be reflected accurately and fairly in the accounts of the company in accordance with established procedures and are subject to audit and disclosure.

**Principle 4****POLITICAL ACTIVITIES****a. Of companies**

Shell companies act in a socially responsible manner within the laws of the countries in which we operate in pursuit of our legitimate commercial objectives.

Shell companies do not make payments to political parties, organisations or their representatives. Shell companies do not take part in party politics. However, when dealing with governments, Shell companies have the right and the responsibility to make our position known on any matters, which affect us, our employees, our customers, our shareholders or local communities in a manner, which is in accordance with our values and the Business Principles.

**b. Of employees**

Where individuals wish to engage in activities in the community, including standing for election to public office, they will be given the opportunity to do so where this is appropriate in the light of local circumstances.

**Principle 5****Health, Safety, Security and the Environment**

Shell companies have a systematic approach to health, safety, security and environmental management in order to achieve continuous performance improvement.

To this end, Shell companies manage these matters as critical business activities, set standards and targets for improvement, and measure, appraise and report performance externally.

We continually look for ways to reduce the environmental impact of our operations, products and services.

**Principle 6****LOCAL COMMUNITIES**

Shell companies aim to be good neighbours by continuously improving the ways in which we contribute directly or indirectly to the general wellbeing of the communities within which we work.

We manage the social impacts of our business activities carefully and work with others to enhance the benefits to local communities, and to mitigate any negative impacts from our activities.

In addition, Shell companies take a constructive interest in societal matters, directly or indirectly related to our business.

**Principle 7****Communication and Engagement**

Shell companies recognise that regular dialogue and engagement with our stakeholders is essential. We are committed to reporting of our performance by providing full relevant information to legitimately interested parties, subject to any overriding considerations of business confidentiality.

In our interactions with employees, business partners and local communities, we seek to listen and respond to them honestly and responsibly.

Principle 8

**COMPLIANCE**

We comply with all applicable laws and regulations of the countries in which we operate.

**ATTACHMENT "A.2"**

**ESSENTIAL SITE IMPROVEMENTS**

(Retailer's Responsibility)

<b>Location No. C22354 GID: 10053426</b>	
<u>Description of Improvements</u>	<u>Due Date</u>
Upgrade C-store with painting and repairing any exterior signage;	December 31, 2021
Repair any damage to the forecourt asphalt and islands;	December 31, 2021
Ensure pumps are in perfect working condition.	December 31, 2021

## ATTACHMENT "A.3"

## LISTED RVI COMPONENTS

Location No. C22354 GID: 10053426		
<u>Scope Element</u>		<u>Description</u>
<b>Primary ID Sign</b>		
	Monolith	
	Other Large Signs	
	Painting	
<b>Canopy</b>		
	Fascia	Repair canopy red bar and pylon sign;
	Level 1 fascia system	
	Level 2 fascia system	
	Pecten(s)	
	Canopy columns	
	Dispenser Numbers	
	Diesel Column Signs	
	Clearance Bars	
<b>Forecourt</b>		
	Dispensers	
	Product Banners	
	Valences	Standard Shell Valences for _____ dispensers;
	Lower Door Panels	
	Dispenser side riser panels	Body panels for dispensers.
	Nozzle Handwarmers and Splashguards	
	Base of dispensers	
	Pump Toppers	
	Gorrie Equipment	
	Leader Board	
	HSE Panel	
	Island forms and/or curbs	
<b>Building</b>		
	Food Mart Sign Panel	
	Branding Fascia	
	Painting	
<b>Miscellaneous</b>		
	Area Light Poles	
	Bollards	
	Air, water and vacuum units	
	Ice Merchandiser	
	Propane cage	
	Low Level sign	
	Poster Unit	
	Dispenser filters	
	UST Vent Piping	

**ATTACHMENT "A.4"  
SITE BUSINESS HOURS**

You agree to operate your business for the sale of Motor Fuels at the Site in accordance with the following hours of operation:

<b>Gas Bar</b>	
<b>Location No. C22354 GID: 10053426</b>	Monday to Friday: 6:00am to 10:00pm  Saturday and Sunday: 6:00am to 10:00pm  Statutory Holidays: 6:00am to 10:00pm

## TRANSACTION CARD ADDENDUM

### 1 DEFINITIONS

Capitalized terms used in this Transaction Card Addendum that are not defined herein are defined in Addendum "A".

**"Transaction Institution"** means any entity that:

- (i) issues the Transaction Card;
- (ii) acquires the receivables or claims arising from a transaction using the Transaction Card;
- (iii) provides the (bank) account for the use of the Transaction Card;
- (iv) acts as an agent for anybody that provides one of the services in (i) to (iii); or
- (v) acts in a function similar to the ones in (i) to (iv) with respect to the Transaction Card.

**"Transaction Card Fee"** is as detailed in section 3 below.

### 2 APPLICATION

- 2.1 This Addendum applies only in the case where Shell has elected to either process Transaction Card transactions or to have the primary relationship with a Transaction Institution for the processing of Transaction Cards. In all other cases, this Addendum does not apply.

### 3 TRANSACTION CARD FEE

- 3.1 Retailer shall pay Shell the Transaction Card Fee as follows:

- 3.1.1 on Visa and MasterCard credit card purchase transactions, 1.80% of the total amount purchased including G.S.T./H.S.T.;
- 3.1.2 on AMEX credit card purchase transactions, 2.00% of the total amount purchased including G.S.T./H.S.T.;
- 3.1.3 on B2B card purchase transactions, 2.2% of the total amount purchased including G.S.T./H.S.T.; and
- 3.1.4 on debit card purchase transactions, \$0.09 per customer transaction.

- 3.2 On credit card refund transactions, Shell will return the portion of the Transaction Card Fee related to the returned item(s).

- 3.3 The Transaction Card Fee may be amended by Shell upon thirty (30) days' prior written notice to Retailer.

### 4 ACCEPTANCE AND PROCESSING

- 4.1 Retailer agrees to accept all Transaction Cards and certain methods of payment designated by Shell and, in relation thereto, abide by this Addendum, the Method of Payment Guide and the Manual. In the case of an inconsistency between the Method of Payment Guide and the Manual, the Method of Payment Guide shall prevail.
- 4.2 Retailer shall not charge customers any fee for using a Transaction Card.
- 4.3 Shell shall be entitled to deduct from the Retailer's share of Transaction Card transaction proceeds a sum reflecting losses from any such transactions arising from the Retailer's failure to follow procedures specified by Shell in the Method of Payment Guide, Manual or in Attachments to this Addendum or by the relevant Transaction Institution, whether such losses are due to fraud or improperly verified Transaction Cards or similar causes or other circumstances resulting in a chargeback by the Transaction Institution. Specific procedures for these charged back transactions are detailed in the Method of Payment Guide or the Manuals.
- 4.4 In the event where a Transaction Card cannot be authorized using the POS Equipment, Retailer must follow the alternative authorization procedure detailed in the Method of Payment Guide. Retailer will be liable for any loss or

damage whatsoever resulting from the Retailer's failure to follow such procedure.

**5 POS EQUIPMENT**

5.1 Retailer shall use only the Shell-specified POS Equipment to process Transaction Card transactions.

**6 PROMOTION OF SHELL CARDS BY RETAILER**

6.1 Retailer shall actively promote and support the marketing of Shell Cards as required by Shell.

**7 AMENDMENT & TERMINATION**

7.1 Shell may, at any time upon reasonable notice in writing to Retailer, amend this Transaction Card Addendum and parts of the Method of Payment Guide and the Manual relating hereto. Such amendments may include, but are not limited to, changes in the specified Transaction Card types that Shell has elected to process, Transaction Card processing fees and Transaction Card handling procedures.

7.2 Shell may terminate this Transaction Card Addendum upon ninety (90) days' prior written notice to Retailer. The termination of this Transaction Card Addendum alone shall not affect the validity of the Retailer Supply Agreement or any other Addendum or Schedule thereto.

**IT SYSTEM SUPPORT AGREEMENT**

**WHEREAS:**

- A. The Retailer operates, or will operate, a Shell-branded retail service station at the Site and has purchased the POS Equipment from Shell for its use in its retailer service station business;
- B. The Retailer and Shell acknowledge that certain POS Equipment-related software, Network Hardware, maintenance and support are necessary for the operation of the POS Equipment and therefore Shell agrees to provide, and the Retailer agrees to accept, the Software and the Services, on the terms and conditions set out in this Agreement.

**IN CONSIDERATION OF THE FOREGOING PREMISES**, the mutual benefit of the relationship between Shell and Retailer, and other good and valuable consideration, the parties hereto agree as follows.

**IT IS AGREED THAT:**

**1. DEFINITIONS**

1.1 In this Agreement, the capitalized terms have the following meanings:

- "Agreement"** this POS Equipment-related Agreement and all schedules belonging hereto;
- "Effective Date"** the date of execution of this Agreement;
- "G.S.T. or H.S.T."** goods and services tax or harmonized sales tax, as applicable, imposed under part IX of the Excise Tax Act (Canada), as amended, or any successor or parallel legislation including regulations;
- "Integrated System"** the system of POS Equipment, Software, Secure Network and all related applications, network connections and other such facilities that facilitate the control and operation of the Site's fuel dispensing system and the processing of payment transactions at the Site. For clarity, Integrated System does not include the fuel dispenser equipment or any software or facility contained therein;
- "IT System"** either the Integrated System or the Non-Integrated System, whichever is applicable to the Retailer under this Agreement;
- "Manuals"** the operating and reference manuals relating to the POS Equipment and the Software;
- "Network Hardware"** means the ADSL, satellite box and other components each owned by Shell, as may form a part of the Secure Network from time to time;
- "Non-Integrated System"** the system of POS Equipment, Software, Secure Network and all related applications, network connections and other such facilities that facilitate the processing of payment transactions at the Site. For clarity, the Non-Integrated System is not connected to the fuel dispensers;
- "POS Equipment"** the:
  - (a) hardware purchased by the Retailer from Shell under the POS Equipment Purchase Agreement for use at the Site; and
  - (b) the Network Hardware provided to the Retailer for its use but owned by Shell;
- "Secure Network"** the telecommunications infrastructure, as specified by Shell, that facilitates the operation of the IT System, including the Network Hardware;

## ADDENDUM "C" – IT SYSTEM SUPPORT AGREEMENT

<b>"Services"</b>	the POS Equipment- and Software-specific maintenance and support services and the Secure Network-specific services all further described in Schedule "B", separately or both, depending on the context;
<b>"Software"</b>	all software, and Upgrades and Updates thereto, dictated by Shell including, but not limited to, the proprietary Radiant POS software (includes POS, Scanning licence, and Fuel Control licence), Microsoft Office, Winzip, Roxio RecordNow, Symantec Anti-Virus, and Microsoft XP;
<b>"Update"</b>	a patch that corrects defects or deficiencies in Software or to provide minor modifications that do not substantially change the basic character or structure of Software; and
<b>"Upgrade"</b>	an incremental release of Software that provides significant improvements (not merely corrections for Software defects and deficiencies) and changes the basic character or structure of Software.

## 2. TERM, SUSPENSION & TERMINATION

- 2.1 This Agreement is effective from the Effective Date and shall continue for as long as the Retailer operates a Shell-branded retail service station and uses the POS Equipment in its retail service station business at the Site, unless:
- (a) the Agreement is earlier terminated at any time with the consent of each party;
  - (b) an agreement between the parties in connection to the supply of Shell-branded fuels expires or terminates;
  - (c) the Retailer fails to pay the amounts due to Shell under this Agreement, which failure is not cured within ten (10) days of the Retailer's receipt of written notice from Shell that such amount has not been paid, in which case this Agreement terminates at the expiry of such ten-day period;
  - (d) the Retailer materially breaches its obligations under this Agreement and fails to commence, or having commenced, fails to continue to remedy the breach within fourteen (14) days from the date of Shell's notice of breach to the Retailer, in which case this Agreement terminates at the expiry of such fourteen-day period; or
  - (e) Shell terminates the Agreement for any reason upon ninety (90) days' prior written notice.
- 2.2 Shell may, in its reasonable discretion, immediately suspend the Retailer's access to and use of all or part of the IT System. Shell shall provide reasonable prior notice of such suspension unless Shell, in its reasonable discretion, determines that prior notice cannot be provided.
- 2.3 Upon termination of this Agreement for any reason, all rights and licences granted by Shell to the Retailer under this Agreement shall immediately cease and the Retailer shall immediately return to Shell all Shell property affected by such termination including, but not limited to, the Software, imprinter, the Network Hardware, the Software-related Manuals and any other like facilities, together with all copies thereof.
- 2.4 Upon termination of this Agreement for any reason, the Retailer shall pay Shell all amounts due to Shell and shall permit Shell, or Shell's designated contractors, access to the Retailer's Site in order for Shell to co-ordinate removal of the Software, Network Hardware and all Shell property not returned pursuant to clause 2.3 above.
- 2.5 The covenants, conditions and provisions contained in this Agreement including audit rights and indemnities survive termination and expiry of this Agreement for the benefit of the party to whom they are given. In addition, the expiry or termination of this Agreement does not discharge or

**ADDENDUM "C" – IT SYSTEM SUPPORT AGREEMENT**

release either party from any liability or obligation accrued at the time of such expiry or termination or continuing beyond or arising out of such expiry or termination.

**3. SOFTWARE LICENCE**

3.1 Subject to the terms and conditions of this Agreement, Shell grants to the Retailer the limited, non-exclusive, non-transferable right to use the Software and the Manuals in conjunction with the Retailer's use of the POS Equipment.

3.2 Except as otherwise expressed in this Agreement, no express or implied licence or right of any kind is granted to the Retailer regarding the Software including, but not limited to, any right to use, produce, receive, reproduce, copy, market, sell, distribute, transfer, translate, modify or adapt the Software or Manuals or create derivative works based on the Software or other technical material relating to the Software. Further, the Retailer shall not decompile, reverse assemble or otherwise reverse engineer the Software.

**4. SECURE NETWORK**

4.1 Subject to the terms and conditions of this Agreement and any other applicable agreements between the parties, and the Retailer promptly notifying Shell in the event that the IT System is not working, Shell shall install and for the duration of this Agreement, provide the Site access to the Secure Network with Shell's approved Secure Network provider.

4.2 Shell specifies, and the Retailer agrees, that the type of Secure Network required by Shell is Shell approved terrestrial ADSL, which Shell shall install wherever possible. Shell may, in the alternative, acting in its sole discretion, approve satellite as the Retailer's Secure Network upon the Retailer's request, in which case a dedicated back up link is required. In the event that the Retailer is not prepared to pay for the installation and maintenance of a dedicated back up link, and Shell waives this requirement, the Retailer agrees that Shell assumes no responsibility or liability whatsoever caused due to disruption to the IT System through the absence of such back up or the use of an alternative non-dedicated line, notwithstanding Shell's waiver.

**5. TRAINING**

5.1 Unless otherwise provided by Shell, training in the IT System shall be provided and taken in accordance with this section. Prior to the operation of the IT System at the Site, Shell shall provide, and Retailer must attend, training on the IT System. Training shall be provided in a classroom setting, on-site or any other setting as determined by Shell.

5.2 Classroom instruction for one Retailer representative will be provided by Shell at the cost of \$0. Shell may, in its sole discretion, permit further Retailer representatives to attend training and Retailer is subject to additional costs for such additional training.

5.3 On-site training at the Retailer's Site shall be offered at Retailer's expense. There will be an attendee maximum placed upon the Retailer for on-site training of two participants per Site.

**6. USE OF THE IT SYSTEM**

6.1 *Authorized Access & Use* — The Retailer shall access and use the IT System for the sole purpose of conducting the Retailer's service station business operations in accordance with the terms and conditions of this Agreement and with any related rules set out by Shell, including those set out in Shell's Dealer Web, or its replacement. The Retailer further agrees not to access or use the IT System for any illicit purpose or purpose unrelated to the Retailer's service station business operations at the Site.

6.2 *Authorized Users* — The Retailer shall appoint only suitably qualified authorized person(s) to access and use the POS Equipment-related back office equipment at the Site ("**Authorized**

## ADDENDUM "C" – IT SYSTEM SUPPORT AGREEMENT

**User**") who have executed the Authorized User Systems Access Commitment attached as Schedule "B". An Authorized User must be a person that is the Retailer's employee, agent, contractor or representative or has the authority to bind the Retailer with his or her actions when he or she accesses the IT System. It is the Retailer's responsibility to ensure that the Authorized User Systems Access Commitment is signed by each and every Authorized User and their replacements from time to time, and to ensure that signed copies are kept at the Site.

6.3 *User-ID and Password* — The Retailer shall:

- (a) ensure that no person other than an Authorized User uses the Retailer's user-identifier and password to access the IT System and keep the Retailer's user-identifier and password strictly confidential;
- (b) properly log-out of the IT System immediately upon completion of each access session;
- (c) take reasonable measures to prevent the occurrence of a non-Authorized User accessing the Retailer's user-identifier or password;
- (d) inform Shell immediately if the Retailer suspects that a non-Authorized User might know or might have had access to the Retailer's user identifier or password; and
- (e) shall be liable for all activity conducted during a session using the user-identifier and password regardless of whether the user is an Authorized User or not.

6.4 *Remote Access* — The Retailer shall not use any software or hardware modification to access the IT System from a location other than the Site without Shell's prior written approval.

6.5 *Security* — The Retailer shall provide a secure accommodation for the IT System and take reasonable measures to prevent damage to, or adverse interference with, the IT System, and shall not provide or otherwise make the IT System available, in whole or in part, in any form to any person other than an Authorized User.

6.6 *Viruses* — The Retailer shall take reasonable measures to prevent the introduction or propagation of viruses or other malicious computer codes into the IT System, ensure that all computer software and data files provided to Shell are free from viruses and other malicious computer codes; and notify Shell immediately of any discovery of a virus or other malicious computer code at the Site which has or could affect the IT System.

6.7 *POS Equipment* — The Retailer shall not modify, alter, disable, add to, or remove from the Site the POS Equipment or connect the POS Equipment in any way to any other network without Shell's prior written approval or direction.

6.8 *Software and related facilities* — The Retailer shall not copy, modify, add to or remove from the Site any Software or any other facilities without Shell's prior written approval. The Retailer shall not install, and shall remove immediately upon Shell's direction, any non-standard or unauthorized software from the IT System and bear any costs associated therewith.

## 7. SERVICES

7.1 Subject to the terms and conditions of this Agreement, Shell will provide the Retailer with the POS-Equipment and Software-related Services and the Secure Network related Services detailed in Schedule "A".

7.2 The Retailer shall permit Shell, its employees, contractors, agents or representatives reasonable access to the Site and the IT System, in person or remotely as required by Shell, for the purpose of carrying out these Services.

## ADDENDUM "C" – IT SYSTEM SUPPORT AGREEMENT

- 7.3 The Retailer shall participate, as deemed necessary by Shell, in the maintenance and repair of the IT System from time to time. Such maintenance may include, but is not limited to, Upgrades, restorations, changes or enhancements.
- 7.4 The Retailer its employees, contractors, agents or representatives shall not relocate nor re-install any of the POS Equipment without first having obtained Shell's prior written consent, which relocation or installation of the POS Equipment shall be undertaken by a Shell approved third party provider at the sole cost and expense of the Retailer. Notwithstanding the foregoing, in the event that Shell is required to attend at the Retailer's Site for the purposes of relocating, upgrading, removing, storing or re-installing any of the POS Equipment, then Shell shall have the right to charge the Retailer for any time and expenditures incurred by Shell together with a five (5%) percent administrative charge calculated on such time and expenditures, as a result of the aforementioned activities and the Retailer shall reimburse Shell forthwith upon receipt of an invoice therefor.

**8. SERVICE LIMITATIONS**

- 8.1 Shell may refuse to provide Services when, in Shell's reasonable opinion, conditions at the Site are hazardous to the safety or health of Shell, its employees, subcontractors, representatives or agents.
- 8.2 Further limitations to Services are set out in Schedule "A".

**9. IT-SYSTEM TYPE-DEPENDENT FEES & PAYMENT**

- 9.1 The monthly fee plus applicable taxes (collectively the "Fee") for all Software licences and Services provided for in this Agreement and payable by Retailer to Shell is contingent on whether the Retailer has an Integrated System or a Non-Integrated System installed plus the number of additional pos devices installed at the Site. Accordingly, the base fee (exclusive of all applicable taxes) for each of the Integrated System, Non-Integrated System and each additional pos device is as follows:

Integrated Sytem:	\$475.00
Non-Integrated System:	\$275.00
Each Additional POS Device:	\$50.00

The type of IT System and number of additional pos devices installed at the Site as well as the Fee will be determined by Shell in accordance with its records, which shall be determinative.

- 9.2 Each party shall be liable for and shall pay all G.S.T. or H.S.T., as applicable, and any applicable provincial sales tax payable upon and in connection with any amounts payable by such party in accordance with the Excise Tax Act (Canada) and any applicable provincial legislation. Shell shall invoice all taxes to Retailer as a separate line item in any invoices. Retailer warrants that it is a G.S.T., or H.S.T. as applicable, registrant under the Excise Tax Act (Canada).
- 9.3 The Fee plus all applicable taxes shall be paid to Shell monthly, in arrears, by electronic fund transfer drawn from the Retailer's bank account to Shell's bank account. Interest shall accrue, and be payable by Retailer, at a rate of two percent (2%) per month or twenty four percent (24%) per year on any payment past due.
- 9.4 The Retailer agrees that Shell may amend the Fee at any time during the term of this Agreement upon sixty (60) days' prior written notice. Shell will not increase the Fee within the first year of the Effective Date of this Agreement and will not increase the Fee more than once in a twelve month period during the term of this Agreement.
- 9.5 Shell may at any time without notice to the Retailer set off any liability of the Retailer to Shell against any liability of Shell to the Retailer (in either case howsoever arising and whether any such liability is present or future, liquidated or unliquidated). Any exercise by Shell of its rights

under this set-off provision is without prejudice to any other right or remedy available to Shell under this Agreement or otherwise.

## 10. LIABILITY & INDEMNITY

- 10.1 In no event shall Shell or any of its officers, directors, employees, agents or representatives be liable to the Retailer for any special, indirect, incidental, exemplary or consequential damages including loss of profits, loss of business or loss of revenue in any way relating to this Agreement or resulting from the use and acceptance of or inability to use the Software, Services or training provided by Shell or the performance or non-performance of any Services or training even if Shell has been notified of the possibility or likelihood of such damages occurring, and whether such liability is based on contract, tort, negligence, strict liability, products liability or otherwise.
- 10.2 In no event will Shell's liability for any damages to the Retailer ever exceed the amount of fees and charges paid by the Retailer under this Agreement regardless of the form of action, whether based on contract, tort, negligence, strict liability, products liability or otherwise. This limitation of liability, however, will not apply to claims arising from Shell's gross negligence or willful misconduct or to claims of intellectual property infringement set out further in this section.
- 10.3 Shell shall not be held responsible for misuse or incorrect operation of the Software, use of the Software by untrained personnel or improper entry of data in connection with the Software. The Retailer agrees that the use of any equipment outside the manufacturer's recommended specifications may seriously affect the performance of the Software. Shell shall not be held liable or responsible for external environmental conditions that may affect the performance of the Software including, but not limited to, loss or interruption of power.
- 10.4 (a) Shell will defend the Retailer against any claim that the Software infringes a patent or copyright and, subject to the limitation of liability set out in this Agreement, will pay all costs, damages and legal fees that a court finally awards as a result of a determination of patent or copyright infringement.
- (b) The indemnification set out in this clause is conditional upon the following: (i) the Retailer providing Shell notice of any claim or cause of action upon which the Retailer intends to base a claim of indemnification hereunder within twenty-one (21) days of written notice of the claim or cause of action (or earlier, if known and reasonably required to prevent Shell's ability to defend such claim or from otherwise being prejudiced) or twenty-one (21) days from the date the Retailer had reasonable knowledge of the claim or cause of action, whichever is earlier; (ii) Shell being given sole control of the defence but shall notify Retailer prior to any related settlement negotiations or admittance of liability relating to such claim or action in which the Retailer is named as a party; and (iii) the Retailer providing reasonable assistance and cooperation to enable Shell to defend the claim or action.

## 11. WARRANTY

- 11.1 Shell warrants that it has the right to grant licence to the Retailer to use the Software without violating the rights of any third party.
- 11.2 Shell does not warrant that the Software will operate in conjunction with equipment or software that is neither provided by nor formally approved by Shell or that the operation of the IT System will always be uninterrupted or problem- or error-free.
- 11.3 The Retailer understands and agrees that except for the express warranties stated in this Agreement, Shell has not made and herein makes no representation of any nature to the Retailer as to the fitness of any component of the Software or the IT System or any replacement, or upgrade thereto, for its proper operation, use or purpose in association with the Services or for

**ADDENDUM "C" – IT SYSTEM SUPPORT AGREEMENT**

any other purpose to which the Retailer may have paid for, directly or indirectly, or allowed the installation at the Site.

- 11.4 In consequence of clause 11.3, the Retailer releases Shell, its representatives, agents and employees from any liability whatsoever and undertakes to indemnify them and keep them harmless of any claim, including any claim by a third party, for any direct or indirect losses or damages of any kind, sustained and/or caused to or by the IT System or by its use and operation whether associated or not with the IT System, and without restricting the generality of the foregoing, the Retailer further undertakes to indemnify Shell, its representatives, agents and employees and keep them harmless of any claim, loss or damage, whether direct or indirect, and to assume full liability arising from any damage caused by the IT System or by the maintenance, use or non-use, operation or non-operation by any persons whomsoever, whether associated or not with the IT System.

**12. SUBCONTRACTORS & ASSIGNMENT**

- 12.1 Shell may subcontract or otherwise delegate any portion of the Services to any third party without the prior written approval of the Retailer. Shell shall be fully liable to the Retailer for the complete performance of all Services, which are performed by a Shell authorized third party subcontractor.
- 12.2 The Retailer may not assign or transfer any or all of its rights or obligations hereunder in whole or in part to a third party without the prior written consent of Shell, which consent shall not be unreasonably withheld. Shell's consent to any assignment shall not relieve the Retailer from its obligations accrued at the time of assignment or from any liability or obligation continuing beyond or arising out of such assignment.

**13. RIGHT TO AUDIT**

- 13.1 Shell has the right to audit, at its own expense, upon reasonable notice, the Retailer's operations and equipment for the purpose of verifying the proper performance by the Retailer of its obligations under this Agreement.

**14. FORCE MAJEURE**

- 14.1 Each party is relieved of its obligations under this Agreement to the extent and for the time that its performance is delayed or prevented by any cause (except financial) beyond its reasonable control. A party whose performance obligations is delayed or prevented by circumstances beyond its reasonable control shall immediately notify the other party of the nature, extent, effect and likely duration of such circumstances.

**15. GENERAL**

- 15.1 *Relationship* — The Retailer is an independent contractor. The parties specifically and expressly disclaim any intention to create a partnership or to constitute any party as the agent of the other. Nothing in this Agreement shall result in a party being a partner of the other party nor impose any partnership obligation on any party.
- 15.2 *No Waiver* — Either party's right to require strict performance shall not be affected by any previous waiver or course of dealing.
- 15.3 *Severability* — The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.
- 15.4 *Other Acts* — The parties shall from time to time and at all times do all such further acts and execute and deliver all such further deeds and documents as shall be reasonably required in order to fully perform and carry out the terms of this Agreement.

**ADDENDUM "C" – IT SYSTEM SUPPORT AGREEMENT**

- 15.5 *Survival* — The expiry or termination of this Agreement will not discharge or release the Retailer or Shell from any liability or obligation accrued at the time of such expiry or termination or from any liability or obligation continuing beyond or arising out of such expiry.
- 15.6 *Governing Laws* — This Agreement shall be governed by and construed in accordance with the laws of the Province in which the Site is located and the laws of Canada applicable therein. Shell and the Retailer each irrevocably submits to the exclusive jurisdiction of the courts of the Province of Alberta over any claim or matter arising under or in conjunction with this Agreement.
- 15.7 *English Language* — The parties declare that it is their express wish that this Agreement be drawn up in English and that all documents relating to, contemplated by or resulting from this Agreement be drawn up in English. Les parties déclarent qu'il est leur volonté expresse que ce contrat soit rédigé en anglais et que tous documents s'y rattachant out ayant trait ou suite au présent contrat soient rédigés en anglais.

**SCHEDULE "A"****SERVICES****1. General**

- 1.1 Shell will provide both maintenance and support Services as detailed in this Schedule.
- 1.2 If the Retailer requires support Services, the Retailer may call the toll-free Site Systems Service Desk provided by Shell which provides the Retailer with bilingual (French and English) IT System support available 24 hours a day, 7 days a week.
- 1.3 The Site Systems Service Desk call centre support will trouble shoot to diagnose the IT System problem which may require remote connection to the Retailer's IT System. The Site Systems Service Desk call centre support may either resolve the problem or escalate the problem to higher levels of support for further investigation and resolution.
- 1.4 The service levels provided by Shell will depend on whether the IT System problem is POS Equipment or Software-related or Secure Network-related. Shell will provide Service in accordance with the levels provided in this Schedule.
- 1.5 The Retailer shall facilitate Shell's provision of Services by doing the following or any other act deemed necessary by Shell to provide Services:
  - 1.5.1 promptly report any issues to the Site Systems Service Desk call centre;
  - 1.5.2 promptly respond to, and implement, any advice given by the call centre;
  - 1.5.3 allow Shell to remotely connect to the IT System;
  - 1.5.4 allow Shell to perform on-Site activities; and
  - 1.5.5 accept that the Retailer may experience downtime during the provision of Services.

**2. Services — Software Maintenance**

- 2.1 Shell will provide both maintenance and support Services as detailed in this Schedule. Shell will install Software Upgrades and Updates, as available, on the Retailer's IT System, which versions will be determined solely by Shell.

**3. Services — POS-Equipment, Software and Secure Network Support**

- 3.1 Shell shall resolve any POS Equipment-, Software- and Secure Network-related problems as soon as commercially reasonable.
- 3.2 Where the IT System problem is diagnosed as a POS Equipment-related problem, Shell may resolve the problem while physically at the Retailer's Site. The Retailer acknowledges that replacement of POS Equipment components with either new or like-new components, as solely determined by Shell, may be necessary. The cost for such replacement will be at Shell's cost subject, however, to the limitations set out below.

**4. Service Limitations**

4.1 The following are outside the scope of Services to be provided by Shell under this Agreement:

4.1.1 repair or replacement of damage to or the malfunction of the POS Equipment arising from:

4.1.1.1 relocation of the POS Equipment done without Shell's prior written consent;

4.1.1.2 the attachment of any device not specifically designed to function with the POS Equipment without Shell's prior written consent;

4.1.1.3 the use of the POS Equipment in a manner other than what it was designed for; or

4.1.1.4 unreasonable wear and tear or Retailer's negligence or misconduct;

4.1.1 errors to the IT System caused by pump issues, whether hardware or software related;

4.1.2 electrical work external to the POS Equipment and Secure Network-specific hardware;

4.1.3 the replacement cost of supplies required for the operation of the POS Equipment such as removable print heads, diskettes, and batteries but not point of sale ribbon/paper (including CAPS ribbon/paper) and cleaning cards, which Shell will provide at no additional cost to the Retailer; and

4.1.4 any other service not expressly set out in this Schedule.

4.2 In the event that Shell incurs time and expense in identifying out of scope issues arising from any of the service limitations stated in paragraph 4.1 of this Schedule, Shell reserves the right to charge the Reseller for such time and expenditure at its then applicable time and materials rates.

**SCHEDULE "B"**

**AUTHORIZED USER IT SYSTEM ACCESS COMMITMENT**

TO: SHELL CANADA PRODUCTS

I, \_\_\_\_\_, am employed by, or work under contract with, \_\_\_\_\_, the Retailer.

In consideration of being permitted to access and use the IT Systems, I hereby confirm that:

1. I have been appointed as an Authorized User of the IT Systems by Retailer.
2. I understand that the Retailer and Shell Canada Products have agreed to certain terms relating to the use of the POS Equipment-related IT System for the retail service station business at which I am employed.
3. I will keep strictly confidential all knowledge and information which I may acquire in my capacity as an Authorized User or from my access to or use of the IT Systems including, without limitation, such terms (collectively, "**Confidential Information**") and I will not disclose any Confidential Information to any person.
4. I understand and acknowledge that the obligation of confidentiality described in paragraph 3 above shall survive the termination or completion of my employment relationship with or work for Retailer.
5. I will agree to any further terms that the Retailer imposes on me in connection with my use of the IT System.
6. I understand and acknowledge that I may be held personally liable to Shell Canada Products for any and all liability, loss or damage that arises from my failure to comply with the terms and conditions of this Authorized User IT Systems Access Commitment.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Authorized User

**Note:** This Authorized User It System Access Commitment is to be signed in relation to every Site by each and every suitably qualified and authorized person allowed to access and use the POS Equipment and their replacements from time to time. Please see clauses 6.1 and 6.2 of the IT System Support Agreement for further guidance.

### Loyalty Scheme Addendum

1. Capitalized terms used in this Loyalty Scheme Addendum that are not defined herein are defined in Addendum "A".
2. "**Loyalty Scheme**" means any scheme that issues benefits to consumers as a reward for, and to encourage, consumer loyalty and in which Shell participates either alone or in conjunction with others.
3. Shell may change the Loyalty Scheme or make amendments to the Loyalty Scheme currently in place and will provide Retailer with reasonable notice of any such changes or amendments.
4. Retailer agrees to participate in the Loyalty Scheme and implement the Loyalty Scheme at the Sites in accordance with this Addendum.
5. Retailer will be responsible and liable for any fraud conducted on the Loyalty Scheme, such as a misappropriation of benefits of the Loyalty Scheme. In the event of fraud and without limiting the remedies available to Shell under the Agreement, Retailer will be liable for the full value of the misappropriated benefit.
6. Retailer will promote all Loyalty Scheme-related advertising and marketing promotions as instructed by Shell and to the extent not restricted by Applicable Laws and will, in relation thereto, maximize the tools and materials provided by Shell. For example, the Retailer will display all Loyalty Scheme advertisements and promotional materials provided by Shell from time to time.
7. Participation in the Loyalty Scheme will not restrict or affect in any way Retailer's right to set its retail prices for Motor Fuel.
8. Prior to participating in or promoting any loyalty scheme, Retailer must obtain Shell's prior written approval. The Retailer will neither participate nor promote in any way any other loyalty scheme or other like-promotional activities, whether long-term or short-term, which is considered by Shell in its sole discretion to be in competition with the Loyalty Scheme. The Retailer may engage in any non-competing loyalty scheme or promotion upon Shell's prior written approval.
9. Without prejudice to the other parts of the Agreement, Shell may terminate this Addendum immediately upon notice to Retailer.
10. At the effective date of the Agreement, the sole Loyalty Scheme in which Shell participates is the loyalty scheme commonly known in the Canadian retail market as the "AIR MILES<sup>®</sup>" reward program ("**AIR MILES Reward Program**"). Until further notified by Shell, the Retailer will abide by the AIR MILES handbook provided to Retailer and the following requirements of the AIR MILES reward program:
  - a. Retailer will offer AIR MILES reward miles to eligible customers paying by methods acceptable to Shell in connection with their purchase of Shell branded fuel, lubricants and related products, car washes, automotive supplies and accessories, and other convenience store products subject to certain exclusions specified by Shell.
  - b. Retailer must abide by additional terms and directives that Shell may impose from time to time, including changes to the AIR MILES Reward Program that Shell in its sole discretion may make.
  - c. Retailer must not conduct its business in a manner which would impair the operations of the AIR MILES Reward Program or the reputation of the AIR MILES trademarks and will not use the AIR MILES trademarks in any manner other than as contemplated by the AIR MILES reward miles program.
  - d. Retailer is responsible for the cost of AIR MILES reward miles it issues to eligible customers pursuant to the standard customer offer of 1 AIR MILES reward mile for every 20 litres of fuel purchased (excluding Premium), 1 AIR MILES reward mile for every 10 litres of Premium fuel purchased (including diesel) and/or 1 AIR MILES reward mile for every \$5.00 in convenience store products purchased, before taxes and subject to certain exclusions ("**Standard Offer**"). Shell may limit the total number of AIR MILES reward miles issued to eligible customers on a single transaction or during such other specified period.

**ADDENDUM "D" — LOYALTY SCHEME ADDENDUM**

- e. Retailer shall pay to Shell a fee of \$0.007 per litre on the total volume of fuel purchased by Retailer from Shell under the Agreement, plus applicable taxes, which fee shall be in consideration of the cost of issuance of AIR MILES reward miles pursuant to the Standard Offer and all marketing and advertising materials associated therewith.
  - f. Retailer is not responsible for the cost of AIR MILES reward miles it issues to eligible customers pursuant to any non-Standard Offers under the AIR MILES Reward Program, (each a "**Bonus Offer**").
  - g. The Retailer must issue AIR MILES reward miles offered in the Standard Offer and any Bonus Offers.
  - h. Unless excepted by Shell, Retailer is required, as directed by Shell, to display Shell-approved on-site signage, such as pump-topper decals and curb-toppers, to advertise the availability of AIR MILES reward miles at Retailer's Site.
11. For the **AIR MILES® Cash program**, Shell may supply Retailer with a Point of Sale Activation ("POSA") terminal and necessary related equipment, subject to the following terms:
- a. Retailer shall be fully liable for, and shall indemnify Shell, for any loss of, or damage to, the POSA terminal. The first POSA terminal shall be supplied by Shell to Retailer at no cost, but any replacement or repair costs thereafter shall be for Retailer's full account;
  - b. Retailer shall pay Shell **\$0.09** per transaction for the use of the POSA terminal, including its maintenance, and support by Shell. Such fee may change at any time by Shell upon reasonable prior written notice by Shell to Retailer;
  - c. Shell may terminate Retailer's right to use the POSA terminal upon thirty (30) days prior written notice to Retailer;
  - d. Retailer shall be required to obtain at its own cost the necessary connectivity equipment, telecommunication cables, internet access, or other reasonable requirements, unless otherwise supplied by Shell, and Shell may charge a reasonable fee for such.

Notwithstanding the foregoing, Shell may require Retailer to contract directly with the manufacturer or distributor to obtain a POSA terminal and any necessary related equipment.

ADDENDUM "E" — OPERATIONAL EXCELLENCE ADDENDUM

OPERATIONAL EXCELLENCE ADDENDUM

1. Capitalized terms used in this Operational Excellence Assurance Program Addendum that are not defined herein are defined in **Addendum "A"**.
2. "**Operational Excellence Assurance Program**" or "**Program**" is a retail program implemented by or on behalf of Shell from time to time, for the purpose of promoting high operational standards and ensuring the customer value proposition at the Site.
3. Retailer agrees to participate in the Operational Excellence Assurance Program and implement the Operational Excellence Assurance Program at the Site in accordance with this Addendum and the Agreement.
4. Retailer will be responsible and liable for any fraud conducted in relation to the Operational Excellence Assurance Program, including, without limitation, misappropriation of benefits of the Program. In the event of fraud and without limiting the remedies available to Shell under this Agreement, the Retailer will be liable for the full value of the misappropriated benefit.
5. Retailer will implement all Operational Excellence Assurance Program-related activities and guidelines at the Site and, to the extent not restricted by Applicable Laws, will maximize the tools and materials provided by Shell. For example, the Retailer will display/communicate at the Site all Operational Excellence Assurance Program advertisements and materials provided by Shell from time to time.
6. Participation in the Operational Excellence Assurance Program will not restrict or affect in any way Retailer's right to set its retail prices for Motor Fuel and other goods and services sold at the Site.
7. Without prejudice to the other parts of the Agreement, Shell may terminate this Addendum immediately upon notice to Retailer.
8. At the effective date of the Agreement, the Operational Excellence Assurance Program is *People Make The Difference Real* ("**PMTDR**"). Unless or until notified by Shell, the Retailer shall participate in the PMTDR Operational Excellence Assurance Program as follows:
  - a. Retailer will review PMTDR program package and materials, as provided by or on behalf of Shell from time to time;
  - b. Retailer will abide by the PMTDR program requirements as set out in the program materials and any additional aspects of the PMTDR program as notified by Shell;
  - c. Retailer agrees to conduct its business at the Site in a manner consistent with the PMTDR program.
  - d. Retailer shall be responsible for the PMTDR program fee of \$1000 per year throughout the Term, which fee shall be paid in quarterly installments of \$250, and shall be payable to Shell at the beginning of every calendar quarter throughout the Term;
9. The Retailer must meet the minimum standards of the PMTDR program, as set by Shell. Upon no less than 30 days' notice to Retailer, Shell may amend the minimum standards of the PMTDR program and/or may impose fees or penalties for failure to meet such minimum standards.
10. Shell may amend or terminate the Operational Excellence Assurance Program in its discretion upon 30 days' notice to Retailer. Retailer shall not be responsible to pay any further Program fees upon termination of the Operational Excellence Assurance Program, but shall remain liable for any Program fees that were due and payable prior to termination of the Operational Excellence Assurance Program.
11. Shell shall have the right to set off any amounts payable to Shell for Program Fees, or any other fees or penalties payable by Retailer to Shell pursuant to this Operational Excellence Addendum, against any amounts payable to Retailer by Shell pursuant to any other agreement.

**SCHEDULE "B"**  
**to this Assignment and Assumption Agreement**

**OTHER SITE AGREEMENTS**

- Shell Convenience Retail Dealer Program Agreement, dated August 13 2021
- Amending Agreement to Retailer Supply Agreement dated December 23, 2021

**SHELL CONVENIENCE RETAIL DEALER PROGRAM  
PROGRAM AGREEMENT**

This Program Agreement (“**Agreement**”) is entered into as of August 13, 2021 (the “**Effective Date**”)

BETWEEN

**SHELL CANADA PRODUCTS,**

An Alberta partnership having its offices at 400-4<sup>th</sup> Avenue SW, Calgary, Alberta

(“**Shell**”)

and

**IN HWAN LEE AND EUN JOO LEE**

(collectively, the “**Retailer**”)

(Shell and Retailer each a “**Party**” and collectively the “**Parties**”)

**WHEREAS:**

- (A) Shell and Retailer are parties to a Retailer Supply Agreement (“**RSA**”) pursuant to which Retailer operates a fuel service station under the “Shell” brand located at 12281 Hwy 35, Minden, Ontario, K0M 2K0, (the “**Site**”). The RSA sets out the terms and conditions upon which Retailer may operate under the “Shell” brand and the supply of Motor Fuel by Shell to Retailer for resale at the Site;
- (B) Shell has knowledge and expertise pertaining to the operation, marketing, and promotion at retail fuel service stations;
- (C) Shell has developed a Convenience Retail Dealer Program (the “**CR Program**”), available to retailers operating Shell-branded fuel stations pursuant to an RSA, which provides program participants with marketing, advertising, and promotional advice and support for the convenience retail business at the Site and rebates on convenience store product inventory purchased through authorized suppliers designated by Shell; and
- (D) Retailer wishes to participate in the CR Program and avail itself of the benefits provided thereunder upon the terms and conditions set forth in this Agreement.

**NOW THEREFORE** for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows.

- 1. Interpretation
  - 1.1. Capitalized terms shall have the meaning as defined in the RSA, unless otherwise defined herein.
  - 1.2. The terms of the RSA are adopted and incorporated into this Agreement by reference, as applicable hereto. In the event of a conflict between the terms of the RSA and this Agreement, the terms herein shall be paramount.

## 2. Scope of Program

- 2.1 The CR Program shall provide the following to program participants in relation to the convenience retail business at the Sites:
- a) product promotions planning and collateral;
  - b) access to Shell Shop Look and Feel; and
  - c) product rebates.
- 2.2 All proprietary and car wash programs developed for the CR Program require Retailer enrollment and are subject to the Program Fee.

## 3. Range of products and planograms

- 3.1 Subject to Section 3.2 below, the range of products applicable to the CR Program (the “**Program Products**”) shall be the products identified by Shell from time to time under the product categories specified in **Appendix “A”** attached hereto. Shell may amend **Appendix “A”** to add additional product categories from time to time at its discretion.
- 3.2 The Program Products does not include car wash products and promotional materials.
- 3.3 Shell reserves the right to change the Program Products available in a particular product category at its discretion.
- 3.4 Subject to Section 3.5, Retailer will purchase the Program Products from an authorized supplier or suppliers, that have been identified by Shell, from time to time, as an authorized supplier or suppliers (the “**Approved Suppliers**”), in the minimum case lot(s) or packaging as prescribed by the Approved Suppliers.
- 3.5 If any Approved Suppliers are unable to supply specific Program Products, Retailer may source such Program Products from an alternative supplier not authorized by Shell. For clarity, any products purchased by Retailer from suppliers other than the Approved Suppliers shall not be subject to any rebate under the CR Program, regardless of whether such products are identified as Program Products.
- 3.6 Retailer must ensure that at all times sufficient stocks of all Program Products are maintained at the Site to satisfy the foreseeable requirements of customers.
- 3.7 Retailer shall pay the Approved Suppliers directly upon terms agreed to between Retailer and the supplier. For greater clarity, Shell shall not be liable for any outstanding monies owed by Retailer to suppliers.
- 3.8 Retailer agrees to accept limited automatic distributions of Program Products from time to time, as arranged by Shell in support of promotions and new product launches for Program Products.
- 3.9 Retailer will comply with all requirements of Shell and the Approved Suppliers in respect of Program Products supplied by Approved Suppliers, including:
- (a) the procurement from the Approved Suppliers of all specific supplies, materials or products required for the merchandising, promotion or sale of the Proprietary Products (as such term is defined herein), which supplies shall include, but are not limited to drinking cups for cold and hot beverages, cup lids, coffee cup sleeves, drinking straws and napkins.

- (b) paying the Approved Suppliers for the Program Products supplied by them at the price and on the terms applicable at the time of delivery;
  - (c) complying with the methods and schedules of ordering (including contingency methods) and payment, the methods and times of accepting delivery, and the methods and terms of product returns and credits (where appropriate);
  - (d) ensuring that all of Retailer's staff involved with any aspect of the ordering or receipt of such Program Products are appropriately trained and suitably competent.
- 3.10 Shell will provide Retailer with merchandizing planograms for the Program Products ("**Planograms**"). The Planograms will be provided to Retailer at least once annually throughout the Term. Planograms may be revised by Shell from time to time as products are added to or deleted from the Program Products. Any such revisions to the Planograms will be made available to Retailer. No less than four (4) weeks before a Planogram is changed, Shell shall communicate the change via the internet, currently through the MarketHub website at [www.MarketHub.shell.com](http://www.MarketHub.shell.com).
- 3.11 Retailer shall merchandize the Program Products in accordance with:
- a) the Planograms provided by Shell pursuant to Section 3.9 above; and
  - b) advice provided by Shell and/or a Shell-appointed third-party consultants, in consultation with Retailer, regarding shop layout and merchandizing.
- 3.12 Subject to Section 3.13, Retailer shall determine the retail prices for the Program Products. Shell may publish a recommended retail price for the Program Products as part of the CR Program; such recommended prices shall not serve as a fixed or minimum price and Retailer shall be entitled, at its sole discretion, to set the retail price at which any of the Program Products are offered for sale.
- 3.13 The following are exceptions to the pricing provisions contained in Section 3.12 above:
- a) Program Products on promotion during a sales campaign – in this case Shell's recommended retail price shall serve as the maximum price that may be charged for the applicable Program Products; and
  - b) Shell Proprietary products, which include, but are not limited to Java Café™ Thirst Buster™ and Deli2Go (the "**Proprietary Products**"), – in this case Shell's recommended retail price shall serve as the maximum price that may be charged for the Proprietary Products,

For clarity, the definition of Program Products shall include the Proprietary Products unless the same is specifically excluded from the definition of Program Products.

- 3.14 In addition to the terms and conditions set out in this Agreement and upon the execution of this Agreement the Retailer will be provided with a copy of Shell's Proprietary Products standards document (the "**Manual**").
- 3.14.1 The Retailer will strictly comply with all mandatory standards and specifications set out in the Manual.
- 3.14.2 The Manual may be amended by Shell from time to time. Notwithstanding anything to the contrary in this Agreement, Shell has no liability whatsoever for any loss or damage suffered by Retailer resulting from the implementation and use of any non-mandatory advice or information provided to Retailer.

#### **4. Promotions**

- 4.1 With respect to Program Products that Retailer offers for sale at the Site (including automatic distributions pursuant to Section 3.8), Retailer agrees to participate in all promotions directed by Shell pursuant to the CR Program, at a retail price point that does not exceed the maximum price determined by Shell. Retailer also agrees to participate in promotional displays for such, provided through the CR Program and to prominently display and post related signage, as provided by Shell, for promotions related to any of the Program Products.
- 4.2 Shell shall develop promotions for various Program Products, which shall be incorporated into a promotions calendar for the Term of this Agreement. Shell will provide the promotions calendar, and any changes thereto, to all participants in the CR Program. Examples of Program Products promotions are set out in **Appendix “B”** attached hereto.
- 4.3 Shell shall determine the campaign mechanism for promotions on the Program Products and shall supply all participants in the CR Program with the on-site advertising and promotional materials for the promotions identified in the promotions calendar.
- 4.4 Retailer shall not, without Shell’s prior consent, implement any promotions on the Program Products, or produce, have produced or display any promotional/advertising materials related thereto, that directly conflict or complete with any of the promotions identified in the promotions calendar provided by Shell.

#### **5. Shell Shop Look and Feel**

- 5.1 As a participant in the CR Program, Retailer shall be permitted to implement the *Shell Shop Look and Feel* concept at the Site, as depicted in **Appendix “C”** to this Agreement, and in accordance with the terms hereof.
- 5.2 Implementation of the *Shell Shop Look and Feel* concept at the Site must be in accordance with guidelines provided by Shell. Materials and installation guidelines will be supplied to Retailer by Shell and Retailer shall be solely responsible for installation services and ensuring that installation complies with the Shell Shop guidelines. The cost of required materials shall be at the rates negotiated by Shell with Approved Suppliers and shall be quoted on a site-by-site basis at the request of Retailer.
- 5.3 Retailer shall be solely responsible to pay for the materials and installation associated with implementing the *Shell Shop Look and Feel* concept at the Site. Ordering instructions are included in **Appendix “C”** or as otherwise provided to Retailer by Shell.
- 5.4 Shell has exclusive rights to the *Shell Shop Look and Feel* concept, including any associated trademarks or other Proprietary marks. Retailer acquires no right, title or interest in any such names and marks other than to use them only in the manner and to the extent prescribed herein or as otherwise approved in writing by Shell.

#### **6. Program Products Rebates**

- 6.1 Retailer acknowledges and agrees that Shell:
- a) shall have the exclusive right to receive rebates and or allowances from the Approved Suppliers with respect to any and all Program Products purchased by Retailers;
  - b) shall have the right to obtain purchase information specific to Retailer from each Shell-authorized supplier, for the purpose of calculating rebates and or allowances;

- c) will remit a portion of those rebates and or allowances to Retailer on a quarterly basis, in accordance with this Section 6; and
- d) shall not pay Retailer rebates and/or allowances if Retailer is not in full compliance with this Agreement.

6.2 CR Program participants are eligible for preferred pricing on Program Products in the form of a volume rebate of **1.75%** on purchases made by Retailer on applicable Program Products, and other preferred pricing as specified in **Appendix “D”**. The volume rebate and other preferred pricing for Program Products applies only to Program Products purchased from Shell’s appointed wholesale distributor and participating direct-to-store distributors. The volume rebate shall not apply to tobacco, lottery, gift cards, phone cards and service sales.

6.3 The volume rebate will be paid by Shell to Retailer once per calendar quarter throughout the Term, provided that Retailer is in compliance with the terms of this Agreement and the RSA. The volume rebate shall be paid by electronic funds transfer to Retailer.

6.4 Shell shall have the right to change the volume rebate amount and other preferred pricing specified in **Appendix “D”** upon thirty (30) days written notice to Retailer.

## 7. **Term, Breach and Termination**

7.1 This Agreement shall come into effect on the Effective Date and shall continue in force until the earlier of (i) the termination or expiration of the RSA; or this Agreement is terminated in accordance with the terms hereof, (the ‘**Term**’).

7.2 Shell may issue a written warning to Retailer that a significant breach of this Agreement or the Manual has occurred (the “**Warning Letter**”). Retailer shall be required to remedy the breach(es) in the Warning Letter within seven (7) days of the date of the letter. The issue of a Warning Letter may be in addition to any other remedies for the breach as provided in this Agreement.

The matters which, if breached, can lead to a Warning Letter being issued include but shall not be limited to:

- (a) purchase of Program Products from non-Approved Suppliers for those items;
- (b) failure to stock the Program Products in accordance with section 3.10 of this Agreement;
- (c) Program Products and Proprietary Products priced above the maximum retail as set out in section 3.13 of this Agreement;
- (d) non-payment of an Approved Supplier for Program Products supplied by them, including defaulting on a direct debit with an Approved Supplier;
- (e) failure to comply with Approved Suppliers’ requirements; or
- (f) failure to comply with Shell’s requirements in respect of promotions.

7.2 If Retailer breaches any term of this Agreement, the Manual or the RSA and such breach continues for more than (7) days after notification by Shell to Retailer, then Shell may in its sole and unfettered discretion either:

- (a) remove or direct the Retailer to stop the sale or offering of any or all of the Proprietary Products from the Site. Notwithstanding the foregoing, this Agreement shall continue in

full force and effect any reference to the Proprietary Products shall be severed from the Agreement as of the termination date, save and except for any and all obligations owed to Shell by Retailer with respect to the Proprietary Products; or

- (b) terminate this agreement immediately upon notice to Retailer.

For clarity, if Shell elects to remove the Proprietary Products in accordance with section 7.2(a), such election shall not operate or be construed as a waiver of Shell's right to immediately terminate this Agreement upon a further breach any term of this Agreement or the RSA.

7.3 This Agreement will automatically terminate, without notice, upon termination of the RSA.

7.4 This Agreement may be terminated by either party upon one hundred and eighty (180) days' prior written notice to the other in without liability or penalty.

7.5 In the event of termination or expiration hereof, Retailer shall promptly:

- a) Deliver to Shell manuals, writings, and other documents related to this agreement [or execution of Shell's Convenience Retail - Dealer Value Proposition], and cease operating any trademark under Shell's exclusive ownership that Retailer used in connection with this agreement.
- b) Return, remove or destroy, at Shell's option, all signs, color combinations, and other visible signs granted hereby that are displayed on the site. If Retailer fails to do so, it hereby authorizes Shell to enter the facilities where such items are located and have them removed, erased, or destroyed, at the exclusive cost and expense of Retailer.
- c) Sign all documents and perform all acts that are necessary to remove the name of Retailer from any register of trade names, trademarks exclusively owned by Shell.
- d) Pay any unpaid Program Fees. In no event shall Retailer be released from its obligations to pay sums of money owed to Shell hereunder.

## **8. Inspection and Audit**

8.1 Retailer grants, and will ensure the operators of the Site grant, to Shell, its agents, and representatives the right to enter the Retailer's business and the Site at all reasonable times to inspect the facilities, equipment, procedures (maintenance and preparation), and materials and products being used in connection with the Program Products (including use and display of the Planograms and any other promotional materials and/or merchandize provided by Shell to the Retailer in connection with the Program Products), and to audit, observe, and otherwise verify Retailer's compliance with this Agreement.

8.2 If Shell or its agents or representatives determines that Retailer's use or display of the Planograms (including use and display of the Planograms and any other promotional materials and/or merchandize provided by Shell to the Retailer in connection with the Program Products) have not been implemented as directed under the CR Program, Shell or its nominee may give notice thereof to Retailer and Retailer will, immediately on receipt of such notice, cease the non-compliant use or display. Retailer will not resume use or display of the relevant materials until it has demonstrated to Shell that the relevant materials is or are in compliance with said obligations and Shell or its nominee has given notice to the Retailer of said satisfaction.

## **9. Conflict of Interest**

Retailer acknowledges that memberships in other retail associations, buying groups or supplier/distributor programs for the supply of convenience retail goods at the Site may pose a conflict of interest and agrees that it will not be a member of any such associations or groups where a conflict of interest exists. Retailer agrees to advise Shell of any such memberships and agrees that Shell shall have the right to determine, in its sole discretion, whether any such memberships constitute a conflict of interest.

## **10. Program Fee**

- 10.1 Retailer agrees to pay to Shell a fee of five hundred dollars (\$500.00) per calendar quarter for participation in the CR Program, which amount may be amended by Shell from time to time (the “**Program Fee**”).
- 10.2 Retailer shall be invoiced for the Program Fee within thirty (30) days following the calendar quarter applicable thereto. Retailer shall pay Shell the Program Fee within thirty (30) days of the date of invoice.

## **11. Obligations of Retailer**

- 11.1 Retailer agrees to operate its business to the highest standards of quality, cleanliness, service and security.
- 11.2 Retailer agrees to operate its business in compliance with all regional, provincial and federal laws and maintain all applicable business licenses and permits.
- 11.3 Retailer shall be a participant in Shell’s People Make The Difference Right (“**PMTDR**”) retail customer value proposition program throughout the Term.

## **12. Limitation of Liability**

- 12.1 Retailer acknowledges that Shell is not the supplier or distributor of the Program Products contemplated under this Agreement.
- 12.2 Shell makes no warranties, representations, or guarantees of any kind whatsoever, either express or implied by law (in contract or tort) or custom including, but not limited to, those regarding merchantability, fitness for purpose or quality with respect to any of the Program Products.
- 12.3 Shell makes no representation, warranty, or guarantee of any kind with respect to business performance or profitability of Retailer in connection with participation in the CR Program, or at all.

## **13. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of Alberta and the federal laws of Canada applicable therein.

## **14. Severability**

In the event that any provision or part of this Agreement shall be deemed void or invalid by court of competent jurisdiction, the remaining provisions, or parts of it, shall be and remain in full force and effect.

**15. Assignment**

This Agreement may not be assigned by Retailer without Shell’s prior written consent. Shell may assign its rights and obligations under this Agreement.

**16. No Waiver**

No waiver by either party of any default by the other in carrying out its obligations under this Agreement shall operate or be construed as a waiver of any other or further default, whether of a like or different nature.

**17. Confidentiality**

Retailer hereby agrees, declares and undertakes that this Agreement is confidential and that Retailer will take any measures necessary to maintain the confidentiality of this agreement, and to show due attention and care in order to prevent the use of any information in this Agreement for any non-intended purpose, and not to disclose any information about the contents or attachments of this Agreement during its term to any third persons, entities or institutions other than those authorized by law.

**18. Execution**

Multiple Counterparts. This Agreement/Contract may be executed electronically and delivered (including by facsimile transmission or electronic pdf) in multiple counterparts, each of which shall be deemed an original for all purposes and all of which shall be deemed, collectively, one agreement.

**SHELL CANADA PRODUCTS,  
by its managing partner,  
SHELL CANADA LIMITED**

Per: DocuSigned by:  
Treena Carty  
5B347213BEFE454...

Name: Treena Carty

Title: Distric Manager

Date: 8/31/2021

DocuSigned by:  
IN HWAN LEE  
ECAC2EFD565A43B...

DocuSigned by:  
EUN JOO LEE  
ECAC2EFD565A43B...

Date: 8/19/2021

## APPENDIX "A"

## CR PROGRAM PRODUCT CATEGORIES

Category	Category / Segment Mix
Confectionery	Chocolate Bars, Gum, Cello Bags, Breath Mints, Licorice, Boxed Candy, Novelty Candy, Antacid Products, Cough Drops, Rolled Candy, Penny Candy, Trading Cards
Automotive Lubes	Oil – Pennzoil branded, Windshield Washer Fluid
Automotive Car Care	All Other Automotive: Car Care Products, Antifreeze, Fuses, Air Fresheners, Block Heater Cords, Bulbs, Road Transport Supplies
Beverages – (non-carbonated soft drinks)	Energy, Energy Shots, Water, Iced Tea, Isotonics, New Age Beverages, Juice, Fruit Drinks, Coffee Drinks,
Beverages – (carbonated soft drinks)	Sparkling Beverages
Grocery	All: Canned Goods, Condiments, Cereal, Cookies, Crackers, Coffee, Tea, Drink Crystals, Baking Goods, Cleaning Products, Laundry Products, Paper Products, Bags, Wraps, Pet Food, Baby Food  All: Frozen Dinners (Home Meal Replacement), Frozen Juices
Health & Beauty	All: Baby Accessories, Diapers, Personal Hygiene Products (Deodorants, Oral Antiseptics, Shaving Needs, Condoms), Cough/Cold Products, First Aid Needs, Pain Remedies (Laxatives, Liniments, Salts/Seltzers, Stomach Relievers etc.), Toothbrushes, Toothpaste, Skin/Lip/Hair Care Products, Eye Care
Fast Foods	All: Muffins, Cookies, Pastries, Sweet Snacks (Nutri Grain Bars, Rice Krispie Squares etc.), Thaw and Serve – Cookies/Pastries/etc.
Milk	Milk Products - 4L, 2L, 1L and various 500ml sizes
Dairy	Eggs, Cheese, Yogurt, Sour Cream, Chilled Chip Dip, Butter, Margarine, Chilled Juices
Produce, Deli Meats	All: Deli Meats & Produce (Packaged Lunch Meats, Bacon, Wieners, Fresh Fruit, Fresh Vegetables Chilled Juices)
Sandwiches	Thaw n Serve / Fresh - Sandwiches, Subs, Breakfast
Novelty Ice Cream	Premium / Regular Frozen Ice Cream products and Novelties

Salted Snacks	Corn Chips, Potato Chips, Salsa, Chip Dips (un-refrigerated), Sunflower Seeds, Popped Popcorn, Meat Snacks (e.g. Beef Jerky, Pepperoni Sticks etc.), Packaged Nuts/Peanuts, Bagged Bugles, Crispers
Non Foods	Housewares, Film, Camera's, Batteries
	All Other Non Foods: BBQ Supplies, Gloves, Stationery, Glues, Electrical Supplies, Hardware, Light Bulbs, Playing Cards, Shoe Laces/Polish, Phone Accessories
Bread	Bread, Buns

<b><u>Proprietary Products</u></b>	<b>Category offerings that fall under Proprietary Products</b>
Hot Drinks	*Proprietary Coffee, Tea's, Cappuccino, Branded Cups, Lids, Straws, Stir Sticks
Cold Drinks	*Bag in Box, Proprietary Branded Cups, Lids, Straws, Stir Sticks
Deli2Go	Deli2Go Branded Thaw n Serve / Fresh - Sandwiches, Subs, Breakfast

<b>Categories - not included in Rebates but supported under the DO-DVP program</b>	
Tobacco	Cigarettes (20 & 25 Packs) – Rothmans, Benson & Hedges Tobacco and Johnson T. Imperial Tobacco
Tobacco	Chewing Tobacco, Drum, Pipe Tobacco, Pouched Tobacco including RBH
Tobacco	All other Chewing Tobacco, Drum, Pipe Tobacco, Pouched Tobacco (All other meaning excluding RBH) and Cigars
Tobacco	Lighters, Matches, Cigarette Papers, Lighter Fluid, Cigar Cutters, Cigar Holders
Lottery	Lotto Max, 6/49, Keno, Scratch Tickets
Gift & Phone Cards	Non P.O.S.A. Long Distance Phone Cards, Cell Cards, Pay Phone Cards, Other Prepaid Cards
	P.O.S.A. Gift Cards, Long Distance Phone Cards, Cell Cards and Other Prepaid Cards
Concessions	Condiments, Foil Wraps, Frozen Wieners, Sausages, Corn Dogs,
Store Supplies	All Proprietary Branded: Bags, Napkins, Cleaning, Forecourt Accessories, Mops, Brooms, Cask POS Tapes, Copy Paper,

## APPENDIX "B"

### PROMOTIONS

All promotions provided will be based on the following:

- (a) All category promotional offers excluding Car Wash; and
- (b) All category Air Miles promotional offers excluding Car Wash.

Examples:



## APPENDIX "C"

### SHELL SHOP LOOK & FEEL

Shell SHOP Signage will only be made available to Retailers who are participating in the CR Program and PMTDR. Retailers can choose to do all the upgrades, some or none of the upgrades depicted below.

#### Interior

Interior signage: The Shell Shop Look & Feel



Shelving, Tobacco Back Bar and Pay Point Counter



**Exterior**

Shop Exterior Signage



Price Sign

Shell SHOP graphics are placed here.

## APPENDIX "D"

## PROGRAM PRODUCTS REBATES AND PREFERRED PRICING

	<b>Purchases Sales \$ or Units</b>	<b>Rebate</b>
<b>DSD SUPPLIER</b>		
Coca Cola Beverages Ltd.	Case	\$1.00
Pepsi Bottling Group Canada Co	Case	\$1.00
Red Bull Canada Inc.	Case	\$2.25
Arctic Glacier Inc.	Purchase \$\$	7.50%
Frito-Lay Canada (Salted)	Purchase \$\$	5.00%
Frito-Lay Canada (Spitz)	Purchase \$\$	7.50%
Old Dutch Foods Ltd.	Purchase \$\$	7.50%
Old Dutch Foods Ltd. (Oberto)	Purchase \$\$	7.50%
Jack Link's Canada Company	Purchase \$\$	7.50%
Direct Plus (McSweeneys)	Purchase \$\$	4.00%
Direct Plus	Purchase \$\$	5.00%
Unilever	Purchase \$\$	7.50%
Creative Plano (Sunglasses)	Purchase \$\$	7.50%
Creative Plano (Cell Access)	Purchase \$\$	7.50%
Vomar Tank Traders	Tank	\$0.25
<b>Shell Authorized Wholesale Partner</b>		
Automotive (Non-Food)	Purchase \$\$	1.75%
Bread/Bakery	Purchase \$\$	1.75%
Concession	Purchase \$\$	1.75%
Confectionery	Purchase \$\$	1.75%

	<b>Purchases Sales \$ or Units</b>	<b>Rebate</b>
Dairy	Purchase \$\$	1.75%
Deli Meats/Produce	Purchase \$\$	1.75%
Fast Food	Purchase \$\$	1.75%
Groceries	Purchase \$\$	1.75%
Health & Beauty	Purchase \$\$	1.75%
Non-Food	Purchase \$\$	1.75%
Novelty/Ice Cream	Purchase \$\$	1.75%
Packaged Drinks	Purchase \$\$	1.75%
Salted Snacks	Purchase \$\$	1.75%
Categories not included in the above Rebate Structure:		

AMENDING AGREEMENT TO RETAILER SUPPLY AGREEMENT

This amending agreement (the “**Amending Agreement**”) dated 12/23/2021 (the “**Effective Date**”) is by and between:

**SHELL CANADA PRODUCTS (“Shell”)**

- and -

**1621377 Ontario Limited (“Retailer”)**

**WHEREAS** Shell and Retailer (together, the “**Parties**”) have entered into a Retailer Supply Agreement (“**RSA**”) pursuant to which Retailer operates a fuel service station under the “Shell” brand located at 12281 Hwy 35, Minden, Ontario, KOM 2K0 (the “**Site**”);

**AND WHEREAS** Retailer wishes to participate, pursuant to the terms and conditions of the RSA as amended by this Amending Agreement, in the offering of promotional activities and discounts for both Motor Fuel as well as relating to the convenience retail sales (“**CR Activities**”) at the Site (collectively, the “**CAA Promotional Activity**”) to valid members of participating clubs of the Canadian Automobile Association (“**Participating CAA Members**”);

**AND WHEREAS** as part of the CAA Promotional Activity, Retailer wishes to offer Participating CAA Members certain discounts in relation to the CR Activities, and conduct certain related activities **all such discounts for the CR Activities (including for clarity all discounts on convenience retail or any car wash services) offered to CAA Members will be borne by Retailer alone and be provided at Retailer’s sole expense without recovery from Shell;**

**AND WHEREAS** unless otherwise defined herein or unless the context otherwise requires, all capitalized terms used in this Amending Agreement shall have the same meanings as ascribed to them in the RSA;

**NOW THEREFORE** in consideration of the mutual covenants and agreements hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledge, the parties hereby covenant and agree as follows:

1. The Parties hereby agree to amend the RSA effective as of the Effective Date as follows:
  - a. A new section is added to the RSA, immediately after the last section contained in the RSA but prior to the signature of Shell and Retailer, which states the following:

“Retailer will participate in the promotion detailed in Addendum “A-1” at the Site, and otherwise comply with the terms and conditions of Addendum “A-1”.”
  - b. A new Addendum “A-1” is added to the RSA in the form of Exhibit 1 to this Amending Agreement.
  - c. To the extent that the RSA has been partially assigned to an operator, Retailer shall cause such operator to comply with the terms and conditions of this Amending Agreement. By

signing this Amending Agreement, Retailer is representing to Shell that such operator has consented to the amendments contemplated in this Amending Agreement.

2. For greater certainty, unless otherwise agreed in writing, no payments shall be made by Shell or liabilities accrued by Shell to Retailer or any operator in connection with the program detailed in Addendum "A-1" to the RSA, as amended hereby (the "**CR Promotional Program**"). Unless otherwise agreed in writing, Retailer shall be independently responsible for all costs, expenses or losses relating to the CR Promotional Program (including any and all of the Site owners' or operators' costs, expenses or losses). The Parties agree and acknowledge that any discounts on Motor Fuel as part of the CAA Promotional Activity are governed pursuant to the RSA and any other relevant contractual agreements.
3. Retailer acknowledges and agrees that this Amending Agreement and the CR Promotional Program are one element of a collective package of activities, promotions, discounts and acts that form part of the broader CAA Promotional Activity. Retailer hereby agrees and covenants that as a term and condition of its participation in the CR Promotional Program, it does and shall also participate (and shall cause any operator of the Site, if so applicable to participate) at its Site in all applicable elements of the CAA Promotional Activity communicated to it by Shell in accordance with any applicable Shell memorandum concerning Motor Fuel discounts to Participating CAA Members as part of the CAA Promotional Activity, including without limitation all fuel discounts and related terms and conditions for Participating CAA Members. In the event that there is or becomes a car wash facility on Site at any time during the term of the RSA, Retailer acknowledges, agrees and covenants that the CR Promotional Program includes discounts on car washes to Participating CAA Members, and that such terms and conditions in Addendum "A-1" to the RSA relating to car wash facilities shall apply to any car wash or similar facility operated by or on behalf of Retailer on Site during the term of the RSA.
4. Except as specifically provided for herein, the terms and conditions of RSA remain unchanged and are confirmed to continue in full force and effect.
5. This Agreement shall be governed by and construed in accordance with the laws of the Province in which the Site is located and the laws of Canada applicable therein. Shell and Retailer each irrevocably submits to the exclusive jurisdiction of the courts of such province over any claim or matter arising under or in connection with this Agreement.
6. This Amending Agreement may be executed simultaneously in one or more counterparts (including by means of faxed or pdf emailed signature pages), all of which shall can be considered one and the same agreement, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to the other Party.

**IN WITNESS WHEREOF** the Parties have executed this Agreement effective as of the Effective Date.

**SHELL CANADA PRODUCTS  
BY ITS MANAGING PARTNER  
SHELL CANADA LIMITED**

DocuSigned by:  
*Treena Carty*  
Per: \_\_\_\_\_  
5B347213BEFE454...

**Name: Treena Carty**

**Title: District Manager, DO**

**RETAILER: 1621377 Ontario Limited**

DocuSigned by:  
*IN HWAN LEE*  
Per: \_\_\_\_\_  
ECAC2EFD666A43B...

**Name: IN HWAN LEE**

**Title: owner**

**EXHIBIT 1 TO THE AMENDING AGREEMENT  
BETWEEN SHELL AND RETAILER**

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**ADDENDUM "A-1"**

**CAA CR PROMOTIONAL PROGRAM**

Shell and Retailer hereby agree as follows:

1. **Definitions:** The following terms have the meanings ascribed thereto in this Addendum "A-1" only:
  - a) **"CAA"** means the Canadian Automobile Association (national office) ("**CAA National**") and the following of its member clubs: British Columbia Automobile Association, Alberta Automobile Association, CAA Saskatchewan, CAA Club Group, CAA North & East Ontario, CAA Niagara, and CAA Atlantic, each of which are separate legal entities from CAA National and from each other;
  - b) **"CAA Employees"** means employees of CAA;
  - c) **"CAA Member"** means any individual that possesses a CAA Membership Card, evidencing their unexpired, validly issued membership of one of the clubs constituting the definition of CAA;
  - d) **"CAA Membership Card(s)"** means the unexpired, validly issued membership card that identifies the individual as a member of one of the clubs constituting the definition of CAA;
  - e) **"CPL CAA Member Offer"** means the discount on all fuel grades and diesel fuels purchased by each CAA Member or CAA Employee for personal use communicated by Shell to Retailer separately, and conducted pursuant to the terms and conditions of the RSA;
  - f) **"CPL Program Initiation Date"** means the date selected by Shell for the initiation and availability to CAA Members of the CPL CAA Member Offer, which date shall not be earlier than 1 August 2021;
  - g) **"CR/CW Program Initiation Date"** means the date selected by Shell for the initiation and availability to CAA Members of the CR/CW CAA Member Offer, which date shall not be earlier than the CPL Program Initiation Date;
  - h) **"Excluded Retail Items"** means the list of items or other goods and services that Shell provides 14 calendar days' advance notice (in writing or by making digitally available) to Retailer as constituting the 'Excluded Retail Items' under this Appendix, and as of the effective date of this Appendix, consists of any and all:
    - i. lottery tickets, games of chance, scratch tickets, and all similar related items;

- ii. tobacco products of all kinds, including alternative nicotine delivery and vaping products and paraphernalia;
  - iii. prescription drugs or similar health products which are restricted for sale or otherwise not available on an over-the-counter basis;
  - iv. transit passes, tickets or similar pre-paid transit fare products;
  - v. spirits, wine, beer and all other alcoholic beverages or similar products;
  - vi. pre-paid gift cards and stored value cards, including those of third-parties;
  - vii. parking fees (including any that may normally be charged by specific locations);
  - viii. fees charged to customers for the use of vacuum and compressed air services;
  - ix. products and/or services offered by third parties that are located in or on or adjacent to the property of any Site but which do not constitute a convenience retail activity on the site (including those affiliated with Restaurant Brands International, Inc., such as "Tim Horton's" locations);
  - x. any convenience retail or food product purchases from any Sites that are delivered off premise to another location via UBER EATS, SKIP THE DISHES or any third-party food delivery services of a similar nature;
  - xi. all printed materials or documents, including newspapers, magazines, books, maps, flyers, guides and all other written publications or documents; and
  - xii. all items, goods, rights or services sold that are produced by, sold on behalf of, or otherwise obtained from any governments, regulatory bodies, governmental agencies or Crown corporations, including all postage and stamps, permits and licenses (including fishing, hunting, sporting or camping), and transportation tickets or fares (including ferries, bus or train);
- i) **"Member Offer"** means any or all of the CPL CAA Member Offer, the CR/CW Member Offer, Targeted CAA Member Offer, any Promotional CAA Member Offer or the Employee Offer;
- j) **"Relevant Notice Date"** means the date selected by Shell of the initiation and availability to CAA Members, from time to time and at any time, of any particular Promotional CAA Member Offer or Targeted CAA Member Offer; and
- k) **"Term"** means, for any particular discount or offer provided for herein, the time for the initiation of such discount specified in Section 2 of this Appendix, until 60 days after the receipt by Retailer of notice from Shell, sent in Shell's sole discretion, of the termination of such discount, or of all discounts under this Addendum "A-1", but in no event shall the term of the discount extend beyond the date on which the Term (as such term is defined

in the Agreement) has expired or is otherwise earlier terminated as provided in the present Addendum "A-1";

**2. The Promotions:** Subject to the Offer Elements (as defined below), Retailer agrees to provide, or cause to have provided, to each CAA Member at Site (for greater certainty, including as applicable at all convenience retail stores located at and directly adjacent to, any Site, including Retailer-owned or operated retail stores), the following:

- a) from the CR/CW Program Initiation Date, until the end of the Term:
  - i. a 10% discount on convenience retail purchases made by a CAA Member for personal use, not including any Excluded Retail Items; and
  - ii. a 10% discount on car wash purchases (applied to the retail price for car wash types both with and without fuel purchases, as applicable) by a CAA Member for personal use,

(Paragraphs 2.a)i. and ii. together, the "**CR/CW CAA Member Offer**");

- b) from the Relevant Notice Date until the end of the Term, at Shell's sole discretion, discounts to be available from time-to-time during the Term, on a temporary and targeted basis by way of a Shell-identified mobile device application or other electronic application ("**Shell App**") or approved CAA channels (each a "**Targeted CAA Member Offer**");
- c) from the Relevant Notice Date until the end of the Term, at Shell's sole discretion, discounts to be available from time-to-time during the Term, on a temporary and non-targeted basis (each a "**Promotional CAA Member Offer**"). CAA Members may be required, at Shell's discretion, to opt-in by way of a Shell App ("**Opt-In**") to receive such Promotional CAA Member Offer; and
- d) Retailer further agrees to provide, or cause to have provided, CAA Employees with the following discounts when utilizing the Shell App (the "**Employee Offer**"), provided they are CAA Employees at the time of purchase:
  - i. from the CR/CW Program Initiation Date, until the end of the Term:
    - A. a 10% discount on convenience retail purchases made by such CAA Employee for personal use, not including any Excluded Retail Items; and
    - B. a 10% discount on car wash purchases (applied to the retail price for car wash types both with and without fuel purchases, as applicable) by such CAA Employee for personal use.

**3. Restrictions on Offer Combination and Exclusions:** Shell reserves the right, in Shell's sole discretion to restrict or limit the combination or stacking of discounts offered by or relating to Shell, including the CPL CAA Member Offer, the CR/CW CAA Member Offer, the Targeted CAA Member Offers, the Employee Offer, and/or the Promotional CAA Member Offers, as well as any other discounts or promotions offered by or relating to Shell. The Employee Offer shall not be combined with the CPL CAA Member Offer or CR/CW Member Offer. In a circumstance where the combination or stacking of offers is to be restricted,

Shell may establish a maximum cent per litre discount or monetary total discount to be applied from the combination of all offers in a single purchase transaction. Shell reserves the right, in Shell's sole discretion, to impose a maximum amount of litres or monetary total discount per transaction or per day which are eligible for the aforementioned offers. No discounts under this Addendum shall apply to any purchases made by CAA pursuant to any fleet card, navigator or other business-to-business arrangement with Shell or any Shell Affiliate.

**4. Costs to be Paid or Borne by Retailer:** Other than as agreed in relation to Targeted CAA Member Offers or Promotional CAA Member Offers, the Parties agree and acknowledge that no payments shall be made by, or liabilities accrued by, Shell in connection with this Addendum "A-1" and the offers, matters, discounts, promotions and other acts relating hereto. Retailer shall be independently and solely responsible for its (and all of the Site owners' or operators') costs, expenses or losses relating to the CR/CW CAA Member Offer and the Employee Offer, and shall indemnify and hold harmless Shell from same. The Parties shall agree in advance, in their sole discretion, upon their respective responsibilities in relation to the costs, expenses or losses in connection with any Targeted CAA Member Offers or Promotional CAA Member Offers prior to implementing same. For clarity, Retailer may refuse to participate, and would not be liable to pay for any costs, expenses or losses, in connection with any Targeted CAA Member Offers or Promotional CAA Member Offers. Any costs relating to the CPL Member Offer shall be governed by the terms and conditions of the Agreement.

**5. Notice of Initiation.** Shell will provide Retailer with at least 90 days' notice of each of the CR/CW Program Initiation Date, and at least 30 days' notice of any Relevant Notice Date.

6. The "**Offer Elements**" are:

- a) Certain elements of the Targeted CAA Member Offer, Promotional CAA Member Offer and Employee Offer may be limited to those CAA Members who Opt-In.
- b) CAA Members (and CAA Employees who are subject to the Employee Offer) must present a valid and unexpired CAA Membership card to redeem any Member Offer at point of sale, or the Shell mobile application and computerized recognition, as applicable. CAA Membership Card numbers may not be manually inputted at the point of sale or pump. Retailer commits to validate or have validated each and every CAA Membership Card at the point of sale in or by each Site prior to the completion of a transaction subject to a Member Offer. The Parties will use reasonable commercial efforts to implement limits upon use and availability of the Member Offer by each CAA Member at Sites before the CPL Program Initiation Date. Shell shall use reasonable commercial efforts to implement a system for such validation of CAA Membership Cards by way of Shell's Radiant/NCR point of sale system (the "**Transaction Development Work**"), and Retailer agrees to take reasonable steps and provide assistance as required to advance the Transaction Development Work.
- c) During the Term, Shell shall track or have tracked the following data points (the "**Shell Data Points**"), and Retailer hereby consents to such tracking and Shell's lawful use thereof, from each Member Offer redeemed:
  - i. CAA Member's membership number;
  - ii. date and time of the transaction;

- iii. fuel grade and litres purchased (if applicable);
- iv. sales amount before taxes or discounts, including the Member Offer;
- v. the amount of the CPL CAA Member Offer, CR/CW CAA Member Offer, Promotional Member Offer and/or Targeted Member Offer;
- vi. the Site where the Member Offer was redeemed; and
- vii. any additional information as agreed to by the Parties in writing.

Retailer agrees to take reasonable steps and provide assistance as required to help with collection of the Shell Data Points.

- d) The Member Offers shall only be available at Site, and available after the relevant initiation date and during the Term. Shell shall be entitled to require Retailer to remove Site from this promotion by 5 Business Days' notice to Retailer. Shell may terminate or suspend any or all Member Offers (including Retailer's participation in same at any time), at Shell's sole discretion, after delivery of 5 Business Days' notice to Retailer.
- e) No Member Offer may be applied to any previously purchased merchandise, and shall only be effective as of the relevant initiation date and for the Term.
- f) Unless stated or at Shell's sole discretion, each Member Offer cannot be combined or used with any other Member Offer. Notwithstanding the foregoing, nothing in this Addendum "A-1" shall restrict, amend or in any way impact Retailer's rights or obligations in relation to any Loyalty Scheme, including the Air Miles Reward Program. Retailer agrees that it shall, and to ensure the operators of all Sites shall, in all circumstances continue to offer the Air Miles Reward Program unamended and unimpacted hereby, and comply with the obligations of this Agreement and the RSA unaffected by this Addendum "A-1". The obligations under this Addendum "A-1" are independent of and in addition to any Air Miles Reward Program obligations, and Retailer agrees that it and all operators of the Sites shall not require any person to choose between this promotion and the Air Miles Reward Program or any other Loyalty Scheme, and Retailer shall comply fully (and shall cause any operator of the Site to comply fully) with this Addendum and all other obligations under this Agreement or any other applicable contractual agreement.
- g) No Member Offer shall be offered or be valid in any place, to any person, or in any manner where prohibited by Applicable Law.
- h) The participation by any Member or CAA Employee in each Member Offer shall be subject to terms, conditions and limitations imposed by Shell and posted on Shell or an Affiliate's website (or, in the case of the Employee Offer, otherwise made available to CAA employees for review, acting reasonably), in order to ensure compliance with Applicable Laws and for the purposes of avoidance of fraud, abuse or misconduct, at any time and from time to time for participation in, or the benefit of, the Member Offer.

- i) Retailer agrees that participation in the matters described in this Addendum "A-1", including any Member Offer, shall be subject to it and any owner or operator of Site agreeing to such branding, intellectual property, trademark and use covenants, contracts, agreements and restrictions as imposed by Shell from time to time and at any time in relation to same in Shell's sole discretion, including without limitation as relates to use and display of trademarks of CAA.
- j) Shell may elect to terminate this Addendum "A-1" at any time upon 60 days written advance notice to Retailer.



**EXHIBIT 1**  
**to this Assignment and Assumption Agreement**

**OPERATIONAL EXCELLENCE ASSURANCE PROGRAM**

1. Capitalized terms used in this Operational Excellence Assurance Program Addendum that are not defined herein are defined in **Addendum “A”**.
2. **“Operational Excellence Assurance Program”** or **“Program”** is a retail program implemented by or on behalf of Shell from time to time, for the purpose of promoting high operational standards and ensuring the customer value proposition at the Site.
3. Retailer agrees to participate in the Operational Excellence Assurance Program and implement the Operational Excellence Assurance Program at the Site in accordance with this Addendum and the Agreement.
4. Retailer will be responsible and liable for any fraud conducted in relation to the Operational Excellence Assurance Program, including, without limitation, misappropriation of benefits of the Program. In the event of fraud and without limiting the remedies available to Shell under this Agreement, the Retailer will be liable for the full value of the misappropriated benefit.
5. Retailer will implement all Operational Excellence Assurance Program-related activities and guidelines at the Site and, to the extent not restricted by Applicable Laws, will maximize the tools and materials provided by Shell. For example, the Retailer will display/communicate at the Site all Operational Excellence Assurance Program advertisements and materials provided by Shell from time to time.
6. Participation in the Operational Excellence Assurance Program will not restrict or affect in any way Retailer’s right to set its retail prices for Motor Fuel and other goods and services sold at the Site.
7. Without prejudice to the other parts of the Agreement, Shell may terminate this Addendum immediately upon notice to Retailer.
8. At the effective date of the Agreement, the Operational Excellence Assurance Program is *People Make The Difference Real* (“**PMTDR**”). Unless or until notified by Shell, the Retailer shall participate in the PMTDR Operational Excellence Assurance Program as follows:
  - a. Retailer will review PMTDR program package and materials, as provided by or on behalf of Shell from time to time;
  - b. Retailer will abide by the PMTDR program requirements as set out in the program materials and any additional aspects of the PMTDR program as notified by Shell;
  - c. Retailer agrees to conduct its business at the Site in a manner consistent with the PMTDR program.
  - d. Retailer shall be responsible for the PMTDR program fee of \$1000 per year throughout the Term, which fee shall be paid in quarterly installments of \$250, and shall be payable to Shell at the beginning of every calendar quarter throughout the Term;

9. The Retailer must meet the minimum standards of the PMTDR program, as set by Shell. Upon no less than 30 days' notice to Retailer, Shell may amend the minimum standards of the PMTDR program and/or may impose fees or penalties for failure to meet such minimum standards.
10. Shell may amend or terminate the Operational Excellence Assurance Program in its discretion upon 30 days' notice to Retailer. Retailer shall not be responsible to pay any further Program fees upon termination of the Operational Excellence Assurance Program, but shall remain liable for any Program fees that were due and payable prior to termination of the Operational Excellence Assurance Program.
11. Shell shall have the right to set off any amounts payable to Shell for Program Fees, or any other fees or penalties payable by Retailer to Shell pursuant to this Operational Excellence Addendum, against any amounts payable to Retailer by Shell pursuant to any other agreement.

# APPENDIX C

## OFFER TO PURCHASE

**TO:** **ROSEN GOLDBERG INC.** (the “Vendor” or “Receiver”) in its capacity as court-appointed Receiver, without security, of the Property (hereinafter defined), pursuant to the Order of the Honourable Justice Cudjoe of the Ontario Superior Court of Justice, dated April 7, 2025, in Court File No. CV-25-00000128-0000 at Brampton, and not in its personal capacity or corporate capacity.

### **1. Offer to Purchase**

The undersigned, Amit Kumar Khara IN TRUST (the “Purchaser”), hereby offers to purchase from and through the Vendor all of the right, title and interest in and to the Property (hereinafter defined) which the Vendor is entitled to sell at the purchase price set out herein and upon and subject to the terms hereof.

### **2. Definitions**

In this Offer and the Agreement arising from the acceptance hereof, the following terms have the meanings respectively ascribed to them:

“**Agreement**”, “**the Agreement**” or “**this Agreement**” means the agreement of purchase and sale resulting from the acceptance of this Offer by the Vendor.

“**Approval**” in relation to the Court means the making of an appropriate Order of the Court in respect of the particular matter submitted for approval approving the action or proposed action of the Vendor on terms satisfactory to the Vendor.

“**Approval Date**” has the meaning ascribed thereto in Section 7 hereof.

“**Buildings**” means the building(s), if any, situate on the Lands (as hereinafter defined) together with all other structures situate thereon, including all improvements thereto and all fixtures forming a part thereof.

“**Business Day**” means a day other than Saturday, Sunday or a statutory holiday in the Province of Ontario or any other day upon which the Vendor is not open for the transaction of business throughout normal business hours at its principal office.

“**Closing**” or “**Closing Date**” has the meaning ascribed thereto in Section 20 hereof.

“**Condition Date**” has the meaning ascribed thereto in Section 5 hereof.

“**Court**” means the Ontario Superior Court of Justice and includes a judge, master or registrar of that court and any appellate court judge having jurisdiction in any particular matter.

“**Deposit**” means the deposit paid by the Purchaser.

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“**Environmental Laws**” mean all requirements under or prescribed by common law and all federal, provincial, regional, municipal and local laws, rules, statutes, ordinances, regulations, guidelines, directives, notices and orders from time to time with respect to the discharge, generation, removal, storage or handling of any Hazardous Substances.

“**Hazardous Substances**” means any contaminant, pollutant, dangerous substance, potentially dangerous substances, noxious substance, toxic substance, hazardous waste, flammable material, explosive material, radioactive material, urea-formaldehyde foam insulation, asbestos, PCBs radiation and any other substance, material, effect, or thing declared or defined to be hazardous, toxic, a contaminant, or pollutant, in or pursuant to any Environmental Laws.

“**HST**” has the meaning ascribed thereto in Section 19 hereof.

“**Indemnitees**” has the meaning ascribed thereto in Section 27 hereof.

“**Lands**” means the lands legally described in Schedule “A” attached hereto.

“**Listing Broker**” means GATE Real Estate Inc. Brokerage

“**Lease(s)**” means collectively, all leases, agreements to lease, tenancies, licenses, and any other rights of occupation of space in the Buildings or on the Lands, if any.

“**LRO**” means the Land Registry Office (No. 19).

“**Material Documents**” includes copies of all material documents as may be requested by the Purchaser and which are in the possession of the Vendor.

“**Offer**”, “**the Offer**” or “**this Offer**” means the offer to purchase the Property made by the Purchaser and contained in and comprised of this document.

“**Outside Approval Date**” has the meaning ascribed thereto in Section 7 hereof.

“**PIN**” means parcel identification number.

“**Property**” means collectively the Lands and Buildings.

“**Purchase Price**” has the meaning ascribed thereto in Section 3 hereof.

“**Purchaser**” has the meaning ascribed thereto in Section 1 hereof.

“**Purchaser’s Conditions**” has the meaning ascribed thereto in Section 5 hereof.

“**Receiver**” has the meaning ascribed thereto in the addressee line hereof.

“**TERS**” has the meaning ascribed thereto in Section 20 hereof.

“**Vendor**” has the meaning ascribed thereto in the addressee line hereof.





"Vesting Order" has the meaning ascribed thereto in Section 7 hereof.

**3. Purchase Price**

The purchase price for the Property shall be [REDACTED] payable in lawful money of Canada (the "Purchase Price"), subject to the adjustments hereinafter referred to in Section 9 hereof, and shall be paid by the Purchaser as follows:

- (a) a deposit of One Hundred Thousand Dollars (\$100,000.00) (the "Deposit"), shall be delivered with submission of this Offer by irrevocable wire transfer, or certified cheque or bank draft drawn on an account at a Canadian chartered bank or trust company payable to the Vendor;
- (b) the balance of the Purchase Price for the Property shall be paid, subject to the adjustments hereinafter referred to, to the Vendor on the Closing Date by irrevocable wire transfer to the Vendor (or as the Vendor may further direct).

*and twenty five \$ 125,000*

*A FURTHER DEPOSIT OF \$ 125,000 IS TO BE PAID ON WAIVER OF CONDITIONS*

**4. Deposit**

The Deposit shall be held in trust by the Vendor and shall be:

- (a) returned to the Purchaser without interest or deduction if the Vendor does not accept this Offer;
- (b) credited to the Purchaser as an adjustment against the Purchase Price on the Closing Date if the purchase and sale of the Property is completed pursuant to the Agreement;
- (c) returned to the Purchaser without interest and without deduction if the purchase and sale of the Property is not completed pursuant to the Agreement, provided that the Purchaser is not in default under the Agreement; or
- (d) retained by the Vendor as a genuine pre-estimate of liquidated damages and not as a penalty, in addition to any other rights and remedies that the Vendor may have under the Agreement and at law, including offering the Property for sale to another person, if the purchase and sale of the Property is otherwise not completed pursuant to the Agreement, as a result of the Purchaser's breach hereunder.

**5. Purchaser's Conditions**

Notwithstanding anything to the contrary herein contained, this Agreement shall be conditional to the Purchaser until 5:00 o'clock p.m. (Toronto time) on May 20th, 2025 (the "Condition Date") and is subject to the Purchaser satisfying itself in its sole, absolute and unfettered discretion with all matters relating to the Property, including without limitation, zoning matters, the Leases, if any, and the suitability and economic viability of the Property for the Purchaser's use, the physical condition of the Property, soil conditions, the environmental condition of the Lands and Buildings, if any, and the surrounding real property and the results of

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its other due diligence tests, inspections and investigations (collectively, the “**Purchaser’s Conditions**”).

The Purchaser shall be permitted to enter the Property at such time or times agreed upon by the Vendor, and the Vendor agrees to co-operate in providing access to the Property, if necessary, for any inspection required for the fulfillment of the Purchaser’s Conditions.

The Purchaser’s Conditions are for the exclusive benefit of the Purchaser and may be waived in whole or in part by the Purchaser at any time on or before the Condition Date, any such waiver to be made in writing by the Purchaser or its solicitors. In the event that the Purchaser has not, on or before the Condition Date, waived the Purchaser’s Conditions or provided the Vendor with written confirmation that the Purchaser’s Conditions have been satisfied, the Agreement shall be null and void and the Deposit shall be returned to the Purchaser without interest and without deduction and the Vendor and the Purchaser shall have no further obligations to each other with respect hereto.

**6. Acceptance of Offer**

*Vendor*

*PURCHASER*

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The Purchaser agrees that no agreement for the purchase and sale of the Property shall result from this Offer unless and until this Offer has been accepted by the Vendor and Court Approval has been obtained in accordance with the provisions of Section 7 hereof. The Purchaser agrees that this Offer shall be irrevocable by the Purchaser and open for acceptance by the Vendor until 5:00 o’clock p.m. (Toronto time) on May 9th, 2025, after which time, if not accepted by the Vendor, this Offer shall be null and void and the Deposit shall be returned to the Purchaser in accordance with Section 4(a) hereof. The Vendor shall indicate the date on which it has accepted this Offer in the space provided on the execution of this Offer.

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**7. Court Approval**

The Purchaser hereby acknowledges and agrees that the sale of the Property is by, and subject to, Court Approval. The Vendor shall bring a motion to the Court for Approval of the Agreement and an order vesting title to the Property in the Purchaser (the “**Vesting Order**”) within thirty (30) days of the later of the Purchaser’s waiver of the Purchaser’s Conditions and the Vendor’s acceptance of this Offer (the “**Approval Date**”). The Vendor shall diligently pursue such motion on notice to the Purchaser and shall promptly notify the Purchaser of the disposition thereof. The Purchaser, at its own expense, shall promptly provide to the Vendor all such information and assistance within the Purchaser’s power as the Vendor may reasonably require to obtain Approval of the Agreement. If the Court shall not have granted Approval of the Agreement on or before the Approval Date, the Vendor may elect in writing, in its sole and absolute discretion, prior to 5:00 p.m. on the Approval Date to extend the Approval Date for an additional period of thirty (30) days, to allow the Vendor to continue to attempt to obtain Court Approval of the sale of the Property (the “**Outside Approval Date**”). If the Court shall not have granted Approval by the Outside Approval Date, the Agreement shall automatically be terminated, unless the parties otherwise agree in writing. If the Agreement is terminated under any provision of this Section, the Deposit shall be returned to the Purchaser in accordance with Section 4(c) hereof and neither party shall have any further rights or liabilities hereunder.

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### **8. Capacity of Receiver**

The Vendor, by acceptance of this Offer, is entering into the Agreement solely in its capacity as the Court-appointed Receiver of all of the Property and not in its personal, corporate or any other capacity. Any claim against the Receiver shall be limited to and only enforceable against the assets, undertakings and properties then held by or available to it in its said capacity as Receiver and shall not apply to its personal property and/or any assets held by it in any other capacity. The Vendor shall have no personal or corporate liability of any kind, whether in contract or in tort or otherwise. The term "Vendor" as used in this Agreement shall have no inference or reference to the present registered owner of the Property.

### **9. Adjustments**

The Purchase Price for the Property shall be adjusted as of the Closing Date in respect of realty taxes, flat/fixed water and sewer rates and charges, utility deposits, if any, and all other items usually adjusted with respect to properties similar to the Property that apply. Such adjustments shall be pro-rated where appropriate for the relevant period on the basis of the actual number of days elapsed during such period prior to the Closing Date itself to be apportioned to the Purchaser.

### **10. Termination of Agreement**

Notwithstanding anything to the contrary contained in this Agreement, if at any time or times prior to the Closing Date, the Vendor is unable to complete this Agreement as a result of any action taken by an encumbrancer, any action taken by the present registered owner, the refusal by the present registered owner, to take any action, the exercise of any right by the present registered owner or other party which is not terminated upon acceptance of this Agreement, a certificate of pending litigation is registered against the Property, a court judgment or order is made, or, if the Purchaser submits valid title requisition which the Vendor is unable or unwilling to satisfy prior to Closing, or if the sale of the Property is restrained at any time by a court of competent jurisdiction, or if the Property is occupied by the owner of the Property and the Vendor is unable to provide vacant possession on Closing, the Vendor may, in its sole and unfettered discretion, elect by written notice to the Purchaser, to terminate this Agreement, whereupon the Deposit shall be returned to the Purchaser in accordance with Section 4(c) hereof, and neither party shall have any further rights or liabilities hereunder.

The obligation of the Vendor to complete the Agreement is subject to the satisfaction of the following terms and conditions on or prior to the Closing Date, which conditions are for the sole benefit of the Vendor and which may be waived by the Vendor in its sole discretion:

- (a) the representations and warranties of the Purchaser herein being true and accurate as of the Closing Date;
- (b) no action or proceeding at law or in equity shall be pending or threatened by any person, firm, government, government authority, regulatory body or agency to enjoin, restrict or prohibit the purchase and sale of the Property;





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- (c) the Property shall not have been removed from the control of the Vendor by any means or process;
- (d) no party shall take any action to redeem the Property; and
- (e) the Court shall have granted Approval of this Agreement and shall have granted the Vesting Order.

#### **11. Purchaser's Acknowledgements**

The Purchaser hereby acknowledges and agrees with, and to be subject to, the following:

- (a) it is responsible for conducting its own searches and investigations of the current and past uses of the Property;
- (b) the Vendor makes no representation or warranty of any kind that the present use or future intended use by the Purchaser of the Property is or will be lawful or permitted;
- (c) it is satisfied with the Property and all matters and things connected therewith or in any way related thereto;
- (d) it is relying entirely upon its own investigations and inspections in entering into this Agreement;
- (e) it is purchasing the Property on an "as is, where is" and "without recourse" basis including, without limitation, outstanding work orders, deficiency notices, compliance, requests, development fees, imposts, lot levies, sewer charges, zoning and building code violations and any outstanding requirements which have been or may be issued by any governmental authority having jurisdiction over the Property;
- (f) it relies entirely on its own judgment, inspection and investigation of the Property and acknowledges that any documentation relating to the Property obtained from the Vendor has been prepared or collected solely for the convenience of prospective purchasers and is not warranted to be complete or accurate and is not part of this Offer or the Agreement;
- (g) it will provide the Vendor with all requisite information and materials, including proof respecting source or funds, at any time or times within forty-eight (48) hours of request by the Vendor so that the Vendor may determine the creditworthiness of the Purchaser and any related parties thereto;
- (h) the Vendor shall have no liability or obligation with respect to the value, state or condition of the Property, or the Leases, if any, whether or not the matter is within the knowledge or imputed knowledge of the Vendor, its officers, employees, directors, agents, representations and contractors;
- (i) the Vendor has made no representations or warranties with respect to or in any way related to the Property, including without limitation, the following: (i) the title, quality, quantity,

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marketability, zoning, fitness for any purpose, state, condition, encumbrances, description, present or future use, value, location or any other matter or thing whatsoever related to the Property, either stated or implied; and (ii) the environmental state of the Property, the existence, nature, kind, state or identity of any Hazardous Substances on, under, or about the Property, the existence, state, nature, kind, identity, extent and effect of any administrative order, control order, stop order, compliance order or any other orders, proceedings or actions under the *Environmental Protection Act* (Ontario), or any other statute, regulation, rule or provision of law now in existence, or the state, nature, kind, identity, extent and effect of any liability to fulfill any obligation to compensate any third party for any costs incurred in connection with or damages suffered as a result of any discharge of any Hazardous Substances whether on, under or about the Property or elsewhere;

- (j) the Material Documents are being provided to the Purchaser merely as a courtesy and without any representations or warranties whatsoever; and
- (k) it will ensure that any environmental and/or structural reports obtained on behalf of the Purchaser shall also be addressed to the Vendor and a copy of each such report shall be delivered to the Vendor promptly after the completion thereof, regardless of whether the transaction contemplated by this Offer or the Agreement closes. If for any reason such transaction is not consummated, the Purchaser agrees to deliver promptly to the Vendor any and all reports and other data pertaining to the Property and any inspections or examinations conducted hereunder.

## **12. Title to the Property**

Provided that the title to the Property is good and free from all restrictions, charges, liens, claims and encumbrances, except as otherwise specifically provided in this Agreement, and save and except for:

- (a) any reservations, restrictions, rights of way, easements or covenants that run with the land;
- (b) any registered agreements with a municipality, region or supplier of utility service including, without limitations, electricity, water, sewage, gas, telephone or cable television or other telecommunication services;
- (c) all laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Property;
- (d) any minor easements for the supply of utility services or other services to the Lands or Buildings, if any, or adjacent properties;
- (e) encroachments disclosed by any error or omission in existing surveys of the Lands or neighbouring properties and any title defects, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Lands and survey of the Lands and survey matters generally;

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- (f) the exceptions and qualifications set forth in the *Registry Act* (Ontario) or the *Land Titles Act* (Ontario), or amendments thereto;
- (g) reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown including, without limitation, the reservation of any mines and minerals in the Crown or in any other person;
- (h) subsection 44(1) of the *Land Titles Act* (Ontario) except paragraphs 11 and 14;
- (i) provincial succession duties and escheats or forfeiture to the Crown;
- (j) the rights of any person who would, but for the *Land Titles Act* (Ontario) be entitled to the Lands or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention;
- (k) any lease to which subsection 70(2) of the *Registry Act* (Ontario) applies;

Notwithstanding the foregoing, the Vesting Order shall provide for the deletion of any instruments or registrations as may be appropriate in the circumstances and for the deletion of any filings under the *Personal Property Security Act* (Ontario), as they affect the Property.

### **13. Authorizations**

The Purchaser shall assume, at its cost, complete responsibility for compliance with all municipal, provincial and federal laws insofar as the same apply to the Property and the use thereof by the Purchaser. It shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Purchaser of the Vendor's right, title and interest, if any, in the Property.

### **14. As Is Where Is**

For greater certainty, the Purchaser acknowledges that the Vendor is selling and the Purchaser is purchasing the Property on an "as is, where is" basis subject to whatever defects, conditions, impediments, Hazardous Substances or deficiencies which may exist on the Closing Date, including, without limiting the generality of the foregoing, any latent or patent defects in the Property. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Property, and that, as at the date of waiver of the Purchaser's Conditions, the Purchaser shall have conducted such inspections of the condition and title to the Property as it deems appropriate and shall have satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose, the existence or non-existence of Hazardous Substances, compliance with any or all Environmental Laws, legality of rents, merchantability, condition, quantity or quality, or in respect of any other matter or thing whatsoever concerning the Property, or the right of the Vendor to sell same, save and except as expressly provided for in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) do not apply hereto and have been waived by the Purchaser. The descriptions of the Property contained in this





Agreement are for the purposes of identification only and no representation, warranty or condition has or will be given by the Vendor concerning the accuracy of such descriptions.

**15. Requisition Period**

The Purchaser shall be allowed until the Condition Date to investigate the title to the Property and to satisfy itself that all present uses are the legal uses thereof or legal nonconforming uses which may be continued and that the Property may be insured against usual insurable risks, at the Purchaser's own expense. If within such time the Purchaser shall furnish the Vendor in writing with any valid objection to title to the Property, which the Vendor is unable or unwilling to remove, remedy or satisfy and which the Purchaser will not waive, then the Agreement shall be terminated, the Deposit shall be returned to the Purchaser in accordance with Section 4(c) hereof and neither party shall have any further rights or liabilities hereunder. Save as to any valid objection made as aforesaid or which the law allows to be made and is made after expiry of the aforesaid period, the Purchaser shall be conclusively deemed to have accepted the title to the Property to be vested in the Purchaser on Closing in accordance with the Agreement, and to have accepted the Property subject to all applicable laws, by-laws, regulations, easements and covenants affecting its use and the Purchaser shall assume responsibility from and after the Closing Date for compliance therewith. The Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title to the Lands, except as are in the control or possession of the Vendor. The Vendor shall not be required to produce any other document or report to the Purchaser, unless it is expressly provided for by this Agreement. The description of the Property is believed by the Vendor to be correct but, if any statement, error or omission shall be found in the particulars thereof, the same shall not cancel the sale or entitle the Purchaser to be relieved of any obligation hereunder, nor shall any compensation be allowed to the Purchaser in respect thereof.

**16. Leases**

The Purchaser acknowledges and agrees that:

- (a) the Property may be subject to Lease(s);
- (b) the Vendor makes no representation or warranty respecting the accuracy and completeness of any Lease(s), if any;
- (c) the Purchaser will purchase the Property subject to the terms and conditions of the Lease(s), if any, without representation or warranty (whether expressed or implied) of any kind or type from the Vendor relating to the Leases, including without limitation, (i) the enforceability of same (ii) whether the Leases accurately reflect the correct arrangement with the tenant(s) (iii) whether the tenants are in possession thereunder and/or paying rents in accordance thereof (iv) whether there are any ongoing unresolved disputes relating to the provisions of the Lease(s) or any parties' obligations thereunder and (v) whether any party or parties to the Lease(s) is or are in default of any obligations contained therein;

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- (d) the Vendor shall not be required to make any adjustments to the Purchase Price for current rentals or prepaid rents or security deposits which may have been received by the Vendor or any other party; and,
- (e) the Vendor shall not be required to produce acknowledgements from the tenant(s) respecting the status of the Lease(s), if any.

The Vendor will execute and deliver or cause to be executed and delivered to the Purchaser on the Closing Date an assignment of any interest which the Vendor may have in the Lease(s).

### **17. Risk of Loss**

The Property shall be and remain until completion at the risk of the Vendor. The Property shall thereafter be at the risk of the Purchaser. Pending completion, the Vendor shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interest may appear and in the event of substantial damage to the Property before the completion of the Agreement which damage gives rise to any insurance proceeds, the Purchaser may either terminate this Agreement and have the Deposit returned without interest or deduction or else take the proceeds of insurance and complete the transaction. Where any damage is not substantial, the Purchaser shall be obliged to complete the Agreement and be entitled to the proceeds of insurance referenced to such damage. The Purchaser agrees that all the insurance maintained by the Vendor shall be cancelled on the Closing Date and that the Purchaser shall be responsible for placing its own insurance thereafter.

### **18. Planning Act**

This Agreement is subject to the express condition that if the provisions of Section 50 of the *Planning Act* (Ontario) apply to the sale and purchase of the Lands, then this Agreement shall be effective to create an interest in the Lands only if such provision is complied with.

### **19. Harmonized Sales Tax**

The Purchaser hereby represents and warrants to the Vendor that it is or will become registered for the purposes of Part IX of the *Excise Tax Act* (Canada) in accordance with the requirements of Subdivision (d) of Division V thereof and it will continue to be so registered as of the Closing Date. The Purchaser covenants to deliver to the Vendor drafts not less than five (5) Business Days before the Closing Date and originals upon Closing of: (i) a notarial copy of the certificate evidencing its registration for purposes of the goods and services tax / harmonized sales tax ("HST"), including the registration number assigned to it; and (ii) a declaration and indemnity of the Purchaser confirming the accuracy, as at Closing, of the representations and warranties set out herein and agreeing to indemnify the Vendor for any amounts for which the Vendor may become liable as a result of any failure by the Purchaser to pay the HST payable in respect of the sale of the Property under Part IX of the *Excise Tax Act* (Canada) and that the Purchaser is buying for its own account and not as trustee or agent for any other party. Provided that the Purchaser delivers a notarial copy of the certificate and the declaration and indemnity as set out above, the Purchaser shall not be required to pay to the Vendor, nor shall the Vendor be required to collect from the Purchaser, the HST in respect of the Property. In the event that the Purchaser shall fail to deliver

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the notarial copy of the certificate and the declaration and indemnity as set out above, then the Purchaser shall pay to the Vendor, in addition to the Purchase Price, in pursuance of the Purchaser's obligation to pay and the Vendor's obligation to collect HST under the provisions of the *Excise Tax Act* (Canada), an amount equal to thirteen (13%) percent of the Purchase Price, or such rate due and owing at the time of Closing.

## **20. Closing**

Closing shall take place on the date which is five (5) Business Days following the later of the granting of Approval of the Agreement by the Court and issuance of the Vesting Order, or such other date as the parties or their respective solicitors may mutually agree upon in writing (the "**Closing Date**" or "**Closing**"). Each party covenants and agrees to proceed expeditiously to complete the transaction of purchase and sale contemplated herein. Provided that the Vendor by written notice to the Purchaser or its solicitors may postpone the Closing Date from time to time, but in no event shall the date of Closing be postponed to a date more than sixty days (60) after the Purchaser has waived all conditions herein in favour of the Purchaser. The Vendor and the Purchaser acknowledge that the Teraview Electronic Registration System ("**TERS**") is operative and mandatory in the Land Titles Division for the LRO. The Purchaser and Vendor shall each retain legal counsel who are authorized TERS users and who are in good standing with the Law Society of Ontario. The Vendor and Purchaser shall each authorize their respective legal counsel to enter into a document registration agreement in the form as adopted by the joint LSUC-CBAO Committee, as amended from time to time, of documents and closing funds and the release thereof to the Vendor and Purchaser, as the case may be:

- (a) shall not occur contemporaneously with the registration of Application to Register the Vesting Order, and Receiver's Certificate required by the Vesting Order (and other registerable documentation, if any) to be registered by the Purchaser's solicitor; and,
- (b) shall be governed by the document registration agreement pursuant to which legal counsel receiving any documents or funds will be required to hold same in escrow and will not be entitled to release except in strict accordance with provisions of the document registration agreement and the Purchaser shall be required to deliver the balance due on closing on the Closing Date to the Vendor's solicitors, to be held in escrow by them, whereupon the Vendor's solicitors shall after payment forthwith attend to have the signed Receiver's Certificate filed with the Court, which signed and entered Receiver's Certificate and Vesting Order shall form part of the Application to Register the Vesting Order, and which shall be delivered by the Vendor's solicitors to the Purchaser's solicitors for immediate registration by the Purchaser's solicitors. Upon registration of the Application to Register the Vesting Order, the Vendor shall release possession of the Property to the Purchaser and the balance due on closing shall be released from escrow.

## **21. Vendor's Closing Deliveries**

The Vendor shall execute and deliver or cause to be executed and delivered to the Purchaser on the Closing Date, against payment of the Purchase Price, the following:

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- (a) a statement of adjustments;
- (b) a direction for the payment of the balance of the Purchase Price due on Closing;
- (c) an undertaking by the Vendor to readjust all items on the statement of adjustments within forty five (45) days from the date of Closing on written demand;
- (d) a certificate of the Vendor to the effect that it is not at the Closing Date a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act*;
- (e) a copy of the Vesting Order;
- (f) keys and combination lock codes that may be in the possession of the Vendor, if any;
- (g) copies of all Material Documents, if not already in the possession of the Purchaser; and
- (h) any other documents relative to the completion of this Agreement as may reasonably be required by the Purchaser or its solicitors.

**22. Purchaser's Closing Deliveries**

The Purchaser shall execute and deliver to the Vendor on the Closing Date the following:

- (a) wire transfer for the balance of the Purchase Price and any other monies required to be paid by the Purchaser pursuant to the Agreement, or the adjustments, including all applicable federal and provincial taxes, duties and registration fees unless the applicable exemption certificates in a form acceptable to the Vendor are presented to the Vendor on or before the Closing Date to exempt the Purchaser therefrom;
- (b) all certificates, indemnities, declarations and other evidences contemplated hereby in form and content satisfactory to the Vendor's solicitors, acting reasonably;
- (c) an undertaking by the Purchaser to readjust all items on the statement of adjustments;
- (d) a notarial copy of its HST registration and HST certificate and indemnity as required pursuant to this Agreement;
- (e) an agreement to assume all existing Leases, if any, service and supply contracts in place as of Closing;
- (f) an agreement to assume any cost sharing agreements pertaining to the Property; and
- (g) any other documents relative to the completion of this Agreement as may reasonably be required by the Vendor or its solicitors.





### **23. Inspection**

Without limitation, all of the Property shall be as it exists on the Closing Date with no adjustments to be allowed to the Purchaser for changes in conditions or qualities from the date hereof to the Closing Date. The Purchaser acknowledges and agrees that the Vendor is not required to inspect the Property or any part thereof and the Purchaser shall be deemed, at its own expense to have relied entirely on its own inspection and investigation. The Purchaser acknowledges that no warranties or conditions, expressed or implied, pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in other jurisdictions apply hereto and all of the same are hereby waived by the Purchaser.

### **24. Encroachments**

The Purchaser agrees that the Vendor shall not be responsible for any matters relating to encroachments on or to the Lands or Buildings, if any, or encroachments of the Property onto adjoining lands, or to remove same, or for any matters relating to any applicable zoning regulations or by-laws in existence now or in the future affecting the Property.

### **25. Purchaser's Warranties**

The Purchaser represents and warrants that:

- (a) it is a corporation duly incorporated, organized and subsisting under the laws of Canada, Ontario or another province of Canada;
- (b) it has the corporate power and authority to enter into and perform its obligations under the Agreement and all necessary actions and approvals have been taken or obtained by the Purchaser to authorize the creation, execution, delivery and performance of this Offer and the Agreement and this Offer has been duly executed and delivered by the Purchaser, and the resulting Agreement is enforceable against the Purchaser in accordance with its terms; and
- (c) it is not a non-Canadian for the purpose of the *Investment Canada Act* (Canada) and it is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).
- (d) neither the entering into nor the delivery of this Agreement nor the completion by the Purchaser of the transaction contemplated hereby will conflict with, or constitute a default under, or result in a violation of: (i) any of the provisions of the constating documents or by-laws of the Purchaser; or (ii) any Applicable Laws., and
- (e) the Purchaser: (i) is not an insolvent person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-up and Restructuring Act* (Canada); (ii) has not made an assignment in favour of its creditors or a proposal to its creditors or any class thereof; (iii) has not had any application for a bankruptcy order filed or presented in respect of it; and (iv) has not initiated proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution.





**26. Confidentiality**

The Purchaser agrees that all information and documents supplied by the Vendor or anyone on its behalf to the Purchaser or anyone on the Purchaser's behalf (including but not limited to information in the schedules hereto) shall, unless and until Closing occurs, be received and kept by the Purchaser and anyone acting on the Purchaser's behalf on a confidential basis and shall not without the Vendor's prior written consent be disclosed to any third party. If for any reason Closing does not occur, all such documents (including without limitation, the Material Documents) shall forthwith be returned intact to the Vendor and no copies or details thereof shall be retained by the Purchaser or anyone acting on its behalf. The Purchaser further agrees that the Purchaser shall keep the terms of this Offer and the Agreement confidential and shall not disclose the same to anyone except the Purchaser's solicitors, agents or lenders acting in connection herewith and then only on the basis that such persons also keep such terms confidential as aforesaid.

**27. Indemnification**

The Purchaser shall indemnify and save harmless the Vendor and its directors, officers, employees and agents (collectively, the "**Indemnitees**") from and against any and all liabilities, obligations, losses, damages, penalties, notices, judgments, suits, claims, demands, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Indemnitees or any of them arising out of or in connection with the operations of the Purchaser on the Property or any order, notice, directive, or requirement under, or breaches, violations or non-compliance with any Environmental Laws after the Closing Date or as a result of the disposal, storage, release or threat of release or spill on or about the Property of any Hazardous Substance after the Closing Date. The obligation of the Purchaser hereunder shall survive the Closing Date.

The Purchaser shall indemnify the Vendor and save harmless the Indemnitees from and against any and all liabilities, obligations, losses, damages, penalties, notices, judgments, suits, claims, demands, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Indemnitees or any of them arising out of or in connection with the failure of the Purchaser to pay any taxes, duties, fees and like charges exigible in connection with this Offer or Agreement. It shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining, any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Purchaser of the Property.

**28. Release**

The Purchaser agrees to release and discharge the Vendor together with its officers, employees, agents and representatives from every claim of any kind that the Purchaser may make, suffer, sustain or incur in regard to any Hazardous Substance relating to the Property. The Purchaser further agrees that the Purchaser will not, directly or indirectly, attempt to compel the Vendor to clean up or remove or pay for the cleanup or removal of any Hazardous Substance, remediate any condition or matter in, on, under or in the vicinity of the Property or seek an abatement in the Purchase Price or damages in connection with any Hazardous Substance. This provision shall not expire with, or be terminated or extinguished by or merged in the Closing of the transaction of



purchase and sale, contemplated by the Agreement, and shall survive the termination of the Agreement for any reason or cause whatsoever and the closing of this transaction.

**29. Commission**

The Vendor represents and warrants that the Vendor has not retained any agent in regard to the sale of the Property to the Purchaser. The Purchaser agrees that it shall be responsible for paying any commission or other remuneration payable to any agent retained by the Purchaser in connection with its purchase of the Property and the Purchaser agrees to indemnify and save harmless the Vendor from and against any claim for such commission or other remuneration.

**30. Non-Registration**

The Purchaser hereby covenants and agrees not to register this Offer or the Agreement or notice of this Offer or the Agreement or a caution, certificate of pending litigation, or any other document providing evidence of this Offer or the Agreement against title to the Property. Should the Purchaser be in default of its obligations under this Section, the Vendor may (as agent and attorney of the Purchaser) cause the removal of such notice of this Offer or the Agreement, caution, certificate of pending litigation or other document providing evidence of this Offer or the Agreement or any assignment of this Offer or the Agreement from the title to the Property. The Purchaser irrevocably nominates, constitutes and appoints the Vendor as its agent and attorney in fact and in law to cause the removal of such notice of this Offer or the Agreement, any caution, certificate of pending litigation or any other document or instrument whatsoever from title to the Property.

**31. Assignment**

Save and except for the completion of this transaction by a company to be incorporated by the Purchaser, the Purchaser shall not have the right to assign its rights under this Agreement without the Vendor's prior written consent, which consent may be unreasonably withheld. Notice of the Purchaser's intention to assign, with the assignee's name and address for service and the assignee's HST number shall be provided to the Vendor not less than seven (7) Business Days prior to the Closing Date.

**32. Notices**

Any notice to be given or document to be delivered to the parties pursuant to this Agreement shall be sufficient if delivered personally or sent by email or sent by facsimile or mailed by prepaid registered mail at the following addresses:

To Vendor:

Rosen Goldberg Inc.  
5255 Yonge Street, Suite 804  
Toronto, ON M2N 6P4

Attention: Brahm Rosen

Alt



- 16 -

Email: brosen@rosengoldberg.com  
Fax: 416.224.4330

with a copy to (which shall not constitute notice):

Manis Law  
2300 Yonge Street, Suite 1600  
Toronto, ON M4P 1E4

Attention: Howard Manis  
Email: hmanis@manislaw.ca

and in the case of a notice to the Purchaser, to:

Arvinder Dhaliwal (Broker of Record I Owner)

GATE Real Estate Inc.

Email: arvinder@GATErealestate.ca

AD

Direct Phone# 647-330-9898

with a copy to the Purchaser's solicitors (which shall not constitute notice):

Joel Mixa (MIXA LAW)

895 Don Mills Rd. Building2, Suite#108. Toronto M3C 1W3

Email: Joel@MixaLaw.com

Phone: 647-499-8848 Fax: 647-498-1330

Any written notice or delivery of documents given in this manner shall be deemed to have been given and received on the day of delivery if delivered personally or sent by email or sent by facsimile or, if mailed, three (3) Business Days after the deposit with the post office.

### **33. Entire Agreement**

The Agreement shall constitute the entire agreement between the parties to it pertaining to the subject matter thereof and shall supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties and there shall be no agreements or understandings between the parties in connection with the subject matter thereof except as specifically set forth herein. No party hereto has relied on any express or implied representation, written or oral, of any individual or entity as an inducement to enter into the Agreement.

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**34. Amendment**

No supplement, modification, waiver or termination of the Agreement shall be binding, unless executed in writing by the parties to be bound thereby, provided that the time provided for doing any matter or thing contemplated herein may be abridged or extended by written agreement, in letter form or otherwise, executed by the duly authorized solicitors for the parties.

**35. Time of Essence**

Time shall be of the essence in this Agreement in all respects and any waiver of any time provision shall not be effective unless in writing and signed by both parties.

**36. Binding Agreement**

This Offer, when accepted, shall constitute a binding agreement of purchase and sale subject to its terms. It is agreed that there is no representation, warranty, collateral agreement or condition affecting the Agreement or the Property supported hereby other than as expressed herein in writing.

**37. Governing Law**

This Offer and the Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**38. Gender, Interpretive Matters**

This Offer and the Agreement shall be read with all changes of gender or number required by the context. The titles to provisions do not form part of this Offer or the Agreement and are inserted for reference purposes only. Preparation and submission of the form of this Offer or any other material by the Vendor shall not constitute an offer to sell.

**39. Severability**

Any provision of this Agreement which is determined to be void, prohibited or unenforceable shall be severable to the extent of such avoidance, prohibition or unenforceability without invalidating or otherwise limiting or impairing the other provisions of this Agreement.

**40. Non-Merger**

The provisions of this Agreement (including, without limitation, the representations and warranties of the Purchaser), shall survive Closing and shall not merge in the Vesting Order or in any other documents delivered hereunder.

**41. Counterparts**

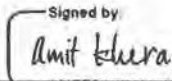
The parties hereto agree that this Agreement may be executed in counterparts and by facsimile transmission and each such counterpart so executed by facsimile transmission shall be deemed to be an original and when taken together shall constitute as one and the same Agreement.





**IN WITNESS WHEREOF** the Purchaser has executed this Offer this 7th day of May, 2025.

**PURCHASER:**

By:  Signed by  
Name: Amit Khera  
Title: Director  
*I have authority to bind the corporation.*

Subject to the Approval of the Court, the undersigned hereby accepts the foregoing Offer this 7<sup>th</sup> day of May, 2025.


**ROSEN GOLDBERG INC.**

in its capacity as court-appointed Receiver of all of the Property and not in its personal or corporate capacity

Telephone: 416.224.4210

Fax: 416.224.4330

E-mail: brosen@rosengoldberg.com

By:  Name: BRAHM ROSEN  
Title: PRESIDENT  
*I have authority to bind the corporation.*

**SCHEDULE "A"**

**THE LANDS**

**ADDRESS:** 12281 Highway 35, Minden Hills,  
Ontario K0M 2K0

**PIN:** 39198 - 0046 LT

**DESCRIPTION:** PT LT 1 CON A ANSON AS IN  
H250709; S/T & T/W H250709; S/T  
A943 PARTIALLY RELEASED BY  
H52721; S/T H236867, H260155;  
MINDEN HILLS



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**SCHEDULE "B"- Claims to be deleted and expunged from title to Real Property**

**12281 Highway 35, Minden Hills, Ontario K0M 2K0**

1. Instrument No. HA78207 is a Charge registered on 2022/04/26 in favour of C & K MORTGAGE SERVICES INC. in the principal sum of \$2,200,000.00;
2. Instrument No. HA78208 is a Notice of Assignment of Rents General registered on 2022/04/26 in favour of C & K MORTGAGE SERVICES INC.;
3. Instrument No. HA78220 is a Charge registered on 2022/04/27 in favour of SHELL CANADA LIMITED in the principal sum of \$120,000.00;
4. Instrument No. HA78916 is a Charge registered on 2022/06/01 in favour of 2009339 ONTARIO INC in the principal sum of \$480,000.00;
5. Instrument No. HA81183 is a Notice registered on 2022/09/22 in favour of 2009339 ONTARIO INC.
6. Instrument No. HA81883 is a Notice registered on 2022/10/31 in favour of 2009339 ONTARIO INC.
7. Instrument No. HA85374 is a Notice registered on 2023/07/07 in favour of 2009339 ONTARIO INC.
8. Instrument No. HA87108 is a Notice registered on 2023/10/18 in favour of 2009339 ONTARIO INC.

At

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**SCHEDULE "C" – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property  
(unaffected by the Vesting Order)**

**12281 Highway 35, Minden Hills, Ontario K0M 2K0**

1. Instrument No. A943 is a Transfer of Easement in favour of THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO registered on 1942/10/07;
2. Instrument No. H46725 is a Bylaw registered on 1969/10/16;
3. Instrument No. H52721 is a Release registered on 1971/01/07;
4. Instrument No. 19R3310 is a Plan Reference registered on 1985/06/18;
5. Instrument No. 19R4760 is a Plan Reference registered on 1990/05/04;
6. Instrument No. H196778 is an Agreement in favour of TOWNSHIPS OF ANSON HINDON AND MINDEN, registered on 1994/05/12;
7. Instrument No. H198596 is an Agreement in favour of THE TOWNSHIPS OF ANSON HINDON & MINDEN, registered on 1994/09/09;
8. Instrument No. 19R6688 is a Plan Reference registered on 1999/08/17;
9. Instrument No. 19R7164 is a Plan Reference registered on 2001/09/06;
10. Instrument No. H236867 is a Transfer of Easement in favour of HYDRO ONE NETWORKS INC., registered on 2001/11/09;
11. Instrument No. 19R7907 is a Plan Reference registered on 2004/10/22;
12. Instrument No. H260155 is a Transfer of Easement in favour of HYDRO ONE NETWORKS INC., registered on 2005/04/15



✓

**SCHEDULE "D"**  
**TO OFFER OF PURCHASE REGARDING 12281 HIGHWAY 35,**  
**MINDEN HILLS, ON K0M 2K0**  
**VENDOR TAKE BACK**  
**MORTGAGE**

1. The Purchaser will bring a total downpayment of \$ [REDACTED]  
[REDACTED]

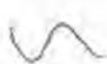
2. The Vendor will provide a Vendor-Take-Back mortgage or otherwise arrange a mortgage in the amount of [REDACTED] on the following terms:



[REDACTED]

- Interest only, payable monthly;
- Term of mortgage will be One year;
- Fully open for prepaying all or any portion of principal anytime without any penalty or bonus
- There will be no lending fees;





# APPENDIX D



# Notice of Fulfillment of Condition(s) Agreement of Purchase and Sale - Commercial

## Form 574

for use in the Province of Ontario

**BUYER:**..... Amit Kumar Khera .....

**SELLER:**..... Brahm Rosen-Rosen Goldberg-Court Appointed Receiver .....

**REAL PROPERTY:**..... 12281 HIGHWAY 35 .....

MINDEN

ON L2H 0B2

In accordance with the terms and conditions of the Agreement of Purchase and Sale - Commercial dated the 7 day of May

2025....., regarding the above property, I/We hereby confirm that I/We have fulfilled the condition(s) which read(s) as follows:

### 5. Purchaser's Conditions

Notwithstanding anything to the contrary herein contained, this Agreement shall be made conditional to the Purchaser until 5:00 o'clock p.m. (Toronto time) on May 21st, 2025 (the "Condition Date") and is subject to the Purchaser satisfying itself in its sole, absolute and unfettered discretion with all matters relating to the Property, including without limitation, zoning matters, the Leases, if any, and the suitability and economic viability of the Property for the Purchaser's use, the physical condition of the Property, soil conditions, the environmental condition of the Lands and Buildings, if any, and the surrounding real property and the results of its other due diligence tests, inspections and investigations (collectively, the "Purchaser's Conditions").

The Purchaser shall be permitted to enter the Property at such time or times agreed upon by the Vendor, and the Vendor agrees to co-operate in providing access to the Property, if necessary, for any inspection required for the fulfillment of the Purchaser's Conditions.

The Purchaser's Conditions are for the exclusive benefit of the Purchaser and may be waived in whole or in part by the Purchaser at any time on or before the Condition Date, any such waiver to be made in writing by the Purchaser or its solicitors. In the event that the Purchaser has not, on or before the Condition Date, waived the Purchaser's Conditions or provided the Vendor with written confirmation that the Purchaser's Conditions have been satisfied, the Agreement shall be null and void and the Deposit shall be returned to the Purchaser without interest and without deduction and the Vendor and the Purchaser shall have no further obligations to each other with respect hereto."

All other terms and conditions in the aforementioned Agreement of Purchase and Sale - Commercial to remain unchanged.

For the purposes of this Notice of Fulfillment of Condition, "Buyer" includes purchaser, and "Seller" includes vendor.

DATED at Toronto....., Ontario, at 3:30 this 21 day of May 2025  
(a.m./p.m.)

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

..... (Witness)	Signed by:  ..... (Buyer/Seller/Authorized Signing Officer) Amit Kumar Khera	 (Seal)	<u>5/21/2025</u> (Date)
..... (Witness)	..... (Buyer/Seller/Authorized Signing Officer)	 (Seal)	..... (Date)

Receipt acknowledged at 4:30 this 21 day of May 2025 by:  
(a.m./p.m.)

Print Name: Arvinder Dhaliwal Signature:

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# Amendment to Agreement of Purchase and Sale - Commercial

## Form 570

for use in the Province of Ontario

**BETWEEN:**

**BUYER:** ..... Amit Kumar Kherra .....

**AND**

**SELLER:** ..... Brahm Rosen-Rosen Goldberg-Court Appointed Receiver .....

RE: Agreement of Purchase and Sale - Commercial (Agreement) between the Seller and Buyer, dated the ..... day of ....., 20.....

concerning the property known as 12281 HIGHWAY 35 .....

..... MINDEN ON L2H 0B2 ..... as more particularly described in the aforementioned Agreement.

**The Buyer and Seller herein agree to the following amendment(s) to the aforementioned Agreement:**

**DELETE:**

5. Purchaser's Conditions

Notwithstanding anything to the contrary herein contained, this Agreement shall be made conditional to the Purchaser until 5:00 o'clock p.m. (Toronto time) on May 20th, 2025 (the "Condition Date") and is subject to the Purchaser satisfying itself in its sole, absolute and unfettered discretion with all matters relating to the Property, including without limitation, zoning matters, the Leases, if any, and the suitability and economic viability of the Property for the Purchaser's use, the physical condition of the Property, soil conditions, the environmental condition of the Lands and Buildings, if any, and the surrounding real property and the results of its other due diligence tests, inspections and investigations (collectively, the "Purchaser's Conditions").

The Purchaser shall be permitted to enter the Property at such time or times agreed upon by the Vendor, and the Vendor agrees to co-operate in providing access to the Property, if necessary, for any inspection required for the fulfillment of the Purchaser's Conditions. The Purchaser's Conditions are for the exclusive benefit of the Purchaser and may be waived in whole or in part by the Purchaser at any time on or before the Condition Date, any such waiver to be made in writing by the Purchaser or its solicitors. In the event that the Purchaser has not, on or before the Condition Date, waived the Purchaser's Conditions or provided the Vendor with written confirmation that the Purchaser's Conditions have been satisfied, the Agreement shall be null and void and the Deposit shall be returned to the Purchaser without interest and without deduction and the Vendor and the Purchaser shall have no further obligations to each other with respect hereto."

**INSERT:**

REASON: Due to property being inaccessible for inspection, the condition is being amended one further day as below.

5. Purchaser's Conditions

Notwithstanding anything to the contrary herein contained, this Agreement shall be made conditional to the Purchaser until 5:00 o'clock p.m. (Toronto time) on May 21st, 2025 (the "Condition Date") and is subject to the Purchaser satisfying itself in its sole, absolute and unfettered discretion with all matters relating to the Property, including without limitation, zoning matters, the Leases, if any, and the suitability and economic viability of the Property for the Purchaser's use, the physical condition of the Property, soil conditions, the environmental condition of the Lands and Buildings, if any, and the surrounding real property and the results of its other due diligence tests, inspections and investigations (collectively, the "Purchaser's Conditions").

The Purchaser shall be permitted to enter the Property at such time or times agreed upon by the Vendor, and the Vendor agrees to co-operate in providing access to the Property, if necessary, for any inspection required for the fulfillment of the Purchaser's Conditions. The Purchaser's Conditions are for the exclusive benefit of the Purchaser and may be waived in whole or in part by the Purchaser at any time on or before the Condition Date, any such waiver to be made in writing by the Purchaser or its solicitors. In the event that the Purchaser has not, on or before the Condition Date, waived the Purchaser's Conditions or provided the Vendor with written confirmation that the Purchaser's Conditions have been satisfied, the Agreement shall be null and void and the Deposit shall be returned to the Purchaser without interest and without deduction and the Vendor and the Purchaser shall have no further obligations to each other with respect hereto."

**INITIALS OF BUYER(S):**

**INITIALS OF SELLER(S):**

**IRREVOCABILITY:** This Offer to Amend the Agreement shall be irrevocable by Buyer (Seller/Buyer) until 9:00 (a.m./p.m.)  on the 16 day of May, 2025, after which time, if not accepted, this Offer to Amend the Agreement shall be null and void.

For the purposes of this Amendment to Agreement, "Buyer" includes purchaser and "Seller" includes vendor. Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective solicitors who are hereby expressly appointed in this regard.

**All other Terms and Conditions in the aforementioned Agreement to remain the same.**

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

(Witness) .....  
(Witness) .....  
SIGNED BY: Amit Khera (Buyer/Seller/Authorized Signing Officer) (Seal) May 16, 2025 (Date)  
SIGNED BY: ..... (Buyer/Seller/Authorized Signing Officer) (Seal) (Date)

I, the Undersigned, agree to the above Offer to Amend the Agreement.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

(Witness) .....  
(Witness) .....  
SIGNED BY: Brahm Rosen (Buyer/Seller/Authorized Signing Officer) (Seal) May 16, 2025 (Date)  
SIGNED BY: ..... (Buyer/Seller/Authorized Signing Officer) (Seal) (Date)

The undersigned spouse of the Seller hereby consents to the amendment(s) hereinbefore set out.

(Witness) ..... (Spouse) ..... (Seal) (Date)

**CONFIRMATION OF ACCEPTANCE:** Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed

and written was finally accepted by all parties at 3:00 (a.m./p.m.)  this 16 day of May, 2025.  
SIGNED BY: Brahm Rosen (Signature of Seller or Buyer) (Seal) 57495384FE5E4B2 (Date)

**ACKNOWLEDGEMENT**

I acknowledge receipt of my signed copy of this accepted Amendment to Agreement and I authorize the Brokerage to forward a copy to my lawyer.

SIGNED BY: Brahm Rosen (Seller) May 16, 2025 (Date)  
SIGNED BY: Brahm Rosen - Court Appointed Receiver (Seller) (Date)  
Address for Service ..... (Tel. No.)  
Seller's Lawyer .....  
Address .....  
Email .....  
(Tel. No.) ..... (Fax No.) .....

I acknowledge receipt of my signed copy of this accepted Amendment to Agreement and I authorize the Brokerage to forward a copy to my lawyer.

SIGNED BY: Amit Khera (Buyer) May 16, 2025 (Date)  
SIGNED BY: Amit Kumar Khera (Buyer) (Date)  
Address for Service ..... (Tel. No.)  
Buyer's Lawyer .....  
Address .....  
Email .....  
(Tel. No.) ..... (Fax No.) .....



# Schedule C Agreement of Purchase and Sale - Commercial

## Form 505

for use in the Province of Ontario

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

**BUYER:** ..... Amit Kumar Khera ....., and

**SELLER:** ..... Brahm Rosen-Rosen Goldberg-Court Appointed Receiver .....

for the purchase and sale of ..... 12281 HIGHWAY 35 ..... MINDEN

ON ..... L2H 0B2 ..... dated the ..... 7 ..... day of ..... May ..... 2025

This is to confirm that both Seller, a Court Appointed Receiver and the Buyer, a sophisticated Gas Station business owner and operator, consents, approves and confirms to be represented by the same Real Estate Broker of Record.

This form must be initialed by all parties to the Agreement of Purchase and Sale.

**INITIALS OF BUYER(S):**

**INITIALS OF SELLER(S):**



# Confirmation of Co-operation and Representation Buyer/Seller



## Form 320

for use in the Province of Ontario

**BUYER:** Amit Kumar Kherra

**SELLER:** Brahm Rosen-Rosen Goldberg-Court Appointed Receiver

For the transaction on the property known as: 12281 HIGHWAY 35 MINDEN ON L2H 0B2

**DEFINITIONS AND INTERPRETATIONS:** For the purposes of this Confirmation of Co-operation and Representation: "Seller" includes a vendor, landlord, lessor or a prospective seller, vendor, landlord or lessor and "Buyer" includes a purchaser, tenant, lessee or a prospective buyer, purchaser, tenant or lessee and "sale" includes a lease, and "Agreement of Purchase and Sale" includes an Agreement to Lease. Commission shall be deemed to include other remuneration.

The following information is confirmed by the undersigned salesperson/broker representative(s) of the Brokerage(s). If a Co-operating Brokerage is involved in the transaction, the Brokerages agree to co-operate, in consideration of, and on the terms and conditions as set out below.

**DECLARATION OF INSURANCE:** The undersigned salesperson/broker representative(s) of the Brokerage(s) hereby declare that he/she is insured as required by the Trust in Real Estate Services Act, 2002 (TRESA).

### 1. SELLER BROKERAGE (Single Representation)

- a)  The Seller Brokerage or a Designated Representative of the Seller Brokerage represents the interests of the Seller in this transaction. It is further understood and agreed that:
  - 1)  Neither the Seller Brokerage nor a Designated Representative of the Seller Brokerage is representing the Buyer and has not entered into a representation agreement with the Buyer.
  - 2)  The Seller Brokerage or a Designated Representative of the Seller Brokerage is providing assistance to the Buyer and the Buyer is a self-represented party.
  - 3)  The Seller client and Buyer client are each separately represented by different designated representatives of the same Brokerage and there is no multiple representation.

### 2. SELLER BROKERAGE (Multiple Representation)

- a)  The Seller Brokerage has entered into Representation Agreement with the Buyer and there is Multiple Representation.
- b)  The Designated Representative who represents the Seller also represents the Buyer and there is Multiple Representation.

Additional comments and/or disclosures by Seller Brokerage: (e.g., The Seller Brokerage represents more than one Buyer offering on this property.)

### 3. PROPERTY SOLD BY BUYER BROKERAGE

- a)  The Brokerage or a Designated Representative of the Brokerage represents the Buyer and the Brokerage will be paid by the Buyer directly.

### 4. CO-OPERATING BROKERAGE

#### a) CO-OPERATING BROKERAGE – REPRESENTATION:

- 1)  The Co-operating Brokerage or a Designated Representative of the Co-operating Brokerage represents the interests of the Buyer in this transaction.

#### b) CO-OPERATING BROKERAGE – COMMISSION:

- 1)  The Seller Brokerage will pay the Co-operating Brokerage the commission as indicated in the MLS® information for the property in the amount of ..... to be paid from the amount paid by the Seller to the Seller Brokerage.  
(Commission As Indicated In MLS® Information)
- 2)  The Co-operating Brokerage will be paid as follows:  
4.5% As per Listing Agreement

Additional comments and/or disclosures by Co-operating Brokerage: (e.g., The Co-operating Brokerage represents more than one Buyer offering on this property.)


### INITIALS OF BUYER(S)/SELLER(S)/BROKERAGE REPRESENTATIVE(S) (Where applicable)

  
BUYER

  
CO-OPERATING/BUYER BROKERAGE

  
SELLER

  
SELLER BROKERAGE

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Commission will be payable as described above, plus applicable taxes.

COMMISSION TRUST AGREEMENT: If the above Co-operating Brokerage is receiving payment of commission from the Seller Brokerage, then the agreement between Seller Brokerage and Co-operating Brokerage further includes a Commission Trust Agreement, the consideration for which is the Co-operating Brokerage procuring an offer for a trade of the property, acceptable to the Seller. This Commission Trust Agreement shall be subject to and governed by the MLS® rules and regulations pertaining to commission trusts of the Seller Brokerage's local real estate board, if the local board's MLS® rules and regulations so provide. Otherwise, the provisions of the OREA recommended MLS® rules and regulations shall apply to this Commission Trust Agreement. For the purpose of this Commission Trust Agreement, the Commission Trust Amount shall be the amount noted in Section 4 above. The Seller Brokerage hereby declares that all monies received in connection with the trade shall constitute a Commission Trust and shall be held, in trust, for the Co-operating Brokerage under the terms of the applicable MLS® rules and regulations.

**SIGNED BY THE BROKER/SALESPERSON REPRESENTATIVE(S) OF THE BROKERAGE(S) (Where applicable)**

<p style="text-align: center;">GATE Real Estate Inc.                  (Name of Co-operating/Buyer Brokerage)</p> <hr/> <p>Tel.: 416-288-0800 Fax: 416-288-8038</p> <p>DocuSigned by:  <i>Arvinder Dhaliwal</i> May 7, 2025                  (Authorized to bind the Co-operating/Buyer Brokerage) (Date)</p> <p>Arvinder Dhaliwal                  (Print Name of Salesperson/Broker/Broker of Record)</p>	<p style="text-align: center;">GATE REAL ESTATE INC.                  (Name of Seller Brokerage)</p> <hr/> <p>Tel.: (416) 288-0800 Fax: (416) 288-8038</p> <p>DocuSigned by:  <i>Arvinder Dhaliwal</i> May 9, 2025                  (Authorized to bind the Seller Brokerage) (Date)</p> <p>ARVINDER DHALIWAL                  (Print Name of Salesperson/Broker/Broker of Record)</p>
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<b>CONSENT FOR MULTIPLE REPRESENTATION</b>	
The Buyer and Seller confirm that they have previously consented to Multiple Representation. The Buyer and Seller consent with their initials Multiple Representation for this transaction.	
 INITIALS OF BUYER(S)	 INITIALS OF SELLER(S)

**ACKNOWLEDGEMENT**

I have received, read, and understand the above information.

<p>Signed by:  <i>Amit Khera</i> May 7, 2025                  (Signature of Buyer) (Date)</p> <p>Amit Kumar Khera                  (Print Name of Buyer)</p>	<p>Signed by:  <i>Brahm Rosen</i> May 9, 2025                  (Signature of Seller) (Date)</p> <p>Brahm Rosen                  (Print Name of Seller)</p>
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# APPENDIX E



## MANIS LAW

• Bankruptcy & Insolvency • Commercial & Civil Litigation • Corporate Law

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Lawyer: **Howard F. Manis**  
Tel: 416.417.7257  
Email: [hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)  
File No. 2025-01364

June 27, 2025

### By Email

**Rosen Goldberg Inc.**  
5255 Yonge Street - Suite 804  
Toronto, Ontario M2N 6P4

Attention: Brahm Rosen

Dear Sirs,

**RE: C & K Mortgage Services Inc. o/a Rescom Capital (the “Secured Party”) and  
1000032146 Ontario Inc. (the “Debtor”)  
12281 Highway 35, Minden Hills, Ontario (the “Property”)  
Court File No. CV-25-00000128-0000**

---

You requested that we review and provide you with our opinion as to the priority of certain charges granted by the Debtor to and in favour of the Secured Party upon those real properties and personal property owned by the Debtor and as to the validity and enforceability of such security interests as against Rosen Goldberg Inc., the Court-Appointed Receiver (the “**Receiver**”) over the Debtor.

In forming the opinions expressed below, we have examined the following:

1. A copy of the Charge/Mortgage given by the Debtor to the Secured Party and registered on title to the Property on April 26, 2022;
2. A copy of the Notice of Assignment of Rents—General given by the Debtor to the Secured Party dated April 8, 2022, and registered on title to the Property on April 26, 2022;
3. A copy of the General Security Agreement given by the Debtor to the Secured Party dated April 8, 2022;

4. A copy of the Guarantee and Postponement of Claim given by Hamza Khalid, Muhammad Khalid and Waleed Fahad, on behalf of the Debtor, to the Secured Party dated April 8, 2022;
5. A copy of the Charge/Mortgage given by the Debtor to Shell Canada Limited and registered on title to the Property on April 27, 2022;
6. A copy of the Charge/Mortgage given by the Debtor to 2009339 Ontario Inc. and registered on title to the Property on June 1, 2022;
7. A copy of the certified Personal Property Security Act certificate with respect to the Debtor dated November 26, 2024 with a file currency date of November 25, 2024;
8. A copy of the Parcel Register in respect of the Property dated November 26, 2024; and
9. A copy of the Corporation Profile Report of the Debtor dated November 27, 2024.

Our opinions with respect to the matters referred to below are subject to the following qualifications and reservations:

1. We have assumed that all documents were executed on the date indicated therein;
2. We have assumed the genuineness of all signatures and legal capacity of all natural persons whose signatures appear on behalf of the Debtor and the conformity to the original documents of all documents submitted to us as photostatic copies;
3. We have assumed that the Debtor is a corporation duly incorporated and organized under the laws of the Province of Ontario and had all necessary corporate power and authority to execute and deliver the security documents referred to herein which it executed;
4. We have assumed the execution, delivery and performance by the Debtor of all documents have been duly authorized by all necessary corporate action of the Debtor and have been duly executed and delivered by the Debtor;
5. We have relied upon certificates of public offices as to matters of fact not stated herein to have been assumed or independently verified or established by us;
6. We have assumed the accuracy and currency of the indices and filing systems maintained at the public offices where we have searched or inquired or have caused such searches or inquiries to be conducted;
7. We have assumed that the Debtor has no legal defences against the Secured Party for, without limitation, absence of legal capacity, fraud by or to the knowledge of the Secured Party, misrepresentation, undue influences or duress;
8. We have assumed that all security documents were delivered by the Debtor as security for direct advances made by the Secured Party to the Debtor;

9. We have assumed that monies were in fact advanced by the Secured Party to the Debtor and that monies are in fact owing by the Debtor to the Secured Party with respect to the advances as of the date hereof;
10. We express no opinion as to:
  - (a) title of the Debtor to any of the collateral whatsoever; or
  - (b) the enforcement of the security by the Secured Party or any judgment arising out of or in connection therewith (and the priority of any rights arising thereunder), which enforcement may be limited by any applicable bankruptcy, reorganization, winding up, insolvency, moratorium or other laws of general application affecting the Secured Party's rights from time to time in effect and is subject to general principles of equity including the equitable or statutory powers of the courts of Ontario and Canada to stay proceedings, stay the execution of judgments and to grant relief against forfeiture;
11. We are qualified to render opinions in this regard only as to laws in force in the Province of Ontario and the applicable federal laws of Canada as currently applied and enforced in Ontario and accordingly, we render no opinion with respect to any security delivered to the Secured Party by the Debtor which has been registered in provinces other than Ontario;
12. We have assumed that the security interest created by this security has, to the extent that financing statements have been registered under the Personal Property Security Act, (Ontario) (the "**PPSA**") with respect to any of them, attached in accordance with the provisions of the PPSA in connection therewith. We are also assuming that the description of the collateral secured is sufficient to enable it to be identified within the meaning of section 11(l)(a) of the PPSA, and that, neither the Debtor or any other creditor has agreed to postpone the time for attachment;
13. This opinion is confined to statements of fact or matters set forth herein as existing as at the date of this opinion.

Based upon and subject to the foregoing and general principles of equity, the laws relating to bankruptcy, insolvency, reorganization and creditors' rights generally, we are of the opinion that:

1. The registered Charge/Mortgage given by the Debtor to the Secured Party dated April 26, 2022 has been validly registered pursuant to the *Land Titles Act* and constitutes a valid and enforceable charge against the Property and is enforceable by the Secured Party in accordance with its terms as against the Receiver;
2. The registered Notice of Assignment of Rents – General given by the Debtor to the Secured Party dated April 8, 2022 and registered on title to the Property on April 26, 2022, has been validly registered pursuant to the *Land Titles Act* and constitutes a valid and enforceable charge against the Property and is enforceable by the Secured Party in accordance with its terms as against the Receiver;
3. The General Security Agreement given by the Debtor to the Secured Party dated April 8, 2022 has been validly perfected under the PPSA and constitutes a valid and binding

obligation of the Debtor in favour of the Secured Party and is enforceable by the Secured Party in accordance with its terms as against the Receiver.

The opinions expressed herein are provided solely for the benefit of the party to whom it was delivered and may not be relied upon or used by any other person for any reason whatsoever.

Yours very truly,

**MANIS LAW**

A handwritten signature in black ink, appearing to read "Howard Manis", is written over a light yellow rectangular background.

**Howard Manis**

# APPENDIX F

**IN THE MATTER OF THE RECEIVERSHIP OF  
1000032146 ONTARIO INC.**

**AFFIDAVIT OF FEES**

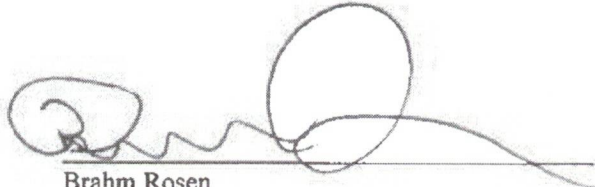
I, Brahm Rosen, Chartered Professional Accountant and Licensed Insolvency Trustee, of the City of Toronto, Province of Ontario, make oath and say as follows:

1. I am President of Rosen Goldberg Inc., the Receiver of the above-mentioned estate, and as such have knowledge of the administration.
2. The total time charges of the Receiver relating to the administration of the estate amounted to \$28,591.00, exclusive of HST, as of June 23<sup>rd</sup>, 2025.
3. Attached as Exhibit "A" and "B" to this Affidavit are schedules of time spent with standard rates of those employed by the Receiver for the period from January 28<sup>th</sup> to June 23<sup>rd</sup>, 2025 in its capacity as Receiver and a summary of services rendered, which describes in detail the services rendered by the Receiver in connection with the administration of the estate.

DATED at Toronto, Ontario this 25<sup>th</sup> day of June, 2025

SWORN before me at the  
City of Toronto, Province of Ontario,  
This 25<sup>th</sup> day of June, 2025.

  
A commissioner, etc.

  
Brahm Rosen

Steven Warren Howard Goldberg,  
a Commissioner, etc.,  
Province of Ontario,  
for Rosen Goldberg Inc.  
Expires February 20, 2027

**IN THE MATTER OF THE RECEIVERSHIP OF  
1000032146 ONTARIO INC.**

Summary of Total Time Charges  
For the Period of January 28, 2025 to June 23, 2025

B. Rosen	44.17 hrs at \$ 570.00 /hr	\$ 25,177.00
N. Mammoliti	28.45 hrs at \$ 120.00 /hr	\$ 3,414.00

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<b>Total time charges</b>	<b><u>72.62</u></b>	<b><u>\$ 28,591.00</u></b>
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This is Exhibit "A" referred to in the  
affidavit of BRANN ROSEN  
sworn before me at TORONTO, ONTARIO  
this 03<sup>rd</sup> day of June, 2025

  
A Commissioner for taking Affidavits for Ontario

Steven Warren Howard Goldberg,  
a Commissioner, etc.,  
Province of Ontario,  
for Rosen Goldberg Inc.  
Expires February 20, 2027

IN THE MATTER OF THE RECEIVERSHIP  
FOR 1000032146 ONTARIO INC.

For the period of January 28, 2025 to June 23, 2025

Date	Last Name	Description	Hours	Fees
1/28/2025	Rosen	review application; call with Gary Grunier	1.30	741.00
2/7/2025	Rosen	call with Gary Gruneir	0.25	142.50
2/26/2025	Rosen	call with Gary Grunier	0.25	142.50
3/6/2025	Rosen	review Order; update case site; dealing with site issues	2.00	1,140.00
3/7/2025	Di Pede-Mammoliti	discussion with Brahm, Eric, Gary and Stuart from Morrison Acceptance from Feb to date of court appointing Rosen Goldberg as Receiver, re changing locks, locking up pumps, ensuring anyone in the store leaves without taking anything; call and texts from Shiro's at Morrison confirming that everyone has left the store/premises, collecting all passwords information needed, collection of any funds etc.	3.50	420.00
3/7/2025	Rosen	dealing with site issues; call with Shell	2.70	1,539.00
3/10/2025	Di Pede-Mammoliti	call and email from and to Brahm, Eirc, Gary and Stuart updating any and all processes; mtg with Spiros to drop copy of keys, mail, funds etc.	0.75	90.00
3/12/2025	Di Pede-Mammoliti	discussion and email with Eric with banking, Insurance information, OLG, etc	2.50	300.00
3/12/2025	Rosen	emails to Shell Canada; review Shell agreements; review Shell Note	1.10	627.00
3/14/2025	Di Pede-Mammoliti	visit to Minden, meet with OLG to collect machine signs etc, note inventory being taken for Mill Street,	8.00	960.00
3/17/2025	Rosen	prepare Notice of Receiver	1.10	627.00
3/18/2025	Rosen	dealing with site issues	1.00	570.00
3/19/2025	Rosen	dealing with inventory; call with Muhammed Latif, call with Jia; call with Gary Grunier	1.50	855.00
3/25/2025	Rosen	call with Arvinder Dhaliwal; call with Gary Grunier; call with Muhammed Latif	1.75	997.50
3/26/2025	Rosen	call with Gary Grunier; review offer received; call with Arvinder Dhaliwal	0.20	114.00
3/27/2025	Rosen	call with Muhammed Latif	0.25	142.50

4/2/2025	Rosen	call with Arvinder Dhaliwal; call with Gary Grunier; call with Muhammed Latif, dealing with issue at site	2.00	1,140.00
4/7/2025	Rosen	call with Arvinder Dhaliwal; call with Gary Grunier re listing	0.35	199.50
4/8/2025	Rosen	dealing with listing agreement; call with Arvinder Dhaliwal	0.75	427.50
4/9/2025	Rosen	emails from Arvinder Dhaliwal	0.20	114.00
4/10/2025	Rosen	emails from and to Arvinder Dhaliwal; emails to Shell re obtaining information	0.75	427.50
4/21/2025	Rosen	dealing with inventory	0.16	81.20
4/22/2025	Rosen	review offer; call with Muhammed Latif; dealing with inventory	1.00	570.00
4/23/2025	Di Pede-Mammoliti	call to Eric discuss payment for inventory Jia took from Minden, email from Eric re inventory merchandise and setting up online account inquiry with CRA	0.45	54.00
4/24/2025	Di Pede-Mammoliti	email and call from Hamza regarding information at site , email from Arvinder re sale of estate	0.75	90.00
4/24/2025	Rosen	review offers; call with Arvinder Dhaliwal; call with Muhammed Latif; emails to Gary Grunier	1.00	570.00
4/25/2025	Rosen	call with Gary Grunier; dealing with email; email to Shell	0.70	399.00
4/27/2025	Rosen	review offer	0.30	171.00
4/27/2025	Rosen	review offers received; emails to Arvinder Dhaliwal; emails from and to Hamza Khalid	1.20	684.00
4/28/2025	Di Pede-Mammoliti	email from and to Annie from Pepsi re amount owing, emailed Proof of claim	0.45	54.00
4/28/2025	Rosen	various emails re offers	0.75	427.50
4/29/2025	Di Pede-Mammoliti	banking	1.85	222.00
4/29/2025	Rosen	dealing with accounting of funds	0.30	171.00
4/30/2025	Di Pede-Mammoliti	email from and to Kristen at BMO regarding bank charges	0.15	18.00
5/1/2025	Di Pede-Mammoliti	email from fast lane bowling tenant. banking deposit of rent payments	0.50	60.00
5/1/2025	Rosen	dealing wit offers	0.75	427.50
5/2/2025	Di Pede-Mammoliti	payment to Hydro One and Bell	0.45	54.00

5/2/2025	Rosen	email rom Arvinder Dhaliwal; email from Hamza Khalid	0.30	171.00
5/5/2025	Di Pede-Mammoliti	email from Hamza inquiring on information, email from Josh Gruneir	0.75	90.00
5/5/2025	Rosen	prepare summary of offers received	0.40	228.00
5/6/2025	Di Pede-Mammoliti	email from and to Christine Kim at Rai Grant insurance payment processed for insurance renewal	0.75	90.00
5/7/2025	Rosen	review offer received; calls and emails to Gary Grunier; call with Arvinder Dhaliwal	1.00	570.00
5/8/2025	Di Pede-Mammoliti	banking	0.50	60.00
5/9/2025	Rosen	dealing with offers; call with Gary Gruneir; call with Muhammed Latif	1.55	883.50
5/11/2025	Rosen	review sign back; email to Arvinder Dhaliwal	0.60	342.00
5/12/2025	Rosen	email to Arvinder Dhaliwal	0.16	91.20
5/13/2025	Di Pede-Mammoliti	email from Muhammad Latif, discussion with Brahm , email from and to Rosa at touch cash regarding ATM machine on premises	0.25	30.00
5/13/2025	Rosen	review environmental report; call from Arvinder Dhaliwal; call with Gary Grunier; emails from Arvinder Dhaliwal	1.30	741.00
5/15/2025	Di Pede-Mammoliti	email from Arvinder relator regarding information and notes from inspection for purchaser and confirmation deposit for purchase, process request to purchase GIC investment, update ascend	1.25	150.00
5/15/2025	Rosen	call with Arvinder; discussion with Nadia Mammoliti; dealing with offer	1.30	741.00
5/20/2025	Di Pede-Mammoliti	email from Rosa Park from touch cash ATM company to arrange pick up terminal at store, email and call to Arvinder realtor to confirm when she will be onsite with inspectors for purchasers interested in building.	1.25	150.00
5/20/2025	Rosen	email from and to BDC ( creditor)	0.10	57.00
5/21/2025	Di Pede-Mammoliti	process payment to Morrisson and Hydro One, email to and from Steven re e-transfer payment to Morrisson	0.75	90.00
5/21/2025	Rosen	dealing with offer	0.55	313.50
5/22/2025	Rosen	review amendment; email to Arvinder Dhaliwal	0.50	285.00
5/23/2025	Di Pede-Mammoliti	process payment to Hydro One, email from and to Hamza regarding utility company inquires	0.65	78.00
5/26/2025	Di Pede-Mammoliti	email from and to Arvinder re deposit of sale for estate, banking, purchase of GIC	0.75	90.00

5/27/2025	Rosen	dealing with offer	0.50	285.00
5/29/2025	Di Pede-Mammoliti	email from BMO GIC certificate, update information in Ascend	0.75	90.00
5/30/2025	Di Pede-Mammoliti	email from and to tenant, email to and from Brahm, email to and from Megan at Morrison, regarding property maintenance	1.45	174.00
5/30/2025	Rosen	dealing with first report	1.20	684.00
6/9/2025	Rosen	receiver's report	1.10	627.00
6/10/2025	Rosen	report to court	1.00	570.00
6/11/2025	Rosen	First report; emails to Howard Manis and Daniel Litsos	2.45	1,396.50
6/12/2025	Rosen	report to court	1.80	1,026.00
6/13/2025	Rosen	report to court	0.75	427.50
6/17/2025	Rosen	email from and to Arvinder Dhaliwal; report to court	2.00	1,140.00
6/23/2025	Rosen	dealing with report	2.00	1,140.00
			<u>72.62</u>	<u>28,590.90</u>

This is Exhibit "B" referred to in the affidavit of BRAHM ROSEN sworn before me at TORONTO, ONTARIO this 21<sup>st</sup> day of JUNE, 2025.

.....  
A Commissioner for taking Affidavits for Ontario.

Steven Warren Howard Goldberg,  
a Commissioner, etc.,  
Province of Ontario,  
for Rosen Goldberg Inc.  
Expires February 20, 2027

# APPENDIX G

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**C & K MORTGAGE SERVICES INC. o/a RESCOM CAPITAL**

Applicant

and

**1000032146 ONTARIO INC.**

Respondent

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

**AFFIDAVIT OF HOWARD MANIS**

I, **HOWARD MANIS**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Partner at the law firm of Manis Law and as such have knowledge of the matters to which I hereinafter depose.
2. On February 7, 2025, Rosen Goldberg Inc. ("**Rosen Goldberg**" or the "**Receiver**") was appointed as the receiver over all assets, undertakings and properties of the debtor, 1000032146 Ontario Inc. (the "**Debtor**"), pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**").
3. Manis Law was retained as counsel for the Receiver on or about April 10, 2025 pursuant to the Order of the Honourable Justice Cudjoe dated February 7, 2025.
4. In its capacity as counsel to the Receiver, Manis Law has provided legal services in connection with the receivership proceedings of the Debtor including, but not limited to, preparation of the Offer to Purchase; preparation of motion materials, draft orders and facta

for the approval of the sale process and approval and vesting order; review Receiver's Report; preparation of the security opinion to the Receiver; correspondence with the Receiver and Court office and to review the sale documents of the Debtor's property municipally known as 12281 Highway 35, Minden Hills, Ontario.

5. The following is a summary of the lawyers whose services were provided, including the total fees and hours incurred in relation to the within action to and including June 25, 2025:

<u>Name</u>	<u>Year of Call</u>	<u>Position</u>	<u>Hours</u>	<u>Rate</u>	<u>Fees</u>
Howard F. Manis	1993	Partner	9.3	\$800.00	\$7,440.00
Daniel Litsos	2020	Associate	7.6	\$500.00	\$3,800.00

6. I believe that the hours spent on this matter and the disbursements incurred by Manis Law are reasonable and appropriate in the circumstances and commensurate with the rates charged by other firms in Toronto performing such services. Attached hereto as **Exhibit "A"** to this Affidavit is the detailed summary of services to and including June 25, 2025.
7. Manis Law requests that the Court approve its account to the Receiver in this matter for the services rendered and recorded in the total sum of \$12,701.20 inclusive of fees, disbursements and HST.
8. To complete the remaining activities in respect of these proceedings, Manis Law and the Receiver estimate that they will collectively incur up to \$40,000.00 plus HST in fees and disbursements (the "**Fee Accrual**"). Manis Law and the Receiver therefore seek approval of the Fee Accrual in addition to the approval of actual fees to date. By seeking the approval in advance for the Fee Accrual, Manis Law and the Receiver will avoid the need to bring a separate fee approval motion later, which will minimize further professional fees.

9. I make this affidavit in connection with the approval of the Fee Accrual, the fees, disbursements and HST of Manis Law and for no other or improper purpose.

**SWORN** remotely by HOWARD  
MANIS stated to be at the City of  
Toronto in the Province of Ontario  
before me at the City of Toronto, in the  
Province of Ontario on June 27, 2025 in  
accordance with O.Reg. 431/20,  
Administering Oath or Declaration  
Remotely.



---

Commissioner for Taking Affidavits  
Daniel Litsos LSO: 79628V



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**HOWARD MANIS**

**Exhibit "A"**  
to the Affidavit of Howard Manis  
Sworn before me this 27<sup>th</sup> day of June, 2025












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Commissioner for Taking Affidavits

# Activities Export

06/26/2025

2:35 PM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
06/26/2025		To review and revise Motion Record and prepare fee affidavit;  Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Daniel Litsos	0.60h	\$500.00	-	\$300.00
06/25/2025		- Finalized motion materials - Letter to Court office re date for the motion  Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Howard Manis	0.70h	\$800.00	-	\$560.00
06/25/2025		To review revised First Report and revise Notice of Motion, Approval and Vesting Order;  To prepare Distribution and Discharge Order;  Email to client re draft material;  Email correspondence with court office re Court date;  To prepare draft Security Opinion;  Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Daniel Litsos	2.50h	\$500.00	-	\$1,250.00
06/24/2025		- Correspondence from client re Appendicies to Receiver's Report - Draft Order - Email to/from Court office re urgent motion date  Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Howard Manis	1.40h	\$800.00	-	\$1,120.00
06/24/2025		To review Draft First Report;  To review and revise Notice of Motion and draft Order;	2025-01364 Receivership of 1000032146 Ontario Inc.	Daniel Litsos	1.20h	\$500.00	-	\$600.00
					<b>19.60h</b>		<b>\$0.00</b> 0.00h	<b>\$13,220.00</b> 19.60h

# Activities Export

06/26/2025

2:35 PM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		Email correspondence with Receiver re draft First Report and revisions thereto and Distribution and Discharge order. ● Unbilled						
06/23/2025		- Letter to Justice Cudjoe re urgent motion - Further preparation of motion materials - Phone call with client re Receiver's Report - Reviewed draft First Report of the Receiver ● Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Howard Manis	2.80h	\$800.00	-	\$2,240.00
06/20/2025		To further review and revise Notice of Motion, Factum, Draft AVO; ● Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Daniel Litsos	1.10h	\$500.00	-	\$550.00
06/19/2025		- Phone call with client re motion for AVO ● Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Howard Manis	0.20h	\$800.00	-	\$160.00
06/16/2025		- Phone call with Court office re date for motion for AVO - Email to/from client ● Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Howard Manis	0.40h	\$800.00	-	\$320.00
06/16/2025		To begin preparing Notice of Motion, Draft AVO, and Factum; ● Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Daniel Litsos	1.40h	\$500.00	-	\$700.00
06/11/2025		- Reviewed signed Offer to Purchase from Amit Kumar Kherra ● Unbilled	2025-01364 Receivership of	Howard Manis	2.20h	\$800.00	-	\$1,760.00
					<b>19.60h</b>		<b>\$0.00</b>	<b>\$13,220.00</b>
							0.00h	19.60h

# Activities Export

06/26/2025

2:35 PM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		IN TRUST and Notice of Fulfillment - Phone call with client - Phone call with Court Office re date for motion - Begin preparation of Motion materials and Factum for AVMS ● Unbilled	1000032146 Ontario Inc.					
06/02/2025		- Correspondence from client re agreement to sell the property by the Receiver ● Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Howard Manis	0.20h	\$800.00	-	\$160.00
04/14/2025		- Finalized draft Offer to Purchase by the Receiver ● Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Howard Manis	1.00h	\$800.00	-	\$800.00
04/14/2025		Email correspondence with client re Offer to Purchase; ● Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Daniel Litsos	0.20h	\$500.00	-	\$100.00
04/11/2025		Review of Application Record, Order, Endorsement, Parcel Register, Charge;  To draft Offer to Purchase; ● Unbilled	2025-01364 Receivership of 1000032146 Ontario Inc.	Daniel Litsos	1.20h	\$500.00	-	\$600.00
04/10/2025		- Reviewed Endorsement and Order of Justice Cudjoe re appointment of a Receiver - Phone call with client - Reviewed Application Record - Begin preparation of Offer for sale of property by the Receiver	2025-01364 Receivership of 1000032146 Ontario Inc.	Howard Manis	2.50h	\$800.00	-	\$2,000.00
					<b>19.60h</b>		<b>\$0.00</b>	<b>\$13,220.00</b>
							0.00h	19.60h

# Activities Export

06/26/2025

2:35 PM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
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Unbilled

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**19.60h**

**\$0.00**

**\$13,220.00**

0.00h

19.60h

**C & K MORTGAGE SERVICES INC. o/a RESCOM  
CAPITAL**  
Applicant

- and -

**1000032146 ONTARIO INC.**

Respondent

Court File No. CV-25-00000128-0000

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at  
BRAMPTON

**FEE AFFIDAVIT OF H. MANIS**

**MANIS LAW**

2300 Yonge Street, Suite 1600  
Toronto, Ontario, M4P 1E4

**Howard Manis** (LSO # 34336V)

Email: [hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)

Phone: (416)364-5289

**Daniel Litsos** (LSO #79628V)

Email: [dlitsos@manislaw.ca](mailto:dlitsos@manislaw.ca)

Lawyers for the Receiver, Rosen Goldberg Inc.

# **CONFIDENTIAL APPENDIX 1**

# **CONFIDENTIAL APPENDIX 2**

# TAB 3

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE M ) \_\_\_\_\_ DAY, THE \_\_\_\_  
 )  
JUSTICE ) DAY OF \_\_\_\_\_, 2025  
 )

B E T W E E N:

**C & K MORTGAGE SERVICES INC. o/a RESCOM CAPITAL** Applicant

and

**1000032146 ONTARIO INC.** Respondent

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by Rosen Goldberg Inc. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of 1000032146 Ontario Inc. (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and Amit Kumar Khera In Trust for 1001152527 Ontario Inc. (the "**Purchaser**") dated May 7, 2025 and appended to the First Report of the Receiver dated June 27, 2025 (the "**Report**"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 7755 Hurontario Street, Brampton, Ontario by judicial videoconference.

**ON READING** the First Report and schedules thereto and on hearing the submissions of counsel for the Receiver, and anyone else appearing for any other party on the Service List as properly served as appears from the affidavit of Marianne D'Souza sworn June 27, 2025 filed:

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

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the 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 the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Cudjoe dated February 7, 2025; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Haliburton of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the 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.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order 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 fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) 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.

8. **THIS COURT ORDERS** that the Receiver shall disclaim the Assignment and Assumption Agreement of the Retailer Supplier Agreement and Other Applicable Agreements Related to the Property, dated April 22, 2022, as entered into by In Hwan Lee and Eun Jin Lee, 1621377 Ontario Limited, the Debtor and Shell Canada Products.

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

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**Schedule A – Form of Receiver’s Certificate**

Court File No. CV-25-00000128-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**C & K MORTGAGE SERVICES INC. o/a RESCOM CAPITAL**

Applicant

and

**1000032146 ONTARIO INC.**

Respondent

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Cudjoe of the Ontario Superior Court of Justice (the "**Court**") dated February 7, 2025, Rosen Goldberg Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of 1000032146 Ontario Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated \_\_\_\_\_, \_\_\_, 2025, the Court approved the agreement of purchase and sale made as of May 7, 2025 (the "**Sale Agreement**") between the Receiver and Amit Kumar Kherra In Trust (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 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, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser 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 the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; 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].

**ROSEN GOLDBERG INC., in its capacity as  
Receiver of the undertaking, property and  
assets of 100032146 Ontario Inc., and not in  
its personal capacity**

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

Name:

Title:

**Schedule B – Purchased Assets**

**12281 Highway 35, Minden Hills, Ontario**

**PIN:** 39198-0046 (LT)

**Description:** PT LT 1 CON A ANSON AS IN H250709; S/T & T/W H250709; S/T A943 PARTIALLY RELEASED BY H52721; S/T H236867, H260155; MINDEN HILLS

## **Schedule C – Claims to be deleted and expunged from title to Real Property**

### **12281 Highway 35, Minden Hills, Ontario K0M 2K0**

1. Instrument No. HA78207 is a Charge registered on 2022/04/26 in favour of C & K MORTGAGE SERVICES INC. in the principal sum of \$2,200,000.00;
2. Instrument No. HA78208 is a Notice of Assignment of Rents General registered on 2022/04/26 in favour of C & K MORTGAGE SERVICES INC.;
3. Instrument No. HA78220 is a Charge registered on 2022/04/27 in favour of SHELL CANADA LIMITED in the principal sum of \$120,000.00;
4. Instrument No. HA78916 is a Charge registered on 2022/06/01 in favour of 2009339 ONTARIO INC in the principal sum of \$480,000.00;
5. Instrument No. HA81183 is a Notice registered on 2022/09/22 in favour of 2009339 ONTARIO INC.
6. Instrument No. HA81883 is a Notice registered on 2022/10/31 in favour of 2009339 ONTARIO INC.
7. Instrument No. HA85374 is a Notice registered on 2023/07/07 in favour of 2009339 ONTARIO INC.
8. Instrument No. HA87108 is a Notice registered on 2023/10/18 in favour of 2009339 ONTARIO INC.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property (unaffected by the Vesting Order)**

**12281 Highway 35, Minden Hills, Ontario K0M 2K0**

1. Instrument No. A943 is a Transfer of Easement in favour of THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO registered on 1942/10/07;
2. Instrument No. H46725 is a Bylaw registered on 1969/10/16;
3. Instrument No. H52721 is a Release registered on 1971/01/07;
4. Instrument No. 19R3310 is a Plan Reference registered on 1985/06/18;
5. Instrument No. 19R4760 is a Plan Reference registered on 1990/05/04;
6. Instrument No. H196778 is an Agreement in favour of TOWNSHIPS OF ANSON HINDON AND MINDEN, registered on 1994/05/12;
7. Instrument No. H198596 is an Agreement in favour of THE TOWNSHIPS OF ANSON HINDON & MINDEN, registered on 1994/09/09;
8. Instrument No. 19R6688 is a Plan Reference registered on 1999/08/17;
9. Instrument No. 19R7164 is a Plan Reference registered on 2001/09/06;
10. Instrument No. H236867 is a Transfer of Easement in favour of HYDRO ONE NETWORKS INC., registered on 2001/11/09;
11. Instrument No. 19R7907 is a Plan Reference registered on 2004/10/22;
12. Instrument No. H260155 is a Transfer of Easement in favour of HYDRO ONE NETWORKS INC., registered on 2005/04/15

**C & K MORTGAGE SERVICES INC. o/a RESCOM  
CAPITAL**  
Applicant

- and -

**100032146 ONTARIO INC.**

Respondent

Court File No. CV-25-00000128-0000

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at  
BRAMPTON

**APPROVAL AND VESTING ORDER**

**MANIS LAW**

2300 Yonge Street, Suite 1600  
Toronto, Ontario, M4P 1E4

**Howard Manis** (LSO # 34336V)

Email: [hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)

Phone: (416)364-5289

**Daniel Litsos** (LSO #79628V)

Email: [dlitsos@manislaw.ca](mailto:dlitsos@manislaw.ca)

Lawyers for the Receiver, Rosen Goldberg Inc.

# TAB 3B

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE M ) WEEKDAY, DAY, THE #   
JUSTICE  )  
DAY OF MONTH, 20YR , 2025

B E T W E E N:

**PLAINTIFF**

Plaintiff

-C & K MORTGAGE SERVICES INC. o/a RESCOM CAPITAL

Applicant

and—

**DEFENDANT**

Defendant

1000032146 ONTARIO INC.

Respondent

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by ~~[RECEIVER'S NAME]~~ Rosen Goldberg Inc. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of ~~[DEBTOR]~~ 1000032146 Ontario Inc. (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and ~~[NAME OF PURCHASER]~~ Amit Kumar Khera In Trust for 1001152527 Ontario Inc. (the "**Purchaser**") dated ~~[DATE]~~ May 7, 2025 and appended to the First Report of the Receiver dated ~~[DATE]~~ June 27, 2025 (the "**Report**"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at ~~330 University Avenue, Toronto, Ontario~~ 7755 Hurontario Street, Brampton, Ontario by judicial videoconference.

ON READING the First Report and schedules thereto and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], ~~no one and anyone else~~ appearing for any other person party on the service list, although Service List as properly served as appears from the affidavit of [NAME] Marianne D'Souza sworn [DATE] June 27, 2025 filed<sup>1</sup>:

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

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved,<sup>2</sup> and the execution of the Sale Agreement by the Receiver<sup>3</sup> 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 the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement [and listed on Schedule B hereto]<sup>4</sup> shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or

---

<sup>1</sup>~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

<sup>2</sup>~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

<sup>3</sup>~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

<sup>4</sup>~~To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

otherwise (collectively, the "**Claims**"<sup>5</sup>) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~Cudjoe dated ~~[DATE]~~February 7, 2025; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

**3.4. THIS COURT ORDERS** that upon the registration in the Land Registry Office for the ~~[Registry Division of {LOCATION} of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver]~~~~[Land Titles Division of {LOCATION}]~~Land Titles Division of Haliburton of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*<sup>6</sup>, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

**4.5. THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the

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<sup>5</sup>The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

<sup>6</sup>Elect the language appropriate to the land registry system (Registry vs. Land Titles).

<sup>7</sup>The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

same priority as they had with respect to the Purchased Assets immediately prior to the sale<sup>8</sup>, 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.

~~5.6.~~ **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

~~6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser 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 by the Debtor.~~

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order 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 fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable

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<sup>8</sup>~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

transaction under the *Bankruptcy and Insolvency Act* (Canada) 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.

8. **THIS COURT ORDERS AND DECLARES** that the ~~Transaction is exempt from Receiver shall disclaim~~ the ~~application~~ Assignment and Assumption Agreement of the ~~*Bulk Sales Act*~~ (Retailer Supplier Agreement and Other Applicable Agreements Related to the Property, dated April 22, 2022, as entered into by In Hwan Lee and Eun Jin Lee, 1621377 Ontario). Limited, the Debtor and Shell Canada Products.

9. **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.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-25-00000128-0000

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

B E T W E E N:

**PLAINTIFF**

Plaintiff

C & K MORTGAGE SERVICES INC. o/a RESCOM CAPITAL

Applicant

and—

**DEFENDANT**

Defendant

1000032146 ONTARIO INC.

Respondent

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~Justice Cudjoe of the Ontario Superior Court of Justice (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~February 7, 2025, Rosen Goldberg Inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR]~~1000032146 Ontario Inc. (the "Debtor").

B. Pursuant to an Order of the Court dated ~~[DATE]~~, \_\_\_\_\_, \_\_\_, 2025, the Court approved the agreement of purchase and sale made as of ~~[DATE OF AGREEMENT]~~May 7, 2025 (the "Sale Agreement") between the Receiver ~~[Debtor]~~ and ~~[NAME OF PURCHASER]~~Amit Kumar Kherra In Trust (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, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser 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; 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].

~~{NAME OF RECEIVER}~~, **ROSEN  
GOLDBERG INC.,** in its capacity as Receiver  
of the undertaking, property and assets of  
~~{DEBTOR}~~, **1000032146 Ontario Inc.,** and not  
in its personal capacity

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

Name:

Title:

**Schedule B – Purchased Assets**

**12281 Highway 35, Minden Hills, Ontario**

PIN: 39198-0046 (LT)

Description: PT LT 1 CON A ANSON AS IN H250709; S/T & T/W H250709; S/T A943 PARTIALLY  
RELEASED BY H52721; S/T H236867, H260155; MINDEN HILLS

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**Schedule C – Claims to be deleted and expunged from title to Real Property**

**12281 Highway 35, Minden Hills, Ontario K0M 2K0**

1. Instrument No. HA78207 is a Charge registered on 2022/04/26 in favour of C & K MORTGAGE SERVICES INC. in the principal sum of \$2,200,000.00;
2. Instrument No. HA78208 is a Notice of Assignment of Rents General registered on 2022/04/26 in favour of C & K MORTGAGE SERVICES INC.;
3. Instrument No. HA78220 is a Charge registered on 2022/04/27 in favour of SHELL CANADA LIMITED in the principal sum of \$120,000.00;
4. Instrument No. HA78916 is a Charge registered on 2022/06/01 in favour of 2009339 ONTARIO INC in the principal sum of \$480,000.00;
5. Instrument No. HA81183 is a Notice registered on 2022/09/22 in favour of 2009339 ONTARIO INC.
6. Instrument No. HA81883 is a Notice registered on 2022/10/31 in favour of 2009339 ONTARIO INC.
7. Instrument No. HA85374 is a Notice registered on 2023/07/07 in favour of 2009339 ONTARIO INC.
8. Instrument No. HA87108 is a Notice registered on 2023/10/18 in favour of 2009339 ONTARIO INC.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property (unaffected by the Vesting Order)**

**(unaffected by the Vesting Order)**

**12281 Highway 35, Minden Hills, Ontario K0M 2K0**

1. Instrument No. A943 is a Transfer of Easement in favour of THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO registered on 1942/10/07;
2. Instrument No. H46725 is a Bylaw registered on 1969/10/16;
3. Instrument No. H52721 is a Release registered on 1971/01/07;
4. Instrument No. 19R3310 is a Plan Reference registered on 1985/06/18;
5. Instrument No. 19R4760 is a Plan Reference registered on 1990/05/04;
6. Instrument No. H196778 is an Agreement in favour of TOWNSHIPS OF ANSON HINDON AND MINDEN, registered on 1994/05/12;
7. Instrument No. H198596 is an Agreement in favour of THE TOWNSHIPS OF ANSON HINDON & MINDEN, registered on 1994/09/09;
8. Instrument No. 19R6688 is a Plan Reference registered on 1999/08/17;
9. Instrument No. 19R7164 is a Plan Reference registered on 2001/09/06;
10. Instrument No. H236867 is a Transfer of Easement in favour of HYDRO ONE NETWORKS INC., registered on 2001/11/09;
11. Instrument No. 19R7907 is a Plan Reference registered on 2004/10/22;
12. Instrument No. H260155 is a Transfer of Easement in favour of HYDRO ONE NETWORKS INC., registered on 2005/04/15

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C & K MORTGAGE SERVICES INC. o/a RESCOM  
CAPITAL  
Applicant

- and -

1000032146 ONTARIO INC.

Respondent

Court File No. CV-25-00000128-0000

*ONTARIO*  
SUPERIOR COURT OF JUSTICE

Proceeding commenced at  
BRAMPTON

APPROVAL AND VESTING ORDER

MANIS LAW

2300 Yonge Street, Suite 1600  
Toronto, Ontario, M4P 1E4

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Daniel Litsos (LSO #79628V)

Email: dlitsos@manislaw.ca

Lawyers for the Receiver, Rosen Goldberg Inc.

# TAB 4

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE M ) \_\_\_\_\_ DAY, THE \_\_\_  
 )  
JUSTICE ) DAY OF \_\_\_\_\_, 2025  
 )

B E T W E E N:

**C & K MORTGAGE SERVICES INC. o/a RESCOM CAPITAL**

Applicant

and

**1000032146 ONTARIO INC.**

Respondent

**ORDER  
(Distribution and Discharge Order)**

**THIS MOTION**, made by Rosen Goldberg Inc. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of 1000032146 Ontario Inc. (the "**Debtor**") for an order among other things (i) approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and Amit Kumar Khara In Trust for 1001152527 Ontario Inc. (the "**Purchaser**") dated May 7, 2025 and appended to the First Report of the Receiver dated June 27, 2025 (the "**First Report**"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"); (ii) authorizing certain distributions; (iii) approving the fees and disbursements of the Receiver and its counsel; and (iv) discharging the Receiver upon the filing of the Discharge Certificate, was heard this day at 7755 Hurontario Street, Brampton, Ontario by judicial videoconference.

**ON READING** the First Report and schedules thereto and on hearing the submissions of counsel for the Receiver, and anyone else appearing for any other party on the Service List as properly served as appears from the affidavit of Marianne D'Souza sworn June 27, 2025 filed:

1. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined shall have the meanings ascribed to them in the First Report.
2. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the First Report is hereby abridged and validated such that this Motion is properly returnable today and hereby dispenses with further service thereof.
3. **THIS COURT ORDERS** that the First Report and activities of the Receiver, as applicable and referred to therein, be and are hereby approved and that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.
4. **THIS COURT ORDERS** that the Confidential Appendix 1 and the Confidential Appendix 2 attached to the First Report shall be sealed and kept confidential until such time as Transaction is complete or further order of this Court.
5. **THIS COURT ORDERS** that the fees, disbursements and HST of the Receiver and its counsel, Manis Law, as set out in the First Report and affidavits of Brahm Rosen and Howard Manis, sworn June 25, 2025 and June 27, 2025 respectively, including the Fee Accrual, be and hereby are approved and to be paid from the net sale proceeds of the Property following the completion of the Transaction.
6. **THIS COURT ORDERS** that upon payment being made pursuant to paragraph 5 herein, the Receiver is authorized to distribute the balance of the sale proceeds from the Transaction to the Applicant, C & K Mortgage Services Inc. o/a Rescom Capital.
7. **THIS COURT ORDERS** that upon the Receiver filing a certificate substantially in the form attached as Schedule "A" hereto (the "**Discharge Certificate**") certifying that all matters to be attended to in connection with the Receivership Proceedings of the Debtor have been completed to the satisfaction of the Receiver, the Receiver be and is hereby discharged as Receiver of the undertaking, property and assets of the Debtor, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein; and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding,

including all approvals, protections and stays of proceedings in favour of Rosen Goldberg Inc., in its capacity as the Court-Appointed Receiver of the Debtor.

8. **THIS COURT ORDERS AND DECLARES** that upon the filing of the Discharge Certificate, Rosen Goldberg Inc. is hereby released and discharged from any and all liability that Rosen Goldberg Inc. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Rosen Goldberg Inc. while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, Rosen Goldberg Inc. is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

9. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of the date of issuance without the need for entry or filing.

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**Schedule A – Form of Receiver’s Certificate**

Court File No. CV-25-00000128-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**C & K MORTGAGE SERVICES INC. o/a RESCOM CAPITAL**

Applicant

and

**1000032146 ONTARIO INC.**

Respondent

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Cudjoe of the Ontario Superior Court of Justice (the "**Court**") dated February 7, 2025, Rosen Goldberg Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of 1000032146 Ontario Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated \_\_\_\_\_, \_\_\_\_\_, 2025, the Court approved the agreement of purchase and sale made as of May 7, 2025 (the "**Sale Agreement**") between the Receiver and Amit Kumar Khara In Trust (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 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.

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2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; 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].

**ROSEN GOLDBERG INC., in its capacity as  
Receiver of the undertaking, property and  
assets of 100032146 Ontario Inc., and not in  
its personal capacity**

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

Name:

Title:

**C & K MORTGAGE SERVICES INC. o/a  
RESCOM CAPITAL**  
Applicant

- and -

**1000032146 ONTARIO INC.**

Respondent

Court File No. CV-25-00000128-0000

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at  
BRAMPTON

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**ORDER**  
**(Distribution and Discharge)**

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**MANIS LAW**

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Lawyers for the Receiver, Rosen Goldberg  
Inc.

**C & K MORTGAGE SERVICES INC. o/a  
RESCOM CAPITAL**  
Applicant

- and -

**1000032146 ONTARIO INC.**

Respondent

Court File No. CV-25-00000128-0000

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at  
BRAMPTON

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**MOTION RECORD**

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**MANIS LAW**

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Lawyers for the Receiver, Rosen Goldberg  
Inc.