

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

B E T W E E N:

CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

and

DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP  
AND DUNDAS SHORNCLIFFE LTD.

Respondents

**MOTION RECORD  
(approval and vesting order)  
(distribution and discharge order)**

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**(as at June 3, 2024)**

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Court File No. CV-23-00694646-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

B E T W E E N:

CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

and

DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP  
AND DUNDAS SHORNCLIFFE LTD.

Respondents

**NOTICE OF MOTION**

BDO Canada Limited (“**BDO**”), in its capacity as the court-appointed receiver (the “**Receiver**”), without security, of all of the assets, undertakings and properties of Dundas Shorncliffe Limited Partnership and its general partner Dundas Shorncliffe Ltd. (the “**GP**” and collectively, the “**Debtor**”), will make a motion to a judge on Tuesday, August 6, 2024 at 10:00 a.m., or as soon after that time as the motion can be heard.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard

In writing under subrule 37.12.1(1) because it is

In writing as an opposed motion under subrule 37.12.1(4);

In person;

-2-

[ ] By telephone conference;

[X] By video conference.

at the following location

330 University Avenue, Toronto, Ontario

via Zoom videoconference.

### THE MOTION IS FOR

1. An order (the “**AVO**”) substantially in the form attached to this Motion Record at Tab 3, among other things:
  - (a) if necessary, abridging the time for service of the Motion Record, and dispensing with service on any person other than those served;
  - (b) approving an agreement of purchase and sale between Receiver and Centurion Acquisition Corporation, in trust for a corporation to be incorporated (the “**Centurion**”), dated July 9, 2024 (the “**Improved Stalking Horse Agreement**”) to purchase the Purchased Assets (as defined in the Stalking Horse Agreement), and the transaction contemplated therein (the “**Transaction**”);
  - (c) authorizing and directing the Receiver to complete the Transaction and convey to Centurion the Purchased Assets, and vesting the Purchased Assets in Centurion, free and clear of claims and encumbrances other than any Permitted Encumbrances (as defined in the Stalking Horse Agreement) upon execution and delivery of a certificate by the Receiver confirming completion of the Transaction; and,
  - (d) sealing the confidential appendices to the Second Report (the “**Confidential Appendices**”) until the Transaction has been completed or upon further order of this court.

2. An order (the “**Distribution and Discharge Order**”) substantially in the form attached to this Motion Record at Tab 5, among other things:
  - (a) approving the Receiver’s Second Report to the Court dated July 29, 2024, (the “**Second Report**”) and the activities of the Receiver described therein;
  - (b) approving the fees and disbursements of the Receiver and it’s counsel;
  - (c) approving the statement of receipts and disbursements of the Receiver;
  - (d) approving the distribution to Pesciolino Holdings Ltd. as set out in paragraph 43 of the Second Report; and,
  - (e) discharging and releasing the Receiver upon the filing of a certificate with the court certifying that all outstanding matters in this proceeding have been completed (the “**Discharge Certificate**”).
3. Such further and other Relief as this Honourable Court may deem just.

## **THE GROUNDS FOR THE MOTION ARE**

### **A. Background**

1. Pursuant to the Order of Justice Kimmel dated August 4, 2023 (the “**Appointment Order**”), BDO was appointed as Receiver of the Debtors. The Appointment Order became effective on March 26, 2024.
2. The Debtors’ primary asset is the real property municipally known as 5507 and 5509 Dundas Street West, Etobicoke, Ontario (the “**Real Property**”).



3. On May 24, 2024, the court issued an order (the “**Sales Process Approval Order**”) which, among other things:

(a) approved a sales process for the Real Property (the “**Sales Process**”); and,

(b) approved an asset purchase agreement made as of May 10, 2014 between the Receiver and Centurion, which acted as the “stalking horse bid” in the Sales Process

#### **B. Sales Process and the Transaction**

4. The Sales Process resulted in three offers, with only one being a “Qualified Bid” as defined in the Sales Process. The Qualified Bid, and the Stalking Horse Bid proceeded to live auction. During the live auction, Centurion improved their bid, which resulted in the Improved Stalking Horse Bid, and was deemed to be the Successful Bidder (as defined in the Sales Process).

5. The Improved Stalking Horse Agreement contemplates the issuance of the AVO as a condition on closing.

#### **C. Distribution**

6. As outlined at paragraph 43 of the Second Report, the Receiver is seeking to utilize the proceeds of the Transaction to, among other things, make a distribution to Pesciolino Holdings Inc.

7. The Receiver does not believe that there are any amounts owing under deemed trusts owing to the Federal or Provincial tax authorities at this time, and any property taxes owing on the Real Property will be paid upon closing of the Transaction.

**D. Discharge**

8. The Receiver is requesting that it be discharged upon the filing of the Discharge Certificate. Upon filing of the Discharge Certificate, the Receiver's duties and responsibilities under the Appointment Order will have been materially completed.

**E. General**

9. The activities of the Receiver are outlined in the Second Report. The Receiver has acted reasonably, prudently and not arbitrarily in carrying out its activities as described in the Second Report. It is appropriate to approve the activities as set out in the Second Report.

10. As outlined in the Fee Affidavits of the Receiver and Receiver's counsel, the Receiver and its counsel are seeking approval of their fees and disbursements for services rendered:

(a) in the instance of the Receiver, up to and including July 26, 2024;

(b) in the instance of Receiver's, Robins Ableby, up to and including May 30, 2024;  
and,

(c) in the instance of the Receiver's counsel Lerner's LLP, up to and including July 5, 2024.

11. The Confidential Appendices contain sensitive commercial information that should justly be sealed until the Transaction has been completed, or by further order of this court.

**G. Other Grounds**

12. Section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

13. Rules 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, RRO 1990, Reg 194.

14. Such further and other grounds as counsel may advise.

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

1. The Second Report; and
2. Such further and other material as counsel may advise and this court may permit.

July 29, 2024

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CENTURION MORTGAGE CAPITAL CORPORATION  
Applicant

-and- DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP, ET AL.  
Respondents

Court File No. CV-23-00694646-00CL

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

PROCEEDING COMMENCED AT TORONTO

**NOTICE OF MOTION**

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

**B E T W E E N:**

**CENTURION MORTGAGE CAPITAL CORPORATION**

Applicant

- and -

**DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP and  
DUNDAS SHORNCLIFFE LTD.**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,  
R.S.C. 1985, c. B-3, as amended, and under section 101 of the  
*Courts of Justice Act*, R.S.O. 1990, c. C.43**

**SECOND REPORT OF BDO CANADA LIMITED  
IN ITS CAPACITY AS RECEIVER OF  
DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP**

**July 29, 2024**

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## INTRODUCTION AND PURPOSE OF THIS REPORT

### Introduction

1. This report dated July 29, 2024 (the “**Second Report**”) is filed by BDO Canada Limited (“**BDO**”) in its capacity as court-appointed receiver (the “**Receiver**”) over the property, assets and undertakings, including the real property known municipally as 5507 and 5509 Dundas Street West, Etobicoke, Ontario and the associated Project (defined below) (collectively the “**Assets**”) of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd. (collectively “**Dundas**” or the “**Debtor**”). An order appointing BDO as Receiver was made on August 4, 2023 (the “**Receivership Order**”) by the Honourable Madam Justice Kimmel of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on application by Centurion Mortgage Capital Corporation (“**Centurion**” or the “**Lender**”). The Receivership Order did not become effective until March 26, 2024 as described below. A copy of the Receivership Order is attached as **Appendix “A”**.
2. The Debtor’s primary asset consists of lands located at 5507 and 5509 Dundas Street West, Etobicoke, Ontario (collectively the “**Real Property**”). The Real Property is a pre-construction proposed mixed purpose residential and retail development. Legal description of the Real Property, is included as Appendix “B” to the Receiver’s First Report to Court dated May 10, 2024 (the “**First Report**”).
3. Background events describing BDO’s prior appointment as a private receiver and events leading to this Receivership Proceeding can be found in Paragraphs 3 through 9 of the First Report attached hereto as **Appendix “B”**.
4. Following an affidavit sworn by Bob Vavaroutsos dated March 26, 2024 (the “**Vavaroutsos Affidavit**”) confirming that the Debtor did not repay the indebtedness owing to Centurion and advising the Receiver and the Debtor of the status of the indebtedness, the Receivership Order became effective on the date the Vavaroutsos Affidavit was sworn and served pursuant to the Endorsement of Madam Justice Kimmel dated August 4, 2023 (the “**Kimmel Endorsement**”). The Kimmel Endorsement is attached as Appendix G to the First Report.



5. Pursuant to an Order made on May 24, 2024 by Justice W.D. Black (the “SISP Order”), the Court approved, among other things:

(a) the Receiver’s proposed sale and investment solicitation process (the “SISP”) as set out in Appendix I to the First Report; and

(b) the asset purchase agreement made as of May 10, 2024 among the Receiver as Vendor and Centurion Acquisition Corporation in trust for a corporation to be incorporated (the “Stalking Horse Sale Agreement”) attached hereto as Appendix “C”.

6. This Second Report and other all court materials and orders issued and filed in these receivership proceedings are or will be made available on the Receiver’s case website (“Case Website”) at: <https://www.bdo.ca/en-ca/extranets/dundas-shorncliffe/> and will remain available on the Case Website for a period of six (6) months following the Receiver’s discharge.

7. This receivership proceeding is referred to hereinafter as the “Receivership Proceeding”.

#### **Purpose of this Report**

8. The purpose of the Receiver’s Second Report is to provide information to the Court with respect to:

(a) background information in respect of the Debtor and the Real Property;

(b) the Receiver’s activities since its appointment, for which the Receiver seeks approval;

(c) the results of the SISP conducted by the Receiver with respect to the Real Property;

(d) the Receiver’s motion for an Order(s) of this Court:

(i) approving and authorizing the Stalking Horse Sale Agreement dated July 9, 2024 among the Receiver as Vendor and Centurion Acquisition Corporation in trust for a corporation to be incorporated (the “Improved Stalking Horse Sale Agreement”), and approving the transaction set out therein (the “Transaction”);

(ii) vesting the Debtor’s right, title and interest, if any, in and to the Real Property free and clear of all encumbrances, except any permitted encumbrances, subject to the terms of the Improved Stalking Horse Sale Agreement;

(iii) approving a distribution of the net proceeds of sale from the Real Property to Pesciolino Holdings Inc. in respect of its first-ranking mortgagee on 5507 Dundas Street West, Etobicoke, registered as instrument number AT5328799 as set out herein;

- (iv) approving the activities of the Receiver, as described in this Second Report;
- (v) approving the Receiver's Interim Statement of Receipts and Disbursements (the "**Interim R&D**");
- (vi) sealing the Confidential Appendices;
- (vii) approving the fees and disbursements, including future fee estimates of the Receiver and its legal counsel, Robins Appleby LLP ("**Robins**") and Lerner's LLP ("**Lerner's**") as set out in this Second Report, and authorizing the Receiver to pay all approved and unpaid fees and disbursements.
- (viii) that, upon the filing by the Receiver of the Receiver's Discharge Certificate, discharging BDO as Receiver of all of the assets, undertakings and properties of the Debtor; and
- (ix) that, upon the filing of the Receiver's Discharge Certificate, releasing BDO from any and all liability it now has or may have by reason of, or in any way arising out of, the acts of omissions of BDO while acting in its capacity as Receiver herein, save and except for any gross negligence or willful misconduct on the Receiver's part.

#### **SCOPE AND TERMS OF REFERENCE**

9. This Second Report has been prepared for this Court and the Debtor's stakeholders to provide general information relating to the Debtor and to assist the Court in making a determination on whether to grant the relief sought herein. Accordingly, the reader is cautioned that this Second Report may not be appropriate for any other purpose.

10. In preparing this Second Report and conducting its analysis and recommendations, the Receiver has obtained and relied upon information provided to it by the Lender. Except as otherwise described in this Second Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook. The Receiver expresses no opinion or other form of assurance with respect to such information except as expressly stated herein.

11. Capitalized terms used herein and not defined in this Second Report shall have the meaning ascribed to them in the Receivership Order.

12. Unless otherwise stated, all monetary amounts contained in this Report are expressed in Canadian dollars.

## **BACKGROUND**

### **Property Description**

13. The Real Property consists of two adjacent parcels of land located at the intersection of Dundas Street West and Shorncliffe just west of Kipling Avenue in Etobicoke, Ontario. The Real Property is currently zoned for residential rental units. To date no construction has commenced, however, the Debtor has expended monies toward the “soft costs” associated with the lands’ development. The project is still at the site plan application stage, the application fee has been partially paid and an application for shoring, excavation and site clearing can now be made. Lastly, there is an abandoned building located on the Real Property.

14. The Real Property was approved for construction of a 22-storey, 242,187 square foot mixed use building with up to 265 residential rental suites and 176 parking stalls (the “**Project**”). Publicly available information regarding the Real Property indicates that there would be 228,195 square feet of residential space and 13,982 square feet of commercial space under the approved zoning by-law. According to marketing information, the Project was to have “amazing amenities, breathtaking modern design, an outdoor patio and high-quality finishes”. The Real Property is accessible by motor vehicle and both the TTC and Go transit being close to Kipling Station in Toronto. Toronto Pearson Airport, Sherway Gardens Mall and Highway 427 are all close by.

15. Dundas Shorncliffe Limited Partnership is the limited partnership and according to the corporate profile report was incorporated on November 22, 2019. Dundas Shorncliffe Ltd. is the general partner of Dundas Shorncliffe Limited Partnership and was incorporated on November 18, 2019. The Debtor’s corporate address is listed as 555 Richmond Street West, Suite 504, Toronto, Ontario. The Receiver understands that Dundas is a sole purpose entity created to purchase the Real Property and complete the Project.

### **Centurion and other Secured Parties**

16. As noted in the Affidavit of Bob Vavaroutsos sworn March 2, 2023 and filed in support of the request for the Receivership Proceeding, Centurion loaned the principal sum of \$16,111,912.00 to the Debtor for land acquisition and pre-development purposes (the “**Loan**”). The loan was guaranteed by Dundas Shorncliffe Ltd.

(formerly 2727400 Ontario Corp.), Contessa Developments Inc. and Karsten von Wersebe (collectively the “**Guarantors**”). Centurion’s charge against the Real Property was registered on December 23, 2019.

17. As security for the Loan to Centurion, the Debtor was to provide, without limitation, (collectively, the “**Security**”): (i) a registered first mortgage in the amount of \$11 million; (ii) a general assignment of rents; (iii) a Site Specific General Security Agreement; and (iv) a guarantee and postponement of claim from the Guarantors. As noted below, Centurion appears to only have a registered first mortgage on PIN 07550-0051, whereas Pesciolino has a registered first mortgage over PIN 07750-0052.

18. For ease of reference, set out below is a summary of the charges that are registered against the Real Property by parcel identification number:

<b>PIN#</b>	<b>Secured Creditor</b>	<b>Instrument</b>	<b>Charge</b>
07550-0051	Centurion Mortgage Capital Corporation	AT5328801	\$11,000,000
07550-0051	Pesciolino Holdings Inc.	AT5328806	\$3,050,000
07550-0051	Mapleview Pear Tree Inc.	AT5978724	\$1,337,500
07550-0052	Pesciolino Holdings Inc.	AT5328799	\$5,000,000
07550-0052	Centurion Mortgage Capital Corporation	AT5328801	\$11,000,000
07550-0052	Pesciolino Holdings Inc.	AT5328806	\$3,050,000
07550-0052	Mapleview Pear Tree Inc.	AT5978724	\$1,337,500

19. Pesciolino Holdings Inc. (“**Pesciolino**”) is a secured creditor of the Debtor, Pesciolino has:

(a) two mortgages registered against the property with municipal address 5507 Dundas Street West, Etobicoke, ON (“**5507**”): a first-ranking mortgage in the amount of \$5,000,000 with instrument number AT5328799 (the “**VTB Mortgage**”) and a third-ranking mortgage in the amount of \$3,050,000 with instrument number AT5328806 (the “**Zoning Bonus Mortgage**”); and

(b) a second-ranking mortgage in the amount of \$3,050,000 against the property with municipal address 5509 Dundas Street, West, Etobicoke, ON (“**5509**”), in respect of the Zoning Bonus Mortgage.

20. Pesciolino entered into a Subordination and Standstill Agreement with Centurion and the Debtor in respect of the Zoning Bonus Mortgage which prevents Pesciolino from enforcing this mortgage without first having obtained the written consent of Centurion.

21. There is a charge in the amount of \$1,337,500 in favour of Maplevew Pear Tree Inc. and registered as instrument number AT5978724 on both properties. This registration is subordinate to Centurion and Pesciolino's mortgages.

#### ACTIVITIES OF THE RECEIVER

22. Some of the more salient activities of the Receiver since its appointment include the following:

- (a) arranging for insurance for the Real Property;
- (b) arranging for site security to visit the Real Property multiple times per week to deal with and remove the vagrants living in the abandoned building located on site;
- (c) preparing the statutory notices pursuant to sections 245 and 246 of the Bankruptcy and Insolvency Act ("BIA"), filed same with the Office of the Superintendent of Bankruptcy and mailed the notices to all known creditors of the Debtor;
- (d) corresponding with Centurion to discuss and determine the sale process for the Real Property given the prior listing with Avison & Young and the prior offers received and declined for the Real Property;
- (e) drafting the First Report and the SISP terms and conditions;
- (f) attending the court hearing for approval of the Receiver's motion to approve the SISP;
- (g) arranging to borrow \$26,000 from Centurion by issuing Receiver's Certificate #1 so that the Receiver had funding to insure and maintain the Real Property and to cover marketing expenses associated with the SISP;
- (h) corresponding with the City of Toronto to arrange for the graffiti vandalism to be removed from the abandoned building located on the Real Property to comply with the municipal by-law violation notice issued to the Receiver;
- (i) conducting the SISP as more fully described below;
- (j) engaging in discussions with various parties interested in purchasing the Real Property and Project;
- (k) hosting the live auction for the Real Property as set out in the SISP and further described below;  
and
- (l) drafting the Second Report;

**SALE PROCESS**

23. Pursuant to the SISP Order, the Receiver was authorized to conduct the SISP to market the Real Property, Project and investment opportunity in an open and transparent manner designed to maximize realizations.

24. As part of the SISP, the Receiver entered into the Stalking Horse Sale Agreement between the Receiver and Centurion Acquisition Corporation, in trust for a corporation to be incorporated (the “**Stalking Horse Bidder**”) pursuant to which the Stalking Horse Bidder made an offer to purchase the Real Property and Project for \$9.0 million through a combination of a credit bid plus cash consideration.

25. Given that the Real Property and Project had been previously exposed to the market by the private receiver and the Debtor, the SISP was to be conducted over a relatively short period of time with certain milestone dates as set out below.

Milestone	Deadline
Commencement of SISP	May 16,2024
Bid Deadline	June 28, 2024
Auction	July 5, 2024

26. Pursuant to the SISP Order, the Receiver completed the following with regard to the SISP:

- (a) the Receiver prepared a list of potential purchasers consisting of 257 parties which included both industry and financial buyers (the “**Potential Bidder’s List**”);
- (b) promoted the SISP on the Receiver’s Case Website;
- (c) advertised the opportunity in: (i) national edition of the Globe and Mail on May 23, 2024 and June 4, 2024, (ii) Daily Commercial News construction gazette; and (iii) the NRU GTA Weekly Newsletter on May 24, 2024 and May 31, 2024;
- (d) advertised the development/investment opportunity on the MLS and/or ICX website through a third party provider;
- (e) prepared a summary describing the opportunity, outlining the process under the SISP and inviting recipients to express their interest pursuant to the SISP (the “**Teaser**”);

- (f) prepared a standard non-disclosure agreement (“**NDA**”) to be executed by potential bidders prior to being provided access to confidential information related to the Real Property and Project;
- (g) prepared a detailed confidential information memorandum (“**CIM**”) which provided information regarding the Real Property, Project and the SISP terms;
- (h) created and populated a virtual data room containing relevant development information and documents associated with the Real Property and the Project, including the CIM and Template APA (defined below);
- (i) prepared a standard asset purchase agreement to allow all potential purchasers to bid on the same basis (the “**Template APA**”); and
- (j) attempted to contact each of the parties included on the Potential Bidders List to seek approval for the Receiver to provide them with the Teaser.

27. The Receiver obtained 10 executed NDA’s from interested parties all of whom accessed the Receiver’s virtual data room.

28. On the Bid Deadline being June 28, 2024, the Receiver received three offers from bidders for the Real Property and Project. Each of the offers were submitted in the form of the Template APA and two bidders provided a 5 % deposit with their respective offer to the Receiver.

29. The Receiver reviewed the offers received with its counsel and determined that only one of the three offers received was a “Qualified Bid” in accordance with the SISP terms. Although all offers submitted were considered “Superior Offers” as the respective purchase prices were each in excess of \$9.1 million, two of the rejected offers contained terms and conditions that disqualified the bidders from participating in the live auction with the Stalking Horse Bidder.

30. The Receiver invited the Stalking Horse Bidder and the “Qualified Bidder”, Vantage Acquisition Inc., to the live auction which was held virtually on July 5, 2024.

31. During the live auction, the Stalking Horse Bidder improved the purchase price contained in its offer on two occasions and was the “Winning Bidder” pursuant to the SISP terms. The Receiver recorded the live auction and transcribed the bids from the auction (the “**Auction Transcript**”). The Auction Transcript is included hereto as **Confidential Appendix “A”**.

### Improved Stalking Horse Bid

32. The Redacted Improved Stalking Horse Sale Agreement is attached hereto as **Appendix “D”** and the unredacted Improved Stalking Horse Sale Agreement is attached as **Confidential Appendix “B”**. The pertinent terms of the Improved Stalking Horse Sale Agreement are summarized below:

(a) the Stalking Horse Bidder will pay an amount set out in the unredacted Stalking Horse Sale Agreement for the Real Property and Project, plus customary adjustments associated with the sale of lands (the **“Stalking Horse Bid”**). The purchase price will be satisfied as follows:

(i) by paying by wire transfer at the Time of Closing of Canadian dollar funds to an account specified by the Receiver (collectively, the **“Closing Amount”**):

(A) The amount required for the Receiver to repay the loan owing to Pesciolino pursuant to the VTB Charge which is in first position over 5507;

(B) An amount equal to the unfunded fees and expenses (plus applicable HST) of the Receiver and its agents and legal counsel, payable by wire transfer on Closing to the Receiver or to whom the Receiver will otherwise direct;

(C) by assuming a portion of the obligations and liabilities secured by the Charge/Mortgage registered as Instrument No. AT5328801 in favour of Centurion (collectively the **“Assumed Liabilities”**) which assumed portion shall be in the amount of the balance of the purchase price.

(b) the Real Property and Project is purchased on an “as is, where is” basis; and

(c) closing of the transaction is to occur 10 days after the approval and vesting order or such other date as may be agreed in writing between the parties (**“Closing”**).

### Receiver’s Observations on the Sales Process

33. The Receiver is of the view that the SISP was conducted in commercially reasonable manner and the Stalking Horse Bid, is appropriate for the following reasons:

(a) the Real Property, the Project and the investment opportunity were widely exposed to the market through the SISP;

(b) The timeline was sufficient to allow interested parties to perform due diligence and submit offers;

(c) the SISP produced four competing offers for the Real Property;

(d) The Stalking Horse Bid is fair and reasonable as: (i) the purchase price was determined via auction; and (ii) it is a significantly superior offer when considering prior offers received by the private receiver for the Real Property and Project.



34. Pursuant to the terms of the SISP, the Receiver is seeking approval of the Stalking Horse Bid and approval to close the Transaction with the Stalking Horse Bidder.

## **PRIORITY CLAIMS**

### **Employee Related Claims**

35. The Receiver understands that the Debtor did not have any employees. Accordingly, it is the Receiver's understanding that no amounts would be owing with respect to employee related obligations that may be imposed with a statutory deemed trust pursuant to subsections 227(4) or (4.1) of the *Income Tax Act* ("ITA"), subsections 23(3) or (4) of the *Canada Pension Plan* ("CPP") or subsections 86(2) or (2.1) of the *Employment Insurance Act* ("EIA") collectively the "employee payroll deduction withholdings". Additionally, the Receiver has not received a deemed trust claim from the Canada Revenue Agency ("CRA") in respect of any outstanding employee payroll deduction withholdings. CRA has been advised of the Receivership Proceeding and has reassessed the HST obligations of Dundas as set out below.

36. In the circumstances, it is the Receiver's understanding that no amounts would be owing pursuant to the *Wage Earner Protection Program Act*, which may otherwise rank in priority to secured creditors of the Debtor. Furthermore, the Receiver has not received any communication from persons representing to be former employees of Dundas.

### **Harmonized Sales Tax**

37. Dundas did not complete the development of the Project, nor closed any sale transactions for any completed units. Therefore, Dundas did not incur sales that would have been subject to the collection and remittance of any Harmonized Sales Tax ("HST"). Notwithstanding, CRA pursuant to Section 296(1)(b) of the *Excise Tax Act* ("ETA") has proposed to assess Dundas for HST payable on taxable supplies as the HST has not been paid to the supplier. This proposed HST assessment (the "HST Assessment") is based on the creditor's list appended to the Receiver Notice and Statement of Receiver issued to creditors pursuant to S. 245 and 246 of the BIA. Attached as **Appendix "E"**, is the letter received from the CRA in respect of the HST Assessment.

38. Notwithstanding the HST Assessment, the Receiver's proposed distribution to Pesciolino as contemplated in Stalking Horse Bid and the assumption of the Assumed Liabilities by the Stalking Horse Bidder (essentially a credit bid and assumption by the Stalking Horse Bidder of Centurion's mortgage debt), would be considered *prescribed security interests* under the ETA and would have priority over CRA in respect of Dundas' HST obligations from any distribution from the proceeds of sale from the Real Property. The Centurion and Pesciolino mortgages were registered when the Real Property was purchased by Dundas in 2019 before any pre-construction development expenses attracting HST input tax credits would have been incurred by Dundas. For the purpose of subsection 227(4.2) of the ETA, *prescribed security interest*, in relation to an amount deemed by subsection 227(4) of the ETA to be held in trust by a person, means that part of a mortgage securing the performance of an obligation of the person, that encumbers land or a building, where the mortgage is registered pursuant to the appropriate land registration system before the time the amount is deemed to be held in trust by the person. Accordingly, the distribution recommended by the Receiver to Pesciolino and the assumption by the Stalking Horse Bidder of the Assumed Liabilities both as contemplated in the Stalking Horse Bid have a priority over the HST Assessment.

## **DISTRIBUTION OF NET SALE PROCEEDS**

### **The Proposed Distribution**

39. The Receiver's independent counsel, Lerner's, has provided the Receiver with a security opinion, attached hereto as regarding the security of the following mortgagees with registered security against the Real Property (the "**Mortgagees**"):

- (a) Centurion; and
- (b) Pesciolino.

40. The Receiver's counsel is of the view that, subject to certain standard assumptions and qualifications, the Pesciolino mortgage is valid and enforceable in accordance with its terms.

41. The Receiver's counsel is of the view that, subject to certain standard assumptions and qualifications, the Centurion mortgage is valid and enforceable in accordance with its terms.

42. The Receiver will request a payout statement from Pesciolino up to the date of repayment of its first mortgage on 5507.

43. In accordance with the Improved Stalking Horse Agreement, the Receiver therefore recommends making a final distribution to Pesciolino based on the payout statement to be provided to the Receiver after being brought current to the date of the proposed distribution. The proposed distribution to Pesciolino is referred to herein as the “**Proposed Distribution**”.

44. The Receiver is seeking approval of the Proposed Distribution from the Court so that it can make a final distribution to Pesciolino in respect of 5507.

#### **RECEIVER’S RECEIPTS AND DISBURSEMENTS**

45. Attached as **Appendix “F”**, is the Receiver’s Interim R&D. The Interim R&D reports receipts over disbursements of \$15,630.32 for the period. The Receiver seeks approval of the Interim R&D.

#### **SEALING CONFIDENTIAL APPENDICES**

46. The Receiver is of the view, and requests, that the Confidential Appendices be sealed until the transaction has closed, or pursuant to a further order of the Court. The Confidential Appendices contain commercially sensitive information. The disclosure of the information contained in the Confidential Appendices would seriously impair the Receiver’s ability to negotiate an agreement to sell the Property with a future third party. The Receiver is of the view that this would be harmful to stakeholders as it would undermine a future sales process.

47. In the circumstances, the salutary effects of sealing the Confidential Appendices outweigh the deleterious effects and accordingly the sealing order should be granted.

**PROFESSIONAL FEES**

48. Pursuant to the Receivership Order, the Receiver has provided services and incurred disbursements that are more particularly described in the Affidavit of Josie Parisi, sworn July 29, 2024 and detailed invoice attached hereto as **Appendix “G”**.

49. The detailed time descriptions contained in the invoice provide a fair and accurate description of the services provided and the amounts charged by BDO as Receiver. Included with the invoice is a summary of the time charges of partners and staff, whose services are reflected in the invoice, including the total fees and hours billed.

50. BDO requests that the Court approve its accounts for the period from March 7, 2024 to July 26, 2024 in the amount of \$102,363.25 for fees and disbursements, plus HST of \$13,307.22, for a total of \$115,670.47.

51. Robins’ fees and disbursements for the period of May 1, 2024 to May 30, 2024 were \$16,802.00 plus disbursements of \$339.00 and HST of \$2,184.26 for an aggregate amount of \$19,325.26, as set out in the affidavit of Dominique Michaud sworn July 29, 2024, a copy of which is attached hereto as **Appendix “H”**.

52. Lerner’s fees and disbursements for the period of May 2, 2024 to July 5, 2024 were \$17,044.50 plus disbursements of \$907.95 and HST of \$2,333.83 for an aggregate amount of \$20,286.28, as set out in the affidavit of Spencer Jones sworn July 29, 2024, a copy of which is attached hereto as **Appendix “I”**.

53. The Receiver respectfully submits that the fees and disbursements incurred by the Receiver and its independent legal counsel are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the Receivership Order.

54. The Receiver estimates that it and its counsel will incur additional professional fees and disbursements to complete the Receivership Administration. The Receiver estimates that it will incur additional professional fees of \$20,000, plus HST and its counsel will incur additional professional fees of \$15,000, plus HST, to complete the Receivership Administration (the **“Estimated Fees”**).

55. The Receiver also requests that the Court approve the Estimated Fees of the Receiver and its counsel as set out above to complete the receivership administration for which the Receiver and its counsel will only draw upon based on actual time and expenses incurred.

#### **DISCHARGE**

56. To the best of the Receiver's knowledge, after closing the Transaction, the Receiver has completed the realization of the Debtor's Assets. Accordingly, all of the Receiver's duties (the "**Remaining Duties**") as set out in the Receivership Order will be completed upon:

- (a) making the Proposed Distribution;
- (b) paying the unpaid professional fees, including the Estimated Fees;
- (c) filing the Receiver's final report pursuant to S.246(3) of the Bankruptcy and Insolvency Act with the Office of the Superintendent of Bankruptcy; and
- (d) such further and other administrative and ancillary matters as may be necessary to complete the administration of the Receivership estate.

57. Once the Receiver has completed the Remaining Duties, the Receiver proposes to file the Receiver's Discharge Certificate with the Court certifying same to obtain its discharge.

#### **SUMMARY AND RECOMMENDATIONS**

58. In the circumstances, the Receiver is satisfied that the SISP represented an efficient and fair process which exposed the Real Property and Project for sale to the marketplace to generate the maximum value for the Real Property and Project.

59. Based on the foregoing, the Receiver respectfully requests that the Court grant the relief described in Paragraph 8(d).

All of which is respectfully submitted this 29<sup>th</sup> day of July 2024.

**BDO CANADA LIMITED,  
in its capacity as the Proposed Court-appointed Receiver of  
Dundas Shorncliffe Limited Partnership and not in its personal or  
corporate capacity**

Per:



\_\_\_\_\_  
Name: Gary Cerrato, CIRP, LIT

Title: Senior Vice-President



Court File No.: CV-23-00694646-00CL

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

**THE HONOURABLE** ) **FRIDAY, THE 4<sup>TH</sup>**  
 )  
**JUSTICE KIMMEL** ) **DAY OF AUGUST, 2023**

**BETWEEN:**

**CENTURION MORTGAGE CAPITAL CORPORATION**

Applicant

-and-

**DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP  
AND DUNDAS SHORNCLIFFE LTD.**

Respondents

**ORDER  
(Appointing Receiver)**

**THIS APPLICATION** made by Centurion Mortgage Capital Corporation (“**Centurion**” or the “**Lender**”), on consent, 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 BDO Canada Limited as receiver and manager (in such capacities, the “**Receiver**”) over the Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd. (collectively “**Dundas**” or the “**Debtor**”), and all of the assets, undertakings and properties of the Debtor, including the real property known municipally as 5507-5509 Dundas Street West, Toronto, Ontario (the “**Lands**”) with the legal description set out in Schedule "A", and all other property, assets and undertakings relating thereto, acquired for, or used in relation to a business carried on by the Debtor, and for other relief, was heard this day by way of video-conference.

**ON READING** the affidavit of H. Bob Vavaroutsos dated March 2, 2023 and the Exhibits thereto, the affidavit of H. Bob Vavaroutsos dated March 28, 2023 and the Exhibits thereto, the Pre-Filing Report of the Receiver dated March 23, 2023 (the "**Pre-Filing Report**") and the Appendices thereto, the Affidavit of Antonio Dutra sworn March 27, 2023 and the Exhibits thereto, and on being advised of the consent of counsel acting for the Applicant and the Respondent and such other parties as were present, and on reading the consent of BDO Canada Limited to act as the Receiver,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record 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, BDO is hereby appointed Receiver, without security, over the Debtor and all of the assets, undertakings, and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof, and including the property set out in Schedule "A" and all proceeds thereof (collectively 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, 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 undertake environmental assessments of the Property;
- (j) 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;

- (k) 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;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000.00, provided that the aggregate consideration for all such transactions does not exceed \$250,000.00; 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*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (m) 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;
- (n) 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) 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;

- (q) 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;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.
- (t) 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, limited partners 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.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. **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**

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor 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**

10. **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**

11. **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**

12. **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

13. **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

14. **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

15. **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

16. **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

17. **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

18. **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.

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

20. **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

21. **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 \$500,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **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.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) 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 Protocol, service of

documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.bdo.ca/en-ca/extranets/dundas-shorncliffe/>

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol 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.

#### **SALE PROCESS**

27. **THIS COURT ORDERS** that the Sale Process as set out in the Pre-Filing Report of the Receiver dated March 23, 2023 is hereby approved and that the Receiver is authorized and directed to continue and complete the Sale Process for the purpose of soliciting interest in and opportunities for the sale of the Property of the Debtor.

28. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to perform its obligations under the Sale Process, and to do all things reasonably necessary to do so.

29. **THIS COURT ORDERS** that the Receiver and its respective affiliates, partners, employees and agents shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of the Sale Process, except to the extent such losses, claims, damages or liabilities result from gross negligence or wilful misconduct of the Receiver in performing its obligations under the Sale Process (as determined by this Court).

## RETENTION OF LAWYERS

30. **THIS COURT ORDERS** that the Receiver may retain lawyers, including the Applicant's 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 be the lawyers for the Applicant herein, in respect of any aspect, where the Receiver is satisfied that there is no actual or potential conflict of interest.

## GENERAL

31. **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.

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

33. **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.

34. **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.

35. **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 Debtor's estate with such priority and at such time as this Court may determine.

36. **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.



Digitally signed by Jessica  
Kimmel  
Date: 2023.08.04 12:45:41 -0400

**SCHEDULE "A" THE PROPERTY**

**PIN: 07550-0052 (LT)**

**DESCRIPTION:** Lot 13, Plan 2104, Except Part 1, 64R1955, Part 7, RS1028 & Part 26, 64R8387; S/T EB 542779, TB 34882 Etobicoke, City of Toronto

**Address:** 5507 Dundas Street West, Etobicoke, Ontario

and

**PIN: 07550-0051 (LT)**

**DESCRIPTION:** Part of Lot 14, Plan 2104, as in EB429988; Etobicoke, City of Toronto

**Address:** 5509 Dundas Street West, Etobicoke, Ontario

## SCHEDULE "B"

## RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that BDO Canada Limited, the receiver (the "**Receiver**") over Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd. (the "**Debtor**") and all of the assets, undertakings and Property of the Debtor municipally known as 5507-5509 Dundas Street West, Toronto, Ontario (collectively the "**Property**"), appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_\_\_, 2023 (the "**Order**") made in an application having Court file number CV- CV-23-00694646-00CL, 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\_\_.

BDO Canada Limited, solely in its capacity  
as Receiver of the Debtor, and not in its  
personal capacity

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

Name: Josie Parisi

Title: Senior Vice-President

**CENTURION MORTGAGE - and - DUNDAS SHORNCLIFFE  
CAPITAL CORPORATION LIMITED PARTNERSHIP et al.**

*Applicant*

*Respondents*

Court File No.: CV-23-00694646-00CL

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

PROCEEDING COMMENCED AT TORONTO

**ORDER  
(Appointing Receiver)**

**ROBINS APPLEBY LLP**  
Barristers + Solicitors  
2600 - 120 Adelaide Street West  
Toronto, ON M5H 1T1

**Dominique Michaud LSO No. 56871V**  
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Tel: (416) 360-3728

Lawyers for the Applicant



**CENTURION MORTGAGE - and -  
CAPITAL CORPORATION**

**DUNDAS SHORNCLIFFE LIMITED  
PARTNERSHIP AND DUNDAS  
SHORNCLIFFE LTD.**

*Applicant*

*Respondents*

Court File No.: CV-23-00694646-00CL

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

**PROCEEDING COMMENCED AT TORONTO**

**AFFIDAVIT OF H. BOB VAVAROUTSOS**

**ROBINS APPLEBY LLP**  
Barristers + Solicitors  
2600 - 120 Adelaide Street West  
Toronto, ON M5H 1T1

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Tel: (416) 360-3795

Lawyers for the Applicant

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

**B E T W E E N:**

**CENTURION MORTGAGE CAPITAL CORPORATION**

Applicant

- and -

**DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP and  
DUNDAS SHORNCLIFFE LTD.**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,  
R.S.C. 1985, c. B-3, as amended, and under section 101 of the  
*Courts of Justice Act*, R.S.O. 1990, c. C.43**

**BDO CANADA LIMITED  
IN ITS CAPACITY AS RECEIVER OF  
DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP**

**May 10, 2024**

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## INTRODUCTION AND PURPOSE OF THIS REPORT

### Introduction

1. This report dated May 10, 2024 (the “**First Report**”) is filed by BDO Canada Limited (“**BDO**”) in its capacity as the receiver (the “**Receiver**”) over the property, assets and undertakings, including the real property known municipally as 5507-5509 Dundas Street West, Etobicoke, Ontario and the associated Project (defined below) (collectively the “**Assets**”) of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd. (collectively “**Dundas**” or the “**Debtor**”). An order appointing BDO as Receiver was made on August 4, 2023 (the “**Receivership Order**”) by the Honourable Madam Justice Kimmel of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on application by Centurion Mortgage Capital Corporation (“**Centurion**” or the “**Lender**”). The Receivership Order did not become effective until March 26, 2024 as described below. A copy of the Receivership Order is attached as **Appendix “A”**.
2. The Debtor’s primary asset consists of lands located at 5507 and 5509 Dundas Street West, Etobicoke, Ontario (collectively the “**Real Property**”). The Real Property is a pre-construction proposed mixed purpose residential and retail development. Legal description of the Real Property, is included hereto as **Appendix “B”**.
3. Centurion initially applied for the appointment of a Receiver over the Debtor’s Assets in March 2023. In her endorsement dated March 30, 2023, attached as **Appendix “C”**, Madam Justice Kimmel confirmed, among other things, the following:
  - a) The Borrower shall have until Tuesday April 11, 2023 (because of the Easter weekend intervening) to pay in a lump sum to Centurion the per diem interest on the Loan of \$9,252.68/day commencing March 30 through to and including April 30, 2023.
  - b) If the Borrower provides the interest payment contemplated in paragraph (a) above, the parties shall notify the court (through my judicial assistant at: [linda.bunoza@ontario.ca](mailto:linda.bunoza@ontario.ca)) and

this application shall be adjourned to April 28, 2023 at 10:00 a.m., at which time it will proceed unless the Borrower has secured an alternative transaction that causes Centurion to agree to further adjourn or withdraw its application. The court time on April 28, 2023 has been reserved with the Commercial List Office.

4. On April 28, 2023, Centurion and the Debtor agreed to adjourn the receivership application to June 1, 2023 on specific terms, as set out in the endorsement of Justice Conway (the “**Conway Endorsement**”) attached as **Appendix “D”**, which included, among other things,:
  - a) That Centurion may appoint BDO as a private receiver (in such capacity, the “**Private Receiver**”) of the Debtor. In the event BDO is appointed as Private Receiver, BDO may take all the necessary steps to prepare the property municipally known as 5507-5509 Dundas Street West, Toronto, Ontario (the “**Lands**”) for sale, including retaining Avison Young Commercial Real Estate Services, LP (“**AY**”) as broker to conduct the sale of the Lands. However, notwithstanding its appointment, neither BDO nor its agents or realtors will actively market (or pre-market) the sale of the Lands, including listing the Lands for sale until after June 1, 2023.
  - b) In the event of a private appointment of BDO, the Applicant, BDO, and their agents and employees shall keep all information relating to the private appointment confidential and such information shall not be disseminated to any third party, with the exception of a duly retained real estate agent. For greater clarity, this confidentiality obligation shall extend to any realtor retained by BDO or the Applicant.
5. BDO was appointed as Private Receiver over the Debtor’s Assets on May 3, 2023. In accordance with the Conway Endorsement, BDO did not file the statutory receivership notices pursuant Section 245(1) and 246(1) of the *Bankruptcy and Insolvency Act* to keep its appointment as Private Receiver confidential.

6. Pursuant to the endorsement of Justice Osborne, dated June 2, 2023, attached as **Appendix “E”**, the receivership application was adjourned on specific terms, which included, among other things, :
  - a) continuation of BDO’s appointment as Private Receiver of the Debtor with the power to market and list the Real Property for sale with a commercial realtor; and
  - b) neither BDO or its agents or realtors will accept and enter into an agreement of purchase and sale for the Real Property until the conclusion of the marketing period set forth in the Pre-Filing Report, and in any event not before June 20, 2023.
  
7. Pursuant to the endorsement of Madam Justice Steele dated June 21, 2023, attached as **Appendix “F”**, the receivership application was again adjourned on specific terms, which included among other things, :
  - a) continuation of BDO’s appointment as Private Receiver of the Debtor with the power to market and list the Real Property for sale with a commercial realtor; and
  - b) neither BDO or its agents or realtors will accept and enter into an agreement of purchase and sale for the Real Property until after July 14, 2023.
  
8. Pursuant to the endorsement of Madam Justice Kimmel dated August 4, 2023, attached as **Appendix “G”**, (the **“Kimmel Endorsement”**) the receivership application was granted on the following terms:
  - a) The Receivership Order sought by the Applicant shall be granted in the form uploaded to Caselines;
  - b) Notwithstanding the granting of the Receivership Order on today’s date, the Receivership Order shall not be in force or effect until
    - (i) After 9:00 a.m. on Monday, August 14, 2023; and

- (ii) The Applicant has delivered an affidavit to both the Receiver and counsel for the Respondents attesting to the fact that the indebtedness owed to the Applicant remains unpaid as of 9:00 a.m. on Monday August 14, 2023.
  - c) In the event that the Applicant receives full payment, the Receivership Order shall be null and void and shall never become effective.
  - d) The Receiver is not permitted to enter into an agreement of purchase and sale in respect of the Real Property until the Receivership Order is in force and effect in accordance with paragraph (b) above.
9. Following the Kimmel Endorsement, Centurion continued to work with the Debtor to afford it time to secure alternative financing which efforts ultimately failed. Contemporaneously, the Private Receiver listed the Real Property for sale with AY which resulted in the Private Receiver receiving two offers for the Real Property for consideration as discussed below.
10. In the circumstances, an affidavit was sworn by Bob Vavaroutsos dated March 26, 2024 (the “**Vavaroutsos Affidavit**”) confirming that the Debtor did not repay the indebtedness owing to Centurion and advised the Receiver and the Debtor of the status of the indebtedness. Consequently, the Receivership Order became effective on the date the Vavaroutsos Affidavit was sworn and served pursuant to the Kimmel Endorsement. A copy of the Vavaroutsos Affidavit is attached hereto as **Appendix “H”**.
11. This First Report (defined below), and other all court materials and orders issued and filed in these receivership proceedings are or will be made available on the Receiver’s case website (“**Case Website**”) at: <https://www.bdo.ca/en-ca/extranets/dundas-shorncliffe/> and will remain available on the Case Website for a period of six (6) months following the Receiver’s discharge.

12. This receivership proceeding is referred to hereinafter as the “**Receivership Proceeding**”.

#### **Purpose of this Report**

13. The purpose of the Receiver’s First Report is to provide information to the Court with respect to:

- (a) certain background information leading to the Receivership Proceeding and information with regard to the Real Property and the Project; and
- (b) the Receiver’s request for an Order of this Court approving the Receiver’s recommended sale and investment solicitation process for the Real Property, Project and investment opportunity (the “SISP”), as set out in this First Report.

#### **SCOPE AND TERMS OF REFERENCE**

14. This First Report has been prepared for this Court and the Debtor’s stakeholders to provide general information relating to the Debtor and to assist the Court in making a determination on whether to grant the relief sought herein. Accordingly, the reader is cautioned that this First Report may not be appropriate for any other purpose.

15. In preparing this First Report and conducting its analysis and recommendations, the Receiver has obtained and relied upon information provided to it by the Lender. Except as otherwise described in this First Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook. The Receiver expresses no opinion or other form of assurance with respect to such information except as expressly stated herein.

16. Capitalized terms used herein and not defined in this First Report shall have the meaning ascribed to them in the Receivership Order.



17. Unless otherwise stated, all monetary amounts contained in this Report are expressed in Canadian dollars.

## BACKGROUND

### Property Description

18. The Real Property consists of two adjacent parcels of land located at the intersection of Dundas Street West and Shorncliffe just west of Kipling Avenue in Etobicoke, Ontario. The Real Property is currently zoned for residential rental units. To date no construction has commenced, however, the Debtor has expended monies toward the “soft costs” associated with the lands’ development. The project is still at the site plan application stage, the application fee has been partially paid and an application for shoring, excavation and site clearing can now be made.
19. The Real Property was approved for construction of a 22-storey, 242,187 square foot mixed use building with up to 265 residential rental suites and 176 parking stalls (the “**Project**”). Publicly available information regarding 5507-5509 Dundas West indicates that there would be 228,195 square feet of residential space and 13,982 square feet of commercial space under the approved zoning by-law. According to marketing information, the Project was to have “amazing amenities, breathtaking modern design, an outdoor patio and high-quality finishes”. The Real Property is accessible by motor vehicle and both the TTC and Go transit being close to Kipling Station in Toronto. Toronto Pearson Airport, Sherway Gardens Mall and Highway 427 are all close by.
20. Dundas Shorncliffe Limited Partnership is the limited partnership and according to the corporate profile report was incorporated on November 22, 2019. Dundas Shorncliffe Ltd. is the general partner of Dundas Shorncliffe Limited Partnership and was incorporated on November 18, 2019. The Debtor’s corporate address is listed as 555 Richmond Street West, Suite 504, Toronto, Ontario.

### Centurion and other Secured Parties

21. As noted in the Affidavit of Bob Vavaroutsos sworn March 2, 2023 and filed in support of the request for the Receivership Proceeding, Centurion has loaned the principal sum of \$16,111,912.00 to the Debtor for land acquisition and pre-development purposes (the “Loan”). The loan was guaranteed by Dundas Shorncliffe Ltd. (formerly 2727400 Ontario Corp.), Contessa Developments Inc. and Karsten von Wersebe (collectively the “Guarantors”). Centurion’s charge against the Real Property was registered on December 23, 2019.
22. As security for the Loan to Centurion, the Debtor provided, without limitation, (collectively, the “Security”): (i) a registered first mortgage in the amount of \$11 million; (ii) a general assignment of rents; (iii) a Site Specific General Security Agreement; and (iv) a guarantee and postponement of claim from the Guarantors.
23. For ease of reference, set out below is a summary of the charges that are registered against the Real Property by parcel identification number:

PIN#	Secured Creditor	Instrument	Charge
07550-0051	Centurion Mortgage Capital Corporation	AT5328801	\$11,000,000
07550-0051	Pesciolino Holdings Inc.	AT5328806	\$3,050,000
07550-0051	Mapleview Pear Tree Inc.	AT5978724	\$1,337,500
07550-0052	Pesciolino Holdings Inc.	AT5328799	\$5,000,000
07550-0052	Centurion Mortgage Capital Corporation	AT5328801	\$11,000,000
07550-0052	Pesciolino Holdings Inc.	AT5328806	\$3,050,000
07550-0052	Mapleview Pear Tree Inc.	AT5978724	\$1,337,500

24. Pesciolino Holdings Inc. (“Pesciolino”) is a secured creditor of the Debtor, Pesciolino has:
- (a) two mortgages registered against the property with municipal address 5507 Dundas Street West, Etobicoke, ON (“5507”): a first-ranking mortgage in the amount of \$5,000,000 with instrument number AT5328799 and a third-ranking mortgage in the amount of \$3,050,000 with instrument number AT5328806; and

- (b) a second-ranking mortgage in the amount of \$3,050,000 with instrument AT5328806 against the property with municipal address 5509 Dundas Street, West, Etobicoke, ON (“5509”).
25. Pesciolino’s first ranking mortgage on 5507 was in the form of a vendor take-back mortgage. The second ranking mortgage on both 5507 and 5509 is a result of a Density and Zoning Bonus owed to Pesciolino by the Debtor.
26. Pesciolino entered into a Subordination and Standstill Agreement with Centurion and the Debtor in respect of charge bearing instrument number AT5328806 which prevents Pesciolino from enforcing this mortgage without first having obtained the written consent of Centurion.
27. There is also a third-ranking charge on 5509 and a fourth-ranking charge on 5507 in the amount of \$1,337,500 in favour of Mapleview Pear Tree Inc. and registered as instrument number AT5978724 on both properties. This falls behind Centurion’s priority.
28. The Debtor is in breach of the terms of the Loan by: (i) failing to fully repay the indebtedness owing to Centurion on its maturity date; (ii) failing to make property tax payments when due and (iii) failure to pay or perform any covenants or agreements under the Loan. Centurion is owed \$20,046,375 as of April 30, 2024, plus accruing interest, at a per diem rate of \$10,473.03., plus future costs and disbursements.

### **Marketing Efforts**

29. In accordance with the judges’ endorsements as set out above, the Private Receiver solicited listing proposals from four commercial real estate brokers. The Private Receiver entered into a listing agreement with AY on May 2, 2023 to list the Real Property and Project for sale.
30. AY thoroughly exposed the Real Property and Project to the market and secured two offers both dated August 17, 2023 for consideration. The Private Receiver reviewed the offers with Centurion. The offers were negotiated, however, they were ultimately allowed to expire given that they were both

for considerably less than the amount outstanding under Centurion's mortgage. Copies of the offers received by the Private Receiver are included as **Confidential Appendix "A"**.

31. The Receiver also understands that the Debtor listed the Real Property for sale with another commercial broker prior to the private receivership proceeding.
32. Given the Real Property and Project's prior exposure to the market, the Receiver is proposing to conduct an abbreviated SISP for approximately 10 weeks concurrent with a "Stalking Horse" bid from Centurion which effectively sets a "floor price" for the Real Property and Project.

## **SALE PROCESS**

33. Pursuant to the Receivership Order, the Receiver is authorized to sell, convey, transfer, lease or assign 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.

## **Receiver's SISP**

34. The Receiver has developed a detailed SISP to market the Real Property, Project and investment opportunity in an open and transparent manner designed to maximize realizations. A copy of the SISP document is attached as **Appendix "I"** hereto.
35. As part of the SISP negotiations, the Receiver intends, upon approval of this Honourable Court, to enter into a fully binding conditional purchase and sale agreement dated May 10, 2024 (the "**Stalking Horse Sale Agreement**") between the Receiver and Centurion Acquisition Corporation, in trust for a corporation to be incorporated (the "**Stalking Horse Bidder**") pursuant to which the Stalking Horse Bidder has made an offer to purchase the Real Property and Project through a combination of a credit bid plus cash consideration.

36. The Receiver’s proposed SISP is expected to take approximately 75 days and is described below with the milestone dates summarized in the following table. The SISP is expected to be relatively short given that the Real Property and Project has already been thoroughly exposed to the market by the Private Receiver and the Debtor.

Milestone	Deadline
Commencement of SISP	May 16, 2024
Distribution of the Teaser Letter and Bid Letter	May 20, 2024
Globe & Mail Advertisement	May 23, 30, 2024
Bid Deadline	June 28, 2024
Auction	July 5, 2024
Sale Approval Hearing	July 15 to 19, 2024
Closing Date Deadline	on or before July 29, 2024

#### Phase 1

- (a) preparing a list of potential purchasers which included both industry and financial buyers (the “**Potential Bidder’s List**”);
- (b) promoting the SISP on the Receiver’s Case Website;
- (c) advertising the opportunity in national edition of the Globe and Mail, Daily Commercial News construction gazette and the NRU GTA Weekly Newsletter;
- (d) advertising the development/investment opportunity on the MLS and/or ICX website through a third party provider;
- (e) preparing a summary describing the opportunity, outlining the process under the SISP and inviting recipients to express their interest pursuant to the SISP (the “**Teaser**”);
- (f) preparing a standard non-disclosure agreement (“**NDA**”) to be executed by potential bidders prior to be provided access to confidential information related to the Real Property;
- (g) preparing a detailed confidential information package (“**Confidential Information Package**”) which provides information regarding the Real Property and the Project;
- (h) creating and populating a virtual dataroom with relevant information and documents associated with the Real Property and the Project;

- (i) preparing a bid letter which provides instructions on the bid process including the bid deadline (the “**Bid Letter**”);
- (j) preparing a standard asset purchase agreement to allow all potential purchasers to bid on the same basis (the “**Template APA**”);
- (k) contacting each of the parties included on the Potential Bidders List, obtaining executed NDA’s and providing the Confidential Information Package and the Bid Letter;
- (l) soliciting preliminary offers and receiving expressions of interest (“**EOI**”);

### Phase 2

- (m) reviewing submitted EOI’s;
- (n) select which potential purchasers will be invited to perform additional due diligence, if required (“**Qualified Bidders**”);
- (o) distribute the Template APA to potential purchasers;
- (p) arranging and participating in site tours, if required, and meetings with prospective purchasers;
- (q) soliciting final offers in the form of the marked-up Template APA;
- (r) engaging in negotiations with potential buyers;
- (s) consultation with primary stakeholders;
- (t) selection of Bids;

### Phase 3

- (u) Auction process as necessary;
- (v) Selection of Winning Bidder;
- (w) Court approval; and
- (x) further negotiating and completion of closing definitive documents.

### Stalking Horse Bid and Process

37. The Redacted Stalking Horse Sale Agreement is attached hereto as **Appendix “J”** and the unredacted Stalking Horse Sale Agreement is at **Confidential Appendix “B”** to the Supplementary Motion Record.

The pertinent terms of the Stalking Horse Sale Agreement are summarized below:

- (i) the Stalking Horse Bidder will pay an amount set out in the unredacted Stalking Horse Sale Agreement for the Real Property and Project, plus customary adjustments associated with the sale of lands (the **“Stalking Horse Bid”**). The purchase price will be satisfied as follows:
  - (a) by paying by wire transfer at the Time of Closing of Canadian dollar funds to an account specified by the Receiver (collectively, the **“Closing Amount”**):
    - (1) The amount required for the Receiver to repay the loan owing to Pesciolino pursuant to its Charge/Mortgage registered as Instrument No. AT5328799 on December 23, 2019;
    - (2) An amount equal to the unfunded fees and expenses (plus applicable HST) of the Receiver and its agents and legal counsel, payable by wire transfer on Closing to the Receiver or to whom the Receiver will otherwise direct;
  - (b) by assuming a portion of the obligations and liabilities secured by the Charge/Mortgage registered as Instrument No. AT5328801 in favour of Centurion (collectively the **“Assumed Liabilities”**) which assumed portion shall be in the amount of the balance of the purchase price.
- (ii) the Real Property and Project is purchased on an “as is, where is” basis; and
- (iii) closing of the transaction is to occur 10 days after the approval and vesting order or such other date as may be agreed in writing between the parties (**“Closing”**).

38. Potential Bidders other than the Stalking Horse Bidder will be required to submit their offers no later than, June 28, 2024, the **“Bid Deadline Date”**.

39. For a Competing Bidder to have a qualified bid (**“Qualified Bid”**) they will have signed an NDA and complied with all of the requirements as set out in the SISP document.

40. For a Competing Bidder to have a superior bid to the Stalking Horse Bid (a “**Superior Offer**”), the Superior Offer must exceed the Stalking Horse Bid by a minimum of the sum of:
- a. an incremental increase of \$100,000.00.
41. In the event that there is no Superior Bid the Receiver and the Stalking Horse Bidder shall close the Stalking Horse Bid as soon as is practicable thereafter and the Real Property and Project will vest in the Stalking Horse Bidder in accordance with the terms of the vesting order approved by this Court with no further court application necessary.
42. In the event that one or more Qualified Bidders submits a Qualified Bid, the Receiver shall conduct an auction for the determination and selection of a winning bid (the Bidder submitting such bid being the “**Winning Bidder**”). Upon the selection of the Winning Bidder, there shall be a binding agreement of purchase and sale between the Winning Bidder and the Receiver. The Receiver shall forthwith bring a motion following the selection of the Winning Bidder for an order approving the agreement reached with the Winning Bidder and to vest the Purchased Assets in the Winning Bidder and, if granted, shall proceed with closing the transaction.

#### **Receiver’s Observations on the Sales Process**

43. The Receiver is of the view that the SISP, including the Stalking Horse Bid, is appropriate for the following reasons:
- (i) the Real Property and Project and investment opportunity will be widely exposed to the market through the SISP;
  - (ii) The timeline is sufficient to allow interested parties to perform due diligence and submit offers;
  - (iii) the identification of potential bidders and initial contact with prospective candidate will be accompanied by an advertising campaign in the national media to increase exposure of the Real Property and Project offered for sale, and an introduction to the SISP;



- (iv) The senior secured creditor is supportive of the SISP;
- (v) The Stalking Horse Bid is fair and reasonable having considered prior offers received for the Real Property and Project having already been exposed to the market for a considerable length of time; and
- (vi) The Stalking Horse Bid sets a fair “base level” that is acceptable to Centurion.

### **Sealing the Confidential Appendices**

44. The Receiver is of the view, and requests, that the Confidential Appendices be sealed until the transaction is approved or further order of the Court. The Confidential Appendices contain commercially sensitive information. The disclosure of the information contained in the Confidential Appendices would seriously impair the Receiver's ability to negotiate an agreement to sell the Property with a future third party. The Receiver is of the view that this would be harmful to stakeholders as it would undermine a future sales process.

45. In the circumstances, the salutary effects of sealing the Confidential Appendices outweigh the deleterious effects and accordingly the sealing order should be granted.

### **SUMMARY AND RECOMMENDATIONS**

46. In the circumstances, the Receiver is satisfied that the proposed SISP represents the most efficient and fair process to be administered that will sufficiently expose the Real Property and Project for sale to the marketplace to generate the maximum value for the Real Property and Project. Furthermore, the Receiver's recommendation is supported by the Debtor's Lender.

47. Accordingly, the Proposed Receiver respectfully requests an order:

- (a) approving this First Report of the Receiver and the activities as set out herein;
- (b) approving the SISP and the Stalking Horse Bid; and

(c) sealing the Confidential Appendices.

All of which is respectfully submitted this 10<sup>th</sup> day of May 2024.

**BDO CANADA LIMITED,  
in its capacity as the Proposed Court-appointed Receiver of  
Dundas Shorncliffe Limited Partnership and not in its personal or  
corporate capacity**

Per:



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Name: Gary Cerrato, CIRP, LIT  
Title: Senior Vice-President

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**ASSET PURCHASE AGREEMENT**

**BETWEEN**

**BDO CANADA LIMITED,**

solely in its capacity as court appointed receiver of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd., and not in its personal capacity

**AND**

**CENTURION ACQUISITION CORPORATION,**

in trust for a corporation to be incorporated

**MADE AS OF**

May 10, 2024

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## ASSET PURCHASE AGREEMENT

**THIS AGREEMENT** is made as of May 10, 2024

BETWEEN

**BDO CANADA LIMITED**, solely in its capacity as court-appointed receiver of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd., and not in its personal capacity

(collectively, the "**Vendor**" or "**Receiver**")

- and -

**CENTURION ACQUISITION CORPORATION**, in trust for a corporation to be incorporated

(the "**Purchaser**"),

**WHEREAS** the Receiver was appointed as receiver over the Debtors pursuant to the order of Justice Kimmel dated the 4th day of August, 2023 (the "**Receivership Order**");

**AND WHEREAS** pursuant to the terms of the Receivership Order, the Receiver is authorized to market and sell the Properties;

**AND WHEREAS** the Purchaser desires to purchase the Purchased Assets (as defined herein) upon and subject to the terms and conditions set out in this Agreement;

**NOW THEREFORE**, in consideration of the covenants and agreements herein contained, the parties agree as follows:

### ARTICLE 1 - INTERPRETATION

#### 1.01 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

"**Accepted Bid**" has the meaning set out in the Sale Process;

"**Acceptance Date**" means the date upon which this Agreement is fully executed by both parties.

"**Affiliates**" means, with respect to any Person, any other Person that controls or is controlled by or is under common control with the referent Person.

"**Agreement**" means this agreement, including its recitals and schedules, as amended from time to time.

**“Applicable Law”** means:

- (i) any applicable domestic or foreign law including any statute, subordinate legislation or treaty, as well as the common law; and
- (ii) any applicable and enforceable rule, requirement, order, judgment, injunction, award or decree of a Governmental Authority.

**“Approval and Vesting Order”** means an order of the Court substantially in the form attached hereto as **Exhibit A**: (i) approving the sale of the Purchased Assets by the Receiver to the Purchaser pursuant to the terms of this Agreement, and (ii) providing for the vesting of the right, title, benefit and interest of the Debtors in and to the Properties in and to the Purchaser, free and clear of all Liens, other than the Permitted Encumbrances.

**“Assumed Liabilities”** has the meaning set out in Section 1.01(1)(c).

**“Business Day”** means a day other than a Saturday, Sunday, statutory or civic holiday in Toronto, Ontario.

**“Claim”** means any actual or threatened civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any Loss, claim or demand relating thereto or resulting therefrom, or any other claim or demand of whatever nature or kind.

**“Closing Amount”** has the meaning set out in Section 1.01(1)(b).

**“Closing Date”** means ten (10) days following the date of the Approval and Vesting Order, or such other date as may be agreed in writing between the parties hereto.

**“Contract”** means any contract, agreement, license, instrument or commitment recognized at law or equity, whether express or implied, or arising by a course of conduct or usage of trade.

**“Court”** means the Ontario Superior Court of Justice (Commercial List).

**“Debtors”** means Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd., and **“Debtor”** means any one of them.

**“Documents”** means any and all documents pertaining to the Lands and pertaining to the development thereof which are in the possession of the Receiver and have been made available to the Purchaser electronically through the “data room”. Without limiting the generality of the foregoing this includes all plans, surveys, studies, analysis, architectural plans, drawings and renderings, engineering reports including environmental reports, soil reports, structural reports and studies and analysis, planning opinions, recommendations, reports and studies, all marketing materials, reports, studies, opinions and recommendations which are in the possession of the Receiver.

**“Environmental Law”** means any Applicable Law relating to the natural or indoor environment including those pertaining to (i) reporting, licensing, permitting, investigating, remediating or controlling the presence or Release or threatened Release of Hazardous Substances, or (ii) the use,



treatment, storage, disposal, transport, handling and the like of Hazardous Substances, including, for greater certainty, any such Applicable Law pertaining to occupational health and safety.

“**Governmental Authority**” means any domestic or foreign legislative, executive, judicial or administrative body or person having jurisdiction in the relevant circumstances.

“**Hazardous Substance**” means any substance, material or emission whose storage, handling, use, transportation or Release is prohibited, controlled or regulated by any Governmental Authority having jurisdiction pursuant to Environmental Laws, including any contaminant or pollutant as defined in the *Environmental Protection Act* (Ontario).

“**Lands**” means the properties municipally known as 5507 and 5509 Dundas Street West, Toronto, Ontario and legally described as set out on **Exhibit D**.

“**Liabilities**” means all costs, expenses, charges, debts, liabilities, commitments and obligations of any nature or kind, whether accrued or fixed, actual, absolute, contingent, latent or otherwise, matured or unmatured or determined or undeterminable, including those arising under any Applicable Law or Claim and those arising under any Contract or undertaking or otherwise, including any tax liability or tort liability of Debtor.

“**Liens**” means any lien (statutory or otherwise), mortgage, pledge, security interest (whether contractual, statutory or otherwise), hypothecation, trust or deemed trust (whether contractual, statutory, or otherwise), execution, levy, charge, encumbrance, interest in property, or other financial or monetary claim which, in each case, in substance, secures payment or performance of an obligation, or similar charge of any kind.

“**Permitted Encumbrances**” means only those Liens related to the Purchased Assets set forth on **Exhibit C**.

“**Person**” means any individual, corporation, limited liability company, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or other entity.

“**Personal Information**” means information about an identifiable individual, but does not include the name, title or business address or telephone number of an employee of an organization.

“**Purchase Price**” has the meaning set out in Section 2.02.

“**Purchased Assets**” has the meaning set out in Section 2.01.

“**Purchaser’s Solicitor**” means Robins Appleby LLP.

“**Release**” means any release or discharge of any Hazardous Substance including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leach, migration, dispersal, dispensing or disposal.

“**Receiver**” has the meaning set out in the recitals hereto.

“**Receiver’s Certificate**” means a certificate signed by the Receiver substantially in the form attached as **Schedule A** to the Approval and Vesting Order confirming that: (i) the Purchaser has paid, and the Receiver has received payment of, the Purchase Price in relation to the purchase by the Purchaser of the Purchased Assets, and (ii) the conditions to be complied with at or prior to the Time of Closing as set out in Sections 6.01 and 6.02, respectively, have been satisfied or waived by the Receiver or the Purchaser, as applicable, pursuant to Section 6.03.

“**Receivership Order**” has the meaning set out in the recitals hereto.

“**Receiver’s Solicitor**” means Lerner LLP, Attention: Domenico Magisano.

“**Revised Bid**” has the meaning set out in the Sale Process.

“**Sale Process**” has the meaning set out in Section 3.02.

“**Stalking Horse Bid**” has the meaning set out in Section 3.02.

“**Tax Act**” means the *Income Tax Act* (Canada).

“**Time of Closing**” means 9:00 a.m. (Toronto Time) on the Closing Date.

“**Transfer Taxes**” has the meaning set out in Section 2.06.

#### 1.02 **Headings**

The division of this Agreement into Articles and Sections and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Exhibits are to Articles and Sections of and Exhibits to this Agreement.

#### 1.03 **Extended Meanings**

In this Agreement words importing the singular number include the plural and vice versa, words importing any gender include all genders and words importing persons include individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities. The term “including” means “including without limiting the generality of the foregoing” and the term “third party” means any Person other than the Receiver and the Purchaser.

#### 1.04 **Capacity of Receiver**

The Receiver, in executing this Agreement, is entering into this Agreement solely in its capacity as the court appointed receiver of the Properties, and not in its personal or any other capacity. The Receiver shall have no personal or corporate liability of any kind whether in contract, tort or otherwise.

### 1.05 **Statutory References**

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

### 1.06 **Currency**

All references to currency herein are to lawful money of Canada.

### 1.07 **Exhibits**

The following are the Exhibits to this Agreement:

**Exhibit A** - Form of Approval and Vesting Order

**Exhibit B** – HST Undertaking and Indemnity

**Exhibit C** - Permitted Encumbrances

**Exhibit D** – Legal Description

**Exhibit E** – Sales Process

## **ARTICLE 2 - SALE AND PURCHASE**

### 2.01 **Assets to be Sold and Purchased**

Upon and subject to the terms and conditions hereof, the Receiver will sell to the Purchaser and the Purchaser will purchase from the Receiver, as of and with effect from the Time of Closing, all of the right, title, benefit and interest of Debtor in and to the following assets (collectively, the “**Purchased Assets**”):

- (a) the Lands;
- (b) all structures, erections, improvements, appurtenances and fixtures situate on or forming part of the Lands; and
- (c) the Documents.

### 2.02 **Purchase Price**

The aggregate purchase price payable by the Purchaser on Closing to the Receiver for the Purchased Assets will be **Nine Million Dollars (\$9,000,000)** (the “**Purchase Price**”), plus or minus customary adjustments on account of the sale of the Lands.

### 2.03 **Payment of Purchase Price**

- (1) The Purchase Price will be satisfied by the Purchaser as follows:

- (a) by paying, by wire transfer at the Time of Closing of Canadian dollars funds to an account specified by the Receiver (collectively, the “**Closing Amount**”):
- (i) the amount required for the Receiver to repay the loan owing to Pesciolino Holdings Inc. pursuant to its Charge/Mortgage registered as Instrument No. AT5328799 on December 23, 2019;
  - (ii) an amount equal to the unfunded fees and expenses (plus applicable HST) of the Receiver and its agents and legal counsel, payable by wire transfer on Closing to the Receiver or to whom the Receiver will otherwise direct.
- (b) by assuming a portion of the obligations and liabilities secured by the Charge/Mortgage registered as Instrument No. AT5328801 in favour of Centurion Mortgage Capital Corporation (collectively, the “**Assumed Liabilities**”) which assumed portion shall be in the amount of the balance of the Purchase Price.

#### 2.04 Assumed Liabilities

Other than the Assumed Liabilities, the Purchaser will not assume any liabilities or obligations of the Debtor of any kind, whether known or unknown, contingent, matured or otherwise, whether currently existing or hereinafter created. The Purchaser acknowledges that the assumption of the Assumed Liabilities will require the Purchaser to enter into certain agreements with and provide certain information to Centurion Mortgage Capital Corporation, as necessary for the underwriting of the Purchaser by Centurion Mortgage Capital Corporation, and the Purchaser agrees to enter into such agreements and provide all such information forthwith.

#### 2.05 Property Taxes

(1) The Purchaser and the Receiver shall adjust all municipal realty taxes to the Closing Date. This includes all municipal realty taxes, assessments, levies and penalties of any nature or kind, and interest and costs thereon, including all levies and special charges set forth in the respective tax bills of any government taxation authority.

(2) The Purchaser shall, at its option, be entitled to continue any realty tax appeals, complaints, applications, or proceedings pending for any calendar year prior to the calendar year in which the Closing Date occurs and shall be entitled to receive from the municipality any payment resulting therefrom. To the extent the Purchaser receives any of the aforementioned payments, it shall hold said payments in trust for the Receiver and forthwith remit the payments to the Receiver.

#### 2.06 Transfer Taxes

(1) The Purchaser will be liable for and will pay, or will cause to be paid, all transfer, land transfer, value added, *ad-valorem*, excise, sales, use, consumption, goods or services,

harmonized sales, retail sales, social services, or other similar taxes or duties (collectively, “**Transfer Taxes**”) payable under any Applicable Law on or with respect to the sale and purchase of the Purchased Assets under this Agreement. The Purchaser will prepare and file any affidavits or returns required in connection with the foregoing at its own cost and expense.

(2) The Purchaser shall indemnify and save harmless the Receiver and its employees, advisors and agents from all Claims incurred, suffered or sustained as a result of a failure by the Purchaser:

- (a) to pay any Transfer Taxes payable by the Purchaser; and/or
- (b) to file any returns, certificates, filings, elections, notices or other documents required to be filed by the Purchaser with any federal, provincial or other taxing authorities in connection with the conveyance or transfer of the Purchased Assets.

### 2.07 **Delivery of Purchased Assets**

At the Time of Closing, the Purchaser will take possession of the Purchased Assets where situated.

## **ARTICLE 3– COMPETING BIDS AND SALES PROCESS**

### 3.01 **Bid and Auction Procedures**

The Purchaser and Receiver acknowledge that this Agreement and the transactions contemplated hereby are subject to the marketing and auction process contemplated by the Sale Process and to the approval of the Court.

The Purchaser further acknowledges that the Receiver intends to bring a motion to the Court to seek approval for the Sale Process to market and sell the Purchased Assets. By making an offer pursuant to this Agreement, the Purchaser acknowledges that it has reviewed and accepts the Sale Process.

### 3.02 **The Sale Process**

The parties acknowledge and agree that, as soon as reasonably practicable, the Receiver will apply to the Court for a timetable for and a bidding and sales process (the “**Sale Process**”) with respect to the Purchased Assets, as more particularly set forth in Exhibit E. The Sale Process will recognize this Agreement and in particular the Closing Amount, as a baseline or “stalking horse bid” (the “**Stalking Horse Bid**”), and shall also provide for a marketing process of the Purchased Assets by the Receiver and competitive bidding to be administered by the Receiver. The Purchaser acknowledges and agrees that the aforementioned process is in contemplation of determining whether a higher price than that contemplated in the Stalking Horse Bid can be obtained for the Purchased Assets.

## **ARTICLE 4- REPRESENTATIONS AND WARRANTIES**

### **4.01 Receiver's Representations and Warranties**

The Receiver represents and warrants to the Purchaser that, as at the date hereof and as of the Closing Date:

- (a) subject to the entry of the Approval and Vesting Order and any other orders required by the Court in connection with the transactions contemplated herein, the Receiver has the power, authority and right to enter into and deliver this Agreement and to carry out its obligations hereunder;
- (b) subject to the entry of the Approval and Vesting Order and any other orders required by the Court in connection with the transactions contemplated herein, this Agreement constitutes a valid and legally binding obligation of the Receiver, enforceable against the Receiver in accordance with its terms; and
- (c) Debtor is not a non-resident of Canada within the meaning of section 116 of the Tax Act.

### **4.02 Purchaser's Representations and Warranties**

The Purchaser represents and warrants to the Receiver that:

- (a) the Purchaser is a corporation duly incorporated, organized and existing under the laws of the Province of Ontario;
- (b) the Purchaser has the power, authority and right to enter into and deliver this Agreement and to carry out its obligations hereunder;
- (c) this Agreement constitutes a valid and legally binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms;
- (d) the Purchaser has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement and completion of the transactions contemplated herein and the entering into of this Agreement in completion of the transactions contemplated herein will not breach its constating documents, any agreement binding on the Purchaser, or Applicable Laws relating to the Purchaser;
- (e) that it has the financial ability through its own resources or through financing that has been arranged with a recognized financial lending institution, to close the transaction contemplated herein and pay the balance of the Purchase Price on the Closing Date;
- (f) the Purchaser has available, and at the Time of Closing will have, sufficient funding to enable the Purchaser to consummate the purchase of the Purchased Assets on the terms set forth herein and otherwise to perform all of the Purchaser's obligations under this Agreement;

- (g) the Purchaser will be registered under Part IX of the *Excise Tax Act* (Canada) on or before the Closing Date; and
- (h) the Purchaser is not a non-resident of Canada within the meaning of section 116 of the Tax Act.

#### 4.03 **“As Is, Where Is”**

(1) The Purchaser acknowledges and agrees that it is purchasing the Purchased Assets on an “as is, where is” basis and on the basis that the Purchaser has conducted to its satisfaction an independent inspection, investigation and verification of the Purchased Assets (including a review of title), and all other relevant matters and has determined to proceed with the transaction contemplated herein and will accept the same at the Time of Closing in their then current state, condition, location, and amounts, subject to all Permitted Encumbrances.

(2) Any documents, materials and information provided by or on behalf of the Receiver to the Purchaser with respect to the Purchased Assets (including the Documents and any confidential information memorandums, management presentations, or material made available to the Purchaser) have been provided to the Purchaser solely to assist the Purchaser in undertaking its own due diligence, and the Receiver has not made and is not making any representations or warranties, implied or otherwise, to or for the benefit of the Purchaser as to the accuracy and completeness of any such documents, materials or information or the achievability of any valuations, estimates or projections. The Purchaser acknowledges that it has not and will not rely upon any such documents, materials or information in any manner, whether as a substitute for or supplementary to its own due diligence, searches, inspections and evaluations. The Receiver and their respective affiliates, directors, officers, employees, agents and advisors shall not be liable for any inaccuracy, incompleteness or subsequent changes to any such documents, materials or information. The Purchaser further acknowledges that the use of the Documents may not be possible without the Purchaser obtaining reliance or other assurances from the author of such Documents directly and further that the interest of the Debtor in the Documents may be subject to copyright or other property rights which may preclude their use by the Purchaser in whole or in part.

### **ARTICLE 5 - COVENANTS**

#### 5.01 **Covenants of the Receiver**

(1) The Receiver will ensure that the representations and warranties of the Receiver set out in Section 4.01 are true and correct in all material respects at the Time of Closing and use reasonable commercial efforts to ensure that the conditions of closing for the benefit of the Purchaser set out in Section 6.01 over which it has reasonable control have been performed or complied with in all material respects by the Time of Closing.

(2) The Receiver shall file with the Court, as soon as practicable after its execution and delivery of this Agreement, a motion seeking the Court’s issuance of the Approval and Vesting Order.

## 5.02 **Covenants of the Purchaser**

(1) The Purchaser will ensure that the representations and warranties of the Purchaser set out in Section 4.02 are true and correct in all material respects at the Time of Closing and use reasonable commercial efforts to ensure that the conditions of closing for the benefit of the Receiver set out in Section 6.02 over which it has reasonable control have been performed or complied with in all material respects by the Time of Closing.

(2) The Purchaser will provide the Receiver with all information within its possession or control that the Receiver may reasonably request to assist the Receiver in obtaining the Approval and Vesting Order.

(3) The Purchaser will comply with the *Personal Information Protection and Electronic Documents Act* (Canada) and other similar Applicable Laws relating to privacy and the protection of Personal Information in respect of the Books and Records, Contracts and any other business and financial records related to the Purchased Assets.

(4) The Purchaser will provide to a third party in a timely manner and without delay such information as may be required or requested by such third party in connection with obtaining any consent, approval or waiver of such third party under the Assumed Liabilities, including confidential, financial and sensitive information.

(5) On Closing, the Purchaser will assume the obligations of the Debtor under the Assumed Liabilities in writing in favour of both the Receiver and any other required parties in such forms as may be required by the Receiver, acting reasonably, and by the other parties, acting in their respective discretion permitted under the Assumed Liabilities.

## **ARTICLE 6 - CONDITIONS AND TERMINATION**

### 6.01 **Conditions for the Benefit of the Purchaser**

The sale by the Receiver and the purchase by the Purchaser of the Purchased Assets is subject to the following conditions, which are for the exclusive benefit of the Purchaser and which are to be performed or complied with:

- (a) the representations and warranties of the Receiver set forth in this Agreement will be true and correct in all material respects at the Time of Closing with the same force and effect as if made at and as of such time;
- (b) the Receiver will have performed or complied in all material respects with all of the obligations and covenants of this Agreement to be performed or complied with by the Receiver at or prior to the Time of Closing;
- (c) no action or proceeding in Canada will be pending by any third party to enjoin or prohibit the sale and purchase of the Purchased Assets at the Time of Closing; and
- (d) the Approval and Vesting Order will have been granted by the Court and such order will not have been stayed, varied in any material respect, set aside or appealed (or



any such appeal shall have been dismissed with no further appeal therefrom) prior to the Time of Closing.

#### 6.02 **Conditions for the Benefit of the Receiver**

The sale by the Receiver and the purchase by the Purchaser of the Purchased Assets is subject to the following conditions, which are for the exclusive benefit of the Receiver and which are to be performed or complied with at or prior to the Time of Closing:

- (a) the representations and warranties of the Purchaser set forth in this Agreement will be true and correct in all material respects at the Time of Closing with the same force and effect as if made at and as of such time;
- (b) the Purchaser will have performed or complied in all material respects with all of the obligations and covenants of this Agreement to be performed or complied with by the Purchaser at or prior to the Time of Closing;
- (c) no action or proceeding in Canada will be pending by any third party to enjoin or prohibit the purchase and sale of the Purchased Assets; and
- (d) the Approval and Vesting Order will have been granted by the Court and such order will not have been stayed, varied in any material respect, set aside or appealed (or any such appeal shall have been dismissed with no further appeal therefrom).

#### 6.03 **Waiver of Condition**

The Purchaser, in the case of a condition set out in Section 6.01, and the Receiver, in the case of a condition set out in Section 6.02, will have the exclusive right to waive the performance or compliance of such condition in whole or in part and on such terms as may be agreed upon without prejudice to any of its rights in the event of non-performance of or non-compliance with any other condition in whole or in part. Any such waiver will not constitute a waiver of any other conditions in favour of the waiving party. Such waiving party will retain the right to complete the purchase and sale of the Purchased Assets herein contemplated.

#### 6.04 **Termination**

This Agreement may be terminated, by delivery of written notice within 2 Business Days of such party learning of such breach with respect to Section 5.04(a) and prior to the Closing Date for any other provision below:

- (a) by the Receiver or the Purchaser if a material breach of any representation, warranty, covenant, obligation or other provision of this Agreement has been committed by the other party and such breach has not been waived or cured within five days following the date on which the non-breaching party notifies the other party of such breach;

- (b) by the Purchaser if a condition in Section 6.01 becomes impossible to satisfy by the Time of Closing (other than through the failure of the Purchaser to comply with its obligations under this Agreement) and the Purchaser has not waived such condition;
- (c) by the Receiver if a condition in Section 6.02 becomes impossible to satisfy prior to the Time of Closing (other than through the failure of the Receiver to comply with its obligations under this Agreement) and the Receiver has not waived such condition; and
- (d) by written agreement of the Purchaser and the Receiver.

#### 6.05 **Effect of Termination**

Each party's right of termination under Section 6.04 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 6.04, all further obligations of the parties under this Agreement will terminate, except that the obligations in Sections 7.04, 9.03, 9.04 and 9.16 will survive; provided, however, that if this Agreement is terminated by a party because of a material breach of a representation or warranty, covenant, obligation or other provision of this Agreement by the other party or because one or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies with respect to such breach will survive such termination unimpaired.

### **ARTICLE 7 - CLOSING ARRANGEMENTS**

#### 7.01 **Closing**

The sale and purchase of the Purchased Assets will be completed at the Time of Closing at the offices of Robins Appleby LLP, 120 Adelaide Street West, Suite 2600, Toronto, Ontario M5H 1T1.

#### 7.02 **Receiver's Closing Deliveries**

On or before the Time of Closing, the Receiver will deliver or cause to be delivered to the Purchaser the following:

- (a) a certificate executed by the Receiver confirming that the representations and warranties of the Receiver in this Agreement are true and correct in all material respects as of the Time of Closing and that the obligations of the Receiver to be performed prior to the Time of Closing have been performed in all material respects;
- (b) an undertaking to readjust the any customary adjustments to the Purchase Price, if necessary;

- (c) an assignment and assumption agreement (the “**Assignment and Assumption Agreement**”), duly executed by the Receiver, effecting the assignment and assumption by the Purchaser of the Assumed Liabilities;
- (d) a copy of the issued and entered Approval and Vesting Order; and
- (e) such other documents or instruments as contemplated or required to be delivered by the Receiver pursuant to this Agreement, all of which shall be in form and substance satisfactory to the parties, acting reasonably.

### 7.03 **Purchaser’s Closing Deliveries**

On or before the Time of Closing, the Purchaser will deliver or cause to be delivered to the Receiver the following:

- (a) payment of the Purchase Price to the Receiver as contemplated by Section 2.03(1);
- (b) a certificate executed by a senior officer of the Purchaser confirming that the representations and warranties of the Purchaser in this Agreement are true and correct in all material respects as of the Time of Closing and that the obligations of the Purchaser to be performed prior to the Time of Closing have been performed in all material respects;
- (c) an undertaking to readjust the customary adjustments to the Purchase Price, if necessary;
- (d) if required, a land transfer tax affidavit;
- (e) the HST Undertaking and Indemnity;
- (f) the Assignment and Assumption Agreement, duly executed by the Purchaser; and
- (g) such other documents or instruments as contemplated or required to be delivered by the Purchaser pursuant to this Agreement, all of which shall be in form and substance satisfactory to the parties, acting reasonably.

### 7.04 **Confidentiality**

Both prior to the Closing Date and, if the sale and purchase of the Purchased Assets hereunder fails to occur for whatever reason thereafter, the Purchaser will not disclose to anyone or use for its own or for any purpose other than the purpose contemplated by this Agreement any confidential information concerning Debtor or the operations obtained by the Purchaser pursuant hereto, and will hold all such information in the strictest confidence and, if the sale and purchase of the Purchased Assets hereunder fails to occur for whatever reason, will return all documents, records and all other information or data relating to Debtor or to the operations which the Purchaser obtained pursuant to this Agreement.

#### 7.05 **Delivery of Receiver's Certificate**

When the Receiver is satisfied that all conditions hereunder have been satisfied or waived, and all documents to be delivered under the terms hereof have been delivered at or before the Time of Closing, the Receiver will deliver an executed copy of the Receiver's Certificate to the Purchaser's counsel in escrow upon the sole condition of receipt by the Receiver of the amounts referred to in Section 2.03(1). All of the foregoing amounts will then be paid by the Purchaser, by wire transfer of immediately available funds to an account designated in writing by the Receiver for this purpose pursuant to Section 2.03(1) hereof. Following written confirmation of receipt by the Receiver of such funds (or such person directed by the Receiver to receive such funds), the Receiver's Certificate will be released from escrow to the Purchaser. Upon such delivery, the closing will be deemed to have occurred at the Time of Closing. The Receiver will file a copy of the Receiver's Certificate with the Court on the next Business Day following the Closing Date and provide evidence of such filing to the Purchaser.

#### 7.06 **Planning Act**

This Agreement is subject to compliance with the *Planning Act* (Ontario). The parties agree that compliance with the *Planning Act* (Ontario) shall be the responsibility of the Purchaser at its costs. The Receiver agrees to execute all documents reasonably requested by the Purchaser in respect thereof.

### **ARTICLE 8 - SURVIVAL AND ACCESS**

#### 8.01 **Survival**

No covenants, representations and warranties of each party contained in this Agreement will survive the completion of the sale and purchase of the Purchased Assets, except for the covenants that by their terms are to be satisfied or survive after the Time of Closing (including without limitation Sections 2.06, 9.03, 9.04, and 9.16), which covenants will continue in full force and effect in accordance with their terms.

#### 8.02 **Access by Purchaser**

The Receiver shall allow the Purchaser, its representatives and advisors to have access to the Lands and subject to providing twenty four (24) hours' Notice, to allow the Purchaser to carry out such non-invasive tests (including soil tests), environmental audits or assessments, surveys and inspections of the Lands as the Purchaser, its representatives or advisors may deem necessary. All such tests and inspections shall be at the sole risk and expense of the Purchaser. The Purchaser acknowledges that the Receiver shall be entitled to have a representative present during each such period of access. The Purchaser shall promptly repair at its sole cost and expense any damage to the Property caused by such tests and inspections and indemnify the Receiver for any damages or costs sustained by the Receiver as a result of the Purchaser's inspections. The Purchaser agrees that this covenant shall survive termination of this Agreement.

## **ARTICLE 9 - GENERAL**

### **9.01 Further Assurances**

Each of the Receiver and the Purchaser will from time to time at the request and expense of the other execute and deliver all such further documents and instruments and do all acts and things as the other party may, either before or after the Closing Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

### **9.02 Time of the Essence**

Time is of the essence of this Agreement.

### **9.03 Fees, Commissions and other Costs and Expenses**

Each of the Receiver and the Purchaser will pay its respective legal and accounting costs and expenses and any real estate or other commissions incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses whatsoever and howsoever incurred and will indemnify and save harmless the other from and against any Claim resulting from any broker's, finder's or placement fee or commission alleged to have been incurred as a result of any action by it in connection with the transactions under this Agreement.

### **9.04 Public Announcements**

Except as required by Applicable Law, no public announcement or press release concerning the sale and purchase of the Purchased Assets may be made by the Receiver or the Purchaser without the prior consent and joint approval of the Receiver and the Purchaser.

### **9.05 Benefit of the Agreement**

This Agreement will enure to the benefit of and be binding upon the successors and permitted assigns of the parties.

### **9.06 Entire Agreement**

This Agreement (including the agreements contemplated hereby) constitute the entire agreement between the parties with respect to the subject matter hereof and such agreements cancel and supersede any prior understandings and agreements between the parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement (including the agreements contemplated hereby).

### **9.07 Amendments and Waivers**

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by both of the parties. No waiver of any breach of any provision of this Agreement

will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.

#### 9.08 **Assignment and Adoption**

Prior to obtaining the Approval and Vesting Order, this Agreement may be assigned by the Purchaser or adopted as a pre-incorporation contract by a newly incorporated corporation without the prior consent of but on notice to the Receiver. Following the Approval and Vesting Order having been obtained, this Agreement may not be assigned by the Purchaser or adopted as a pre-incorporation contract by a newly incorporated corporation without the written consent of the Receiver, which consent may be arbitrarily withheld. It is acknowledged that the Approval and Vesting Order is being obtained to vest title into the name of the Purchaser. Accordingly, as a condition of any consent to an assignment or adoption, the Purchaser will be responsible to pay the Receiver's costs for obtaining any revisions to or preparing materials to obtain an amended Approval and Vesting Order to vest title into the name of the assignee or adoptee. Upon any assignment (but for clarity, not any adoption), the original Purchaser shall nonetheless remain liable until successful completion of this transaction.

#### 9.09 **Notices**

Any demand, notice or other communication to be given in connection with this Agreement must be given in writing and will be given by personal delivery or by electronic means of communication addressed to the recipient as follows:

To the Receiver:

BDO Canada Limited  
20 Wellington Street East  
Suite 500  
Toronto, Ontario M5E 1C5

Fax No.: 416-369-6031  
Email: JParisi@bdo.ca  
Attention: Josie Parisi

With copies to:

Lerners LLP  
225 King Street West  
Suite 1600  
Toronto, Ontario M5V 3M2

Attention: Domenico Magisano

To the Purchaser:

Centurion Acquisition Corporation  
25 Sheppard Avenue West

Toronto, Ontario  
M2N 6S6

E-mail: bvavaroutsos@centurion.ca  
Attention: Bob Vavaroutsos

With copies to:

Robins Appleby LLP  
120 Adelaide Street West  
Suite 2600  
Toronto, Ontario M5H 1T1

Fax No: 416-863-4592  
Email: dmichaud@robapp.com  
Attention: Dominique Michaud

or to such other street address, individual or electronic communication number or address as may be designated by notice given by either party to the other. Any demand, notice or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day.

#### 9.10 **Remedies Cumulative**

The right and remedies of the parties under this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that party may be entitled.

#### 9.11 **No Third Party Beneficiaries**

This Agreement is solely for the benefit of:

- (a) the Receiver, and its successors and permitted assigns, with respect to the obligations of the Purchaser under this Agreement, and
- (b) the Purchaser, and its successors and permitted assigns, with respect to the obligations of the Receiver under this Agreement,

and this Agreement will not be deemed to confer upon or give to any other person any Claim or other right or remedy.

#### 9.12 **Governing Law**

This Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

### 9.13 **Attornment**

For the purpose of all legal proceedings this Agreement will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Agreement. The Receiver and the Purchaser each attorns to the jurisdiction of the courts of the Province of Ontario.

### 9.14 **Appointment of Agent for Service**

The Purchaser nominates, constitutes and appoints the Purchaser's Solicitor its true and lawful agent to accept service of process and to receive all lawful notices in respect of any action arising under this Agreement (other than any notice that is to be given by one party to another pursuant to Section 9.09). Until due and lawful notice of the appointment of another and subsequent agent in the Province of Ontario has been given to and accepted by the Receiver, service of process or of papers and such notices upon the Purchaser's Solicitor will be accepted by the Purchaser as sufficient service.

### 9.15 **Severability**

If any provision of this Agreement is determined by any court of competent jurisdiction to be illegal or unenforceable, that provision will be severed from this Agreement and the remaining provisions will continue in full force and effect.

### 9.16 **No Registration of Agreement**

The Purchaser agrees that it will not register or cause or permit to be registered this Agreement and that no reference to or notice of it or any caution, certificate of pending litigation or other similar court process in respect thereof shall be registered on title to the Lands and/or any part thereof. The Purchaser shall indemnify and save the Receiver harmless from and against any and all Claims whatsoever arising from or with respect to any such registration. This Section shall survive the expiration and/or termination of this Agreement for any reason.

### 9.17 **Counterparts**

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument.

### 9.18 **Electronic Execution**

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

This Agreement shall expire if it has not been accepted by the Receiver on or before May 31, 2024.

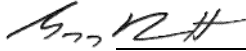
*[The balance of this page has been intentionally left blank]*



**IN WITNESS WHEREOF** the parties have executed this Agreement as of the date first above written.

**CENTURION ACQUISITION CORPORATION, in trust for a corporation to be incorporated**

Per:



Name: Greg Romundt  
Title: Authorized Signing Officer

**BDO CANADA LIMITED, solely in its capacity as receiver of solely in its capacity as court-appointed receiver of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd., and not in its personal capacity**

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

Name:

Title:

\_\_\_\_\_

**EXHIBIT A**

**Form of Approval and Vesting Order**

Court File No. CV-23-00694646-00CL

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

THE HONOURABLE JUSTICE            )            DAY, THE [ \_\_ ] DAY OF  
  )            [ \_\_ ], 2024  
  )

BETWEEN:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Applicant

and

**DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP & DUNDAS SHORNCLIFFE  
LTD.**

Respondent

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by BDO Canada Limited, in its capacity as Court appointed receiver (the “**Receiver**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Asset Purchase Agreement**”) between the Receiver and • (the “**Purchaser**”) dated •, 2024, and vesting in the Purchaser, DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP and DUNDAS SHORNCLIFFE LTD. (collectively, the “**Debtors**”) right, title, benefit and interest in and to the assets described in the Asset Purchase Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Affidavit of ● sworn ●, 2024 and the ● Report of the Receiver dated ●, 2024 (the “● Report”), and on hearing the submissions of counsel for the Receiver, the Applicant, and the Purchaser, and any such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ● sworn ●, 2024 filed:

1. **THIS COURT ORDERS** that unless otherwise defined herein or the context otherwise requires, capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Asset Purchase 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 Debtors’ right, title, benefit and interest in and to the Purchased Assets described in the Asset Purchase Agreement 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 Receivership Order dated the 4<sup>th</sup> day of August, 2023; (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 B** 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 C**) 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 applicable land registry office or land titles office of a Transfer/Deed of Land or equivalent document, or of an application for registration of this Order in the applicable prescribed form, the applicable land registrar or equivalent official is hereby directed to enter the Purchaser as the owner of the subject 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 B** 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** 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 Debtors' past and current employees. 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 Debtors.

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 Debtors and any bankruptcy order issued pursuant to any such applications; and

- (c) any assignment in bankruptcy made in respect of Debtors;

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 Debtors and shall not be void or voidable by creditors of Debtors, 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 AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario) and Sections 6(3) of the *Retail Sales Act* (Ontario).

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-23-00694646-00CL

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

THE HONOURABLE JUSTICE                    )                    DAY, THE [ \_\_ ] DAY OF  
  )                    [ \_\_ ], 2024  
  )

BETWEEN:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Applicant

and

**DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP & DUNDAS SHORNCLIFFE  
LTD.**

Respondent

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice \_\_\_\_\_ of the Ontario Superior Court of Justice (the “**Court**”) dated August 4<sup>th</sup>, 2023, BDO Canada Limited was appointed as receiver (the “**Receiver**”) of DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP and DUNDAS SHORNCLIFFE LTD. (collectively, the “**Debtor**”).

B. Pursuant to an Order of the Court dated ●, 2024, the Court approved the agreement of purchase and sale made as of ●, 2024 (the “**Asset Purchase Agreement**”) between the Receiver and ● (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtors’ 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 Asset Purchase 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 Asset Purchase 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 Asset Purchase Agreement;
2. The conditions to closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, respectively; 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].

**BDO Canada Limited, in its capacity as  
Receiver, and not in its personal capacity**

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

Name:

Title:

**Schedule B – Claims to be deleted and expunged from title to Real Property**PIN 07550-0051 (LT)

1. Notice as Instrument No. AT5328805
2. Charge in favour of Pesciolino Holdings Inc. registered as Instrument No. AT5328806
3. Notice registered as Instrument No. AT5328807
4. Postponement registered as Instrument No. AT5674648
5. Postponement registered as Instrument No. AT5674649
6. Postponement registered as Instrument No. AT5674650
7. Postponement registered as Instrument No. AT5709906
8. Postponement registered as Instrument No. AT5709907
9. Postponement registered as Instrument No. AT5709908
10. Application to Change Name registered as Instrument No. AT5766785
11. Postponement registered as Instrument No. AT5821000
12. Postponement registered as Instrument No. AT5821001
13. Postponement registered as Instrument No. AT5821002
14. Charge in favour of Mapleview Pear Tree Inc. registered as Instrument No. AT5978724
15. Postponement registered as Instrument No. AT5978784
16. Postponement registered as Instrument No. AT5978785
17. Court Order registered as Instrument \_\_\_\_\_

PIN 07550-0052 (LT)

1. Notice registered as Instrument No. AT5328805
2. Charge in favour of Pesciolino Holdings Inc. registered as Instrument No. AT5328799
3. Charge in favour of Pesciolino Holdings Inc. registered as Instrument No. AT5328806
4. Notice registered as Instrument No. AT5328807
5. Postponement registered as Instrument No. AT5674648



6. Postponement registered as Instrument No. AT5674649
7. Postponement registered as Instrument No. AT5674650
8. Postponement registered as Instrument No. AT5674651
9. Postponement registered as Instrument No. AT5709906
10. Postponement registered as Instrument No. AT5709907
11. Postponement registered as Instrument No. AT5709908
12. Application to Change Name registered as Instrument No. AT5766785
13. Postponement registered as Instrument No. AT5821000
14. Postponement registered as Instrument No. AT5821001
15. Postponement registered as Instrument No. AT5821002
16. Charge in favour of Mapleview Pear Tree Inc. registered as Instrument No. AT5978724
17. Postponement registered as Instrument No. AT5978784
18. Postponement registered as Instrument No. AT5978785
19. Court Order registered as Instrument \_\_\_\_\_

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

(SEE EXHIBIT C)

**EXHIBIT B****HST UNDERTAKING AND INDEMNITY**

**TO:** BDO CANADA LIMITED., solely in its capacity as receiver of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd., and not in its personal capacity

**AND TO:** Robins Appleby LLP, its solicitors

**RE:** **Agreement of Purchase and Sale dated May 10, 2024 (the "Agreement") between BDO CANADA LIMITED., solely in its capacity as court appointed receiver of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd., and not in its personal capacity (the "Receiver") and \_\_\_\_\_ (the "Purchaser") in respect of the property municipally known as 5507 and 5509 Dundas Street West, Toronto, Ontario (collectively, the "Purchased Assets")**

---

IN CONSIDERATION of and notwithstanding closing of the above-noted purchase, the undersigned hereby covenants and agrees that with respect to Harmonized Sales Tax ("HST") payable pursuant to the *Excise Tax Act* (the "Act") by reason of the sale of the Property and all buildings, structures and improvements thereon, the Purchaser represents, warrants and agrees that:

- (i) It is purchasing the Purchased Assets as principal for its own account and same is not being purchased by the Purchaser as an agent, trustee or otherwise on behalf of or for another person;
- (ii) It is registered under Subdivision (d) of Division V of Part IX of the *Act* for the collection and remittance of HST; its registration number is \_\_\_\_\_; and such registration is in good standing and has not been withdrawn or revoked and shall file returns and remit any HST owing on the sale to the Receiver General to the extent required by the *Act*;
- (iii) It shall be liable to and shall self-assess and remit to the appropriate governmental authority all HST which is payable under the *Act* in connection with the transfer of the Purchased Assets made pursuant to this Agreement of Purchase and Sale, all in accordance with the *Act*;
- (iv) It acknowledges that the Receiver is relying upon the accuracy of the above representations and warranties in not collecting HST and allowing the Purchaser to self-assess and remit HST to the Receiver General in accordance with the *Act*, and that such representation and warranties shall not merge on the closing of the transaction;
- (v) It shall indemnify and save harmless the Receiver from and against any and all HST, penalties, costs and/or interest which may become payable by or assessed against the Receiver as a result of any inaccuracy, misstatement or misrepresentation made in connection with any matter raised in this paragraph or contained in any declaration referred to herein; and

- (vi) If HST is payable in respect of this transaction in accordance with the Act, the undersigned, having paid or agreed to pay the consideration for the sale, is liable for payment of HST thereon.

The above warranties, certificates and agreements will survive the closing of this transaction and continue in full force and effect thereafter.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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

Name:

Title:

*I have the authority to bind the corporation*

**EXHIBIT C**  
**PERMITTED ENCUMBRANCES**

1. The reservations, limitations, provisions and conditions expressed in the original grant from the Crown and all unregistered rights, interests and privileges in favour of the Crown under or pursuant to any applicable statute or regulation.
2. Any subdivision agreement, development agreement, servicing agreement, site plan agreement or any other agreement, document, regulation, subdivision control by-law or other instrument containing provisions relating to the Lands or the use, development, installation of services and utilities or the erection of buildings or other improvements in or on the Lands.
3. All easements, licenses, rights-of-way, watercourses and rights (and all reference plans with respect thereto), whether registered or unregistered, including without limitation those for access or for the installation and maintenance of public and private utilities and other services including without limitation, telephone lines, hydro-electric lines, gas mains, water mains, sewers and drainage and other services or for the maintenance, repair or replacement of any adjoining building or lands, including any cost sharing agreement relating thereto, or any right of re-entry reserved by a predecessor in title.
4. Any restrictive covenants and building restrictions affecting the Lands.
5. Any defects of title or encroachments by or onto the Lands, whether by gardens, fences, trees, buildings, foundations, or other structures or things, which may be revealed by any survey or reference plan of the Lands, whether now in existence or not.
6. Utility agreements, and other similar agreements with Authorities or private or public utilities affecting the Lands.
7. Liens for taxes, local improvements, assessments or governmental charges or levies not at the time due or delinquent.
8. Undetermined, inchoate or statutory liens and charges (including, without limitation, the liens of public utilities, workers, suppliers of materials, contractors, subcontractors, architects and unpaid Receivers of moveable property) incidental to any current operations of the Lands which have not been filed pursuant to any legal requirement or which relate to obligations not yet due or delinquent.
9. Zoning restrictions, restrictions on the use of the Lands or minor irregularities in title thereto.
10. The reservations, limitations, conditions and exceptions to title set out in the *Land Titles Act (Ontario)*.
11. Instrument No. EB254155
12. Instrument No. 64R8387

13. Instrument No. EB542779
14. Instrument No. TB34882
15. Instrument No. E317117
16. Instrument No. AT1090313
17. Charge in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5328801
18. Notice of Assignment of Rents – General in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5328802
19. Notice of Right of First Refusal in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5328804
20. Instrument No. AT5674643
21. Postponement registered as Instrument No. AT5674645
22. Postponement registered as Instrument No. AT5674647
23. Notice in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5709874
24. Notice in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5820957

**EXHIBIT D**  
**LEGAL DESCRIPTION**

PIN 07550-0052 (LT)

LT 13, PL 2104 , EXCEPT PART 1, 64R1955, PART 7, RS1028, & PART 26, 64R8387 ; S/T  
EB542779,TB34882 ETOBICOKE , CITY OF TORONTO

PIN 07550-0051 (LT)

PT LT 14, PL 2104 , AS IN EB429988 ; ETOBICOKE , CITY OF TORONTO

## **EXHIBIT E** **SALES PROCESS**

### **INTRODUCTION**

By order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated August 4, 2023 which did not become effective until March 26, 2024 (the “**Appointment Order**”), BDO Canada Limited (“**BDO**”) was appointed as receiver and manager (in such capacities, the “**Receiver**”), without security, of all of the assets, undertakings, and properties, including the real property municipally known as 5507-5509 Dundas Street West, Toronto, Ontario and the associated Project (as defined below) and all other property, assets and undertakings related thereto (collectively the “**Property**”) of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd. (collectively, “**Dundas**” or the “**Debtor**”). The real property was approved for construction of a 22-storey, 242,187 square foot mixed use building with up to 265 residential rental suites and 176 parking stalls (the “**Project**”).

### **THE OPPORTUNITY**

It is anticipated that, on or about May 16, 2024, the Receiver will, *inter alia*, apply to the Court to approve the sale and investment solicitation process (“**SISP**”) described herein (the “**Process Approval Order**”). It is further anticipated that the Process Approval Order will also (i) authorize the Receiver to enter into a fully binding and conditional purchase and sale agreement (the “**Stalking Horse Agreement**”) between the Receiver and Centurion Acquisition Corporation, in trust for a corporation to be incorporated (the “**Stalking Horse Bidder**”) pursuant to which the Stalking Horse Purchaser will make an offer to purchase the Property; and (ii) approve the transaction contemplated by the Stalking Horse Agreement.

The Opportunity may involve the recapitalization, investment in, arrangement or reorganization of the Debtor or the business of the Debtor (the “**Business**”) as a going concern or a sale of some or all of the Property as a going concern or otherwise, or some combination thereof (each, a “**Transaction**”).

The Process Approval Order, the procedures in respect of the SISP as contained herein (the “**SISP Procedures**”) and any subsequent orders issued by the Court pertaining to the SISP Procedures shall exclusively govern the process for soliciting and selecting bids for the Transaction.

The purpose of these SISP Procedures is to determine whether a better Transaction than the Stalking Horse Agreement may be obtained by the Receiver in a formal marketing process approved by the Court. For the purposes of these SISP Procedures, a “**Superior Offer**” shall mean:



- a) a credible, reasonably certain and financially viable offer made by a Qualified Bidder (as defined herein) to be a counterparty to a Transaction, the terms of which offer are more favourable and no more burdensome or conditional than the terms contained in the Stalking Horse Agreement; and
- b) an offer that provides for cash consideration in an amount equal to the purchase price in the Transaction, plus an incremental increase of \$\_\_\_\_\_.

Except to the extent otherwise set forth in a definitive sale or investment agreement with a Successful Bidder (as defined below), any sale of the Property or investment in the Debtor will be on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Receiver, or any of their respective agents, advisors or representatives, and, in the event of a sale, all of the right, title and interest of the Debtor in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to a Court order, except as otherwise provided in such Court order.

## TIMELINE

The following table sets out the key milestones under the SISP:

Milestone	Deadline
Commencement of SISP	May 16, 2024
Distribution of the Notice and Teaser Letter	May 20, 2024
Bid Deadline	June 28, 2024
Auction	July 5, 2024
Sale Approval Hearing	July 15 to July 19, 2024
Closing Date Deadline	On or before July 29, 2024

The dates set out in the SISP may be extended by the Receiver in its sole discretion.

## SOLICITATION OF INTEREST

As soon as reasonably practicable:

1. the Receiver will prepare a list of potential bidders, including (i) parties that have approached the Receiver indicating an interest in the opportunity, and (ii) local and international strategic and financial parties who the Receiver believes may be interested in purchasing the Property or investing in the Debtor pursuant to the SISP (collectively, “**Known Potential Bidders**”);

2. the Receiver will arrange for a notice of the SISP (and such other relevant information which the Receiver considers appropriate) (the “**Notice**”) to be published in The Globe and Mail (National Edition) and any other newspaper or journal as the Receiver considers appropriate, if any; and
3. the Receiver will prepare: (i) a process summary (the “**Teaser Letter**”) describing the opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; and (ii) a non-disclosure agreement in form and substance satisfactory to the Receiver (an “**NDA**”).

The Receiver will publish the Notice and send the Teaser Letter and NDA to all Known Potential Bidders by no later than May 23, 2024 and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Receiver as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

## **INTERESTED PARTIES**

### *Delivery of Confidential Information Package*

Any party who wishes to participate in the SISP must provide to the Receiver, unless the Receiver confirms to such potential bidder that the below documents are already available to the Receiver, the following:

1. an NDA executed by it and a letter setting forth the identity of the potential bidder, the contact information for such potential bidder and full disclosure of the direct and indirect principals of the potential bidder; and
2. such form of financial disclosure and credit quality support or enhancement that allows the Receiver to make a reasonable determination as to the potential bidder’s financial and other capabilities to consummate a transaction that would constitute a Superior Offer.

If the Receiver determines, exercising its reasonable business judgement that a bidder: (i) has delivered the documents contemplated in the immediately preceding paragraph; and (ii) has the financial capability based on the availability of financing, experience and other considerations, to be able to consummate a sale or investment pursuant to the SISP, then such bidder shall be deemed to be a “**Qualified Bidder**”. For greater certainty, no bidder shall be deemed not to be a Qualified Bidder without the approval of the Receiver.

At any time during Phase 1 of the SISP, the Receiver may, in its reasonable business judgement eliminate a Qualified Bidder from the SISP, in which case such Qualified Bidder will be eliminated from the SISP and will no longer be a Qualified Bidder for the purposes of the SISP.

The Receiver will prepare and send to each Qualified Bidder a confidential information package providing additional information considered relevant to the potential Transaction (the “**Confidential Information Package**”).

The Receiver and its respective advisors make no representation or warranty as to the information contained in the Confidential Information Package or otherwise made available pursuant to the SISP, except to the extent expressly contemplated in any definitive sale or investment agreement with a Successful Bidder (as defined below) ultimately executed and delivered by the Receiver.

Qualified Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the SISP and any Transaction they enter into with the Receiver.

### ***Due Diligence***

The Receiver shall, in its reasonable business judgment and subject to competitive and other business considerations, afford each Qualified Bidder such access to due diligence materials and information relating to the Property as it deems appropriate. Due diligence access may include management presentations, access to electronic data rooms, on-site inspections, and other matters which a Qualified Bidder may reasonably request and as to which the Receiver in its reasonable business judgment may agree.

The Receiver will designate a representative to coordinate all reasonable requests for additional information and due diligence access from a Qualified Bidder and the manner in which such requests must be communicated. The Receiver will not be obligated to furnish any information relating to the Property or Business to any person other than to a Qualified Bidder. Further, and for the avoidance of doubt, selected due diligence materials may be withheld from certain Qualified Bidders if the Receiver determines such information to represent proprietary or sensitive competitive information.

### **FORMAL BINDING OFFERS**

Qualified Bidders that wish to make a formal offer to purchase or make an investment in the Debtor (a “**Bidder**”) shall submit a binding offer (the “**Bid**”) that complies with all of the following requirements to the Receiver at the addresses specified in Schedule “A” hereto (including by email or fax transmission), so as to be received by them not later than 5:00 PM (Eastern Time) on June 28, 2024 (the “**Bid Deadline**”):

1. the Bid may be an offer to acquire all, substantially all or a portion of the Property (a “**Sale Proposal**”), or to make an investment in, restructure, reorganize or refinance the

Business (an “**Investment Proposal**”), or such other structure as the Bidder may propose;

2. in the case of a Sale Proposal, it identifies or contains the following:
  - a. the purchase price in Canadian dollars, including details of any liabilities to be assumed by the Bidder and key assumptions supporting the valuation;
  - b. a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
  - c. a specific indication of the financial capability of the Bidder and the expected structure and financing of the transaction;
  - d. a description of the conditions and approvals required for a final and binding offer;
  - e. an outline of any additional due diligence required to be conducted in order to submit a final and binding offer; and
  - f. any other terms or conditions of the Sale Proposal that the Bidder believes are material to the transaction;
  
3. in the case of an Investment Proposal, it identifies the following:
  - a. a description of how the Bidder proposes to structure the proposed investment;
  - b. the aggregate amount of the equity and/or debt investment to be made in the Business in Canadian dollars;
  - c. the underlying assumptions regarding the pro forma capital structure;
  - d. a specific indication of the sources of capital for the Bidder and the structure and financing of the Transaction;
  - e. a description of the conditions and approvals required for a final and binding offer;
  - f. an outline of any additional due diligence required to be conducted in order to submit a final and binding offer;
  - g. all conditions to closing that the Bidder may wish to impose; and
  - h. any other terms or conditions of the Investment Proposal that the Bidder believes are material to the transaction;

4. in the case of either a Sale Proposal or an Investment Proposal, it contains such other information as reasonably requested by the Receiver and it has a reasonable prospect of resulting in a Superior Offer.
5. the Bid includes a letter stating that the Bidder's offer is irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Bidder is selected as the Successful Bidder (as defined below), its offer shall remain irrevocable until the closing of the Transaction with the Successful Bidder;
6. the Bid includes duly authorized and executed Transaction agreements, including the purchase price, investment amount and any other key economic terms expressed in Canadian dollars (the "**Purchase Price**"), together with all exhibits and schedules thereto;
7. the Bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed Transaction, that will allow the Receiver to make a determination as to the Bidder's financial and other capabilities to consummate the proposed Transaction;
8. the Bid is not conditional on:
  - a. the outcome of any further due diligence by the Bidder, apart from, if applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which was withheld during the due diligence process prior to the Bid Deadline, or
  - b. obtaining financing;
9. the Bid fully discloses the identity of each entity or person that will be entering into the Transaction, that is participating in, or benefiting from, such bid, including any equity holders;
10. for a Sale Proposal, the Bid includes a commitment by the Bidder to provide a non-refundable deposit in the amount of not less than 5% of the Purchase Price offered upon the Bidder being selected as the Successful Bidder (as defined below);
11. for an Investment Proposal, the Bid includes a commitment by the Bidder to provide a non-refundable deposit in the amount of not less than 5% of the total new investment contemplated in the bid upon the Bidder being selected as the Successful Bidder (as defined below);
12. the Bid includes acknowledgments and representations from the Bidder that the Bidder:
  - a. has had an opportunity to conduct any and all due diligence regarding the Property, and Business prior to making its offer (apart from, to the extent applicable, the disclosure of any due diligence materials representing proprietary or sensitive

competitive information withheld during the due diligence process prior to the Bid Deadline);

- b. has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its Bid; and
- c. did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Business or the Property or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s);

13. the Bid is received by the Bid Deadline;

14. the Bid constitutes, in the reasonable business judgment of the Receiver, a Superior Offer; and

15. the Bid contemplates closing the Transaction set out therein on or before July 29, 2024 (the “Closing Date”).

A Bid that qualifies with the requirements set out above shall be considered a “**Qualified Bid**”. For greater certainty, the Stalking Horse Agreement shall be deemed to be a Qualified Bid.

The Receiver may waive strict compliance with any one or more of the non-material foregoing requirements and deem such non-compliant bids to be a Qualified Bid.

### **SELECTION OF SUCCESSFUL BIDDERS**

Following the Bid Deadline, the Receiver will assess the Bids received in consultation with its counsel. The Receiver shall approve the disqualification of any Bids that are deemed not to be Qualified Bids. Only Bidders whose Bids have been designated as Qualified Bids are eligible to become the Successful Bidder(s).

The Receiver shall notify each Bidder in writing as to whether its Bid constituted a Qualified Bid within two (2) business days following the Bid Deadline, or at such later time as the Receiver deems appropriate.

If no Qualified Bids (either individually or in the aggregate), other than the Stalking Horse Agreement have been received by the Bid Deadline, then the Receiver may consider an extension of the Bid Deadline for up to 7 business days to allow any party that submitted a Bid to consult with the Receiver and to revise such Bid such that it would provide for, or that might reasonably be expected to provide for, a Superior Offer.

### ***Evaluation of Competing Bids***

A Qualified Bid will be evaluated upon many factors, including, without limitation, items such as:

1. the Purchase Price and the net value provided by such Qualified Bid,
2. the identity, circumstances and ability of the Bidder to successfully complete such Transaction,
3. the proposed Transaction documents,
4. factors affecting the speed, certainty and value of the Transaction,
5. the assets included or excluded from the Bid,
6. the likelihood and timing of consummating such Transaction, and
7. whether the Transaction results in a Superior Offer.

each as determined by the Receiver, in consultation with its counsel.

### ***Selection of Successful Bid***

The Receiver shall:

1. first, review and evaluate each Qualified Bid, provided that the Receiver may contact any Bidder to clarify the terms of any Bid, and the applicable Bidder may amend, modify or vary such Bid for the purpose of clarification;
2. second, identify if any Qualified Bid is a Superior Offer; and
3. third, if one or more Qualified Bids are considered to be Superior Offers, those Qualified Bidders presenting a Superior Offer shall proceed to an auction with the Stalking Horse Bidder to be held on or before July 5, 2024 (the “**Auction**”), which shall proceed according to the Auction Procedures set out in **Schedule “B”** to this SISP to identify the “**Successful Bid**”, and the Bidder making such Successful Bid, the “**Successful Bidder**”.

If no Superior Offer is received by the Bid Deadline, the Auction will not be held and the Stalking Horse Bidder will be declared to be the Successful Bidder. The determination of any Successful Bid by the Receiver shall be subject to approval by the Court.

### ***Sale Approval Motion Hearing***

At the hearing of the motion to approve any Transaction with a Successful Bidder (the “**Sale Approval Hearing**”), the Receiver shall seek, among other things, approval from the Court to consummate the Successful Bid. All the Qualified Bids other than the Successful Bid, if any, shall be deemed rejected by the Receiver on and as of the date of approval of the Successful Bid by the Court.

## **DEPOSIT**

All deposits shall be held by the Receiver in a single noninterest-bearing account designated solely for such purpose. A deposit paid by a Successful Bidder shall be dealt with in accordance with the definitive documents for the transactions contemplated by the Successful Bid. Deposits, and any interest earned thereon, paid by Bidders not selected as the Successful Bidder shall be returned to such Bidder within three business days of Court approval of the Successful Bid.

## **CONFIDENTIALITY AND ACCESS TO INFORMATION**

All discussions regarding a Transaction, Sale Proposal, Investment Proposal, Bid or Successful Bid should be directed through the Receiver. Under no circumstances should the management of the Debtor be contacted directly without the prior consent of the Receiver. Any such unauthorized contact or communication could result in exclusion of the interested party from the SISP at the discretion of the Receiver.

Participants and prospective participants in the SISP shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of Qualified Bidders, Bidders, Qualified Bids, the details of any Bids or Qualified Bids submitted or the details of any confidential discussions or correspondence between the Receiver and such other Bidders or Qualified Bidders in connection with the SISP, except to the extent that the Receiver, with the consent of the applicable participants, is seeking to combine separate Bids into a single Bid.

Notwithstanding the foregoing, under no circumstances will the Receiver share any material information concerning any of the Bids with any person other than its advisors.

## **SUPERVISION OF THE SISP**

This SISP does not, and will not be interpreted to, create any contractual or other legal relationship between the Receiver and any Qualified Bidder, Bidder, or any other party, other than as specifically set forth in a definitive agreement that may be signed with the Receiver.

Without limiting the preceding paragraph, the Receiver shall not have any liability whatsoever to any person or party, including without limitation any Qualified Bidder, Bidder, the Successful Bidder, or any other creditor or other stakeholder of the Debtor, for any act or omission related to



the process contemplated by this SISP Procedure, except to the extent such act or omission is the result from gross negligence or wilful misconduct of the Receiver. By submitting a Bid, each Bidder or Successful Bidder shall be deemed to have agreed that it has no claim against the Receiver in respect of the SISP for any reason whatsoever, except to the extent that such claim is the result of gross negligence or wilful misconduct by the Receiver.

Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.

**Schedule "A"**

**Addresses of Receiver**

**To the Receiver**

**BDO Canada Limited**

20 Wellington Street East, Suite 500  
Toronto, ON M5E 1C5

Attention: Josie Parisi  
Email: [jparisi@bdo.ca](mailto:jparisi@bdo.ca)

## Schedule "B"

### AUCTION PROCEDURES

1. On or before July 5, 2024, the Receiver will confirm those Qualified Bidders who present a Superior Offer ("**Superior Bidders**") that their Bid will be advanced to the Auction.
2. Unless otherwise ordered by the Court, only the authorized representatives, professional advisors or agents of the Stalking Horse Bidder and each Superior Bidder shall be eligible to attend at the Auction and make any Subsequent Bid (as defined below) at the Auction.
3. The Auction, if any, shall be conducted by the Receiver, on or before July 5, 2024 at 10:00 a.m. (Eastern Time) via video conference.
4. At the Auction, all Superior Bidders and the Stalking Horse Bidder shall be permitted to increase their Superior Bids and the Stalking Horse Agreement in accordance with the procedures set forth herein (each, a "**Subsequent Bid**"). All Subsequent Bids presented during the Auction shall be made and received via video conference on an open basis. All participating Superior Bidders and the Stalking Horse Bidder shall be entitled to be present for all bidding with the understanding that the true identity of each participating Superior Bidder shall be fully disclosed to all other Superior Bidders and the Stalking Horse Bidder and that all material terms of each Subsequent Bid presented during the Auction will be fully disclosed to the Stalking Horse Bidder and all other participating Superior Bidders throughout the entire Auction.
5. All Superior Bidders and the Stalking Horse Bidder at the Auction must have at least one individual representative with authority to bind such Superior Bidder and the Stalking Horse Bidder present at the Auction.
6. The Auction shall be recorded by the Receiver for their exclusive use and shall not be recorded by any other party.
7. At least three (3) days prior to the Auction, the Receiver will advise the Stalking Horse Bidder and all other Superior Bidders which of the Superior Bid or of the Stalking Horse Bidder the Receiver has determined in its reasonable business judgment, after consultation with its advisors, constitutes the then highest or otherwise best offer Sale Proposal or Investor Proposal (the "**Starting Bid**").
8. Bidding at the Auction will begin with the Starting Bid and continue, in one or more rounds of bidding, so long as during each round at least one Subsequent Bid is submitted by a Superior Bidder or the Stalking Horse Bidder that (i) improves upon such Superior

Bidder's immediately prior Superior Bid or upon the Stalking Horse Agreement, as the case may be, and meets the overbid requirement set forth in paragraph 9 below, and (ii) the Receiver determines, in its reasonable business judgment, after consultation with its advisors, such Subsequent Bid is a higher or otherwise better offer than the then current leading Superior Bid.

9. Bidding at the Auction shall be in increments of \$100,000 and shall continue until such time as the highest and best bid is determined by the Receiver's reasonable business judgment after consultation with its advisors. For the purpose of evaluating the value of the consideration provided by each bid (including any Subsequent Bid by the Stalking Horse Bidder) presented at the Auction, the value will: (i) be deemed to be the net consideration payable to the Receiver after considering, *inter alia*, any Break Fee due to the Stalking Horse Bidder under the Stalking Horse Agreement; and (ii) take into account any additional liabilities to be assumed by a Superior Bidder.
10. After the first round of bidding and between each subsequent round of bidding, the Receiver shall announce the Subsequent Bid that the Receiver has determined in its reasonable business judgment, after consultation with its advisors, to be the then highest or best bid (the "**Leading Bid**"). A round of bidding will conclude after each participating Superior Bidder and the Stalking Horse Bidder has had an opportunity to submit a Subsequent Bid with full knowledge of the Leading Bid.
11. If no Superior Bidder or the Stalking Horse Bidder submits a Subsequent Bid (as determined by the Receiver) after a period of 30 minutes following the Receiver's acceptance of a Subsequent Bid as the Leading Bid, and the Receiver chooses not to adjourn the Auction further, the Receiver shall enter into a binding agreement of purchase and sale or investment substantially on the same terms as the Superior Bid or the Stalking Horse Agreement (as the case may be), as amended by the Leading Bid, with the Superior Bidder or the Stalking Horse Bidder (the Successful Bidder) that submitted the highest and best bid as determined by the Receiver (the "**Accepted Bid**"), whereupon the Auction will be concluded.
12. At the Auction, the Receiver, after consultation with its advisors, may employ and announce additional procedural rules that are fair and reasonable under the circumstances (e.g., the amount of time allotted to make Subsequent Bids) for conducting the Auction; provided, however, that such rules are (a) not inconsistent with the Auction Procedures, the *Bankruptcy and Insolvency Act*, any order of the Courts entered in connection with the Auction Procedures and (b) disclosed to each Superior Bidder and the Stalking Horse Bidder at the Auction.

robapp\8741968.8

*Applicant*

*Respondents*

Court File No.: CV-23-00694646-00CL

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

**PROCEEDING COMMENCED AT TORONTO**

**SUPPLEMENTARY MOTION RECORD OF THE  
RECEIVER, BDO CANADA LIMITED**  
(CONFIDENTIAL INFORMATION SUBJECT TO  
MOTION FOR SEALING ORDER)  
(Returnable May 15, 2024)

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BDO Canada Limited

**ASSET PURCHASE AGREEMENT**

**BETWEEN**

**BDO CANADA LIMITED,**

solely in its capacity as court appointed receiver of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd., and not in its personal capacity

**AND**

**CENTURION ACQUISITION CORPORATION,**

in trust for a corporation to be incorporated

**MADE AS OF**

July 9, 2024

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**ASSET PURCHASE AGREEMENT**

**THIS AGREEMENT** is made as of July 9, 2024

BETWEEN

**BDO CANADA LIMITED**, solely in its capacity as court-appointed receiver of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd., and not in its personal capacity

(collectively, the "**Vendor**" or "**Receiver**")

- and -

**CENTURION ACQUISITION CORPORATION**, in trust for a corporation to be incorporated

(the "**Purchaser**"),

**WHEREAS** the Receiver was appointed as receiver over the Debtors pursuant to the order of Justice Kimmel dated the 4th day of August, 2023 (the "**Receivership Order**");

**AND WHEREAS** pursuant to the terms of the Receivership Order, the Receiver is authorized to market and sell the Properties;

**AND WHEREAS** the Purchaser desires to purchase the Purchased Assets (as defined herein) upon and subject to the terms and conditions set out in this Agreement;

**NOW THEREFORE**, in consideration of the covenants and agreements herein contained, the parties agree as follows:

**ARTICLE 1 - INTERPRETATION**

1.01 **Definitions**

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

"**Accepted Bid**" has the meaning set out in the Sale Process;

"**Acceptance Date**" means the date upon which this Agreement is fully executed by both parties.

"**Affiliates**" means, with respect to any Person, any other Person that controls or is controlled by or is under common control with the referent Person.

"**Agreement**" means this agreement, including its recitals and schedules, as amended from time to time.

**“Applicable Law”** means:

- (i) any applicable domestic or foreign law including any statute, subordinate legislation or treaty, as well as the common law; and
- (ii) any applicable and enforceable rule, requirement, order, judgment, injunction, award or decree of a Governmental Authority.

**“Approval and Vesting Order”** means an order of the Court substantially in the form attached hereto as **Exhibit A**: (i) approving the sale of the Purchased Assets by the Receiver to the Purchaser pursuant to the terms of this Agreement, and (ii) providing for the vesting of the right, title, benefit and interest of the Debtors in and to the Properties in and to the Purchaser, free and clear of all Liens, other than the Permitted Encumbrances.

**“Assumed Liabilities”** has the meaning set out in Section 1.01(1)(b).

**“Business Day”** means a day other than a Saturday, Sunday, statutory or civic holiday in Toronto, Ontario.

**“Claim”** means any actual or threatened civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any Loss, claim or demand relating thereto or resulting therefrom, or any other claim or demand of whatever nature or kind.

**“Closing Amount”** has the meaning set out in Section 1.01(1)(a).

**“Closing Date”** means ten (10) days following the date of the Approval and Vesting Order, or such other date as may be agreed in writing between the parties hereto.

**“Contract”** means any contract, agreement, license, instrument or commitment recognized at law or equity, whether express or implied, or arising by a course of conduct or usage of trade.

**“Court”** means the Ontario Superior Court of Justice (Commercial List).

**“Debtors”** means Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd., and **“Debtor”** means any one of them.

**“Documents”** means any and all documents pertaining to the Lands and pertaining to the development thereof which are in the possession of the Receiver and have been made available to the Purchaser electronically through the “data room”. Without limiting the generality of the foregoing this includes all plans, surveys, studies, analysis, architectural plans, drawings and renderings, engineering reports including environmental reports, soil reports, structural reports and studies and analysis, planning opinions, recommendations, reports and studies, all marketing materials, reports, studies, opinions and recommendations which are in the possession of the Receiver.

**“Environmental Law”** means any Applicable Law relating to the natural or indoor environment including those pertaining to (i) reporting, licensing, permitting, investigating, remediating or controlling the presence or Release or threatened Release of Hazardous Substances, or (ii) the use,

treatment, storage, disposal, transport, handling and the like of Hazardous Substances, including, for greater certainty, any such Applicable Law pertaining to occupational health and safety.

“**Governmental Authority**” means any domestic or foreign legislative, executive, judicial or administrative body or person having jurisdiction in the relevant circumstances.

“**Hazardous Substance**” means any substance, material or emission whose storage, handling, use, transportation or Release is prohibited, controlled or regulated by any Governmental Authority having jurisdiction pursuant to Environmental Laws, including any contaminant or pollutant as defined in the *Environmental Protection Act* (Ontario).

“**Lands**” means the properties municipally known as 5507 and 5509 Dundas Street West, Toronto, Ontario and legally described as set out on **Exhibit D**.

“**Liabilities**” means all costs, expenses, charges, debts, liabilities, commitments and obligations of any nature or kind, whether accrued or fixed, actual, absolute, contingent, latent or otherwise, matured or unmatured or determined or undeterminable, including those arising under any Applicable Law or Claim and those arising under any Contract or undertaking or otherwise, including any tax liability or tort liability of Debtor.

“**Liens**” means any lien (statutory or otherwise), mortgage, pledge, security interest (whether contractual, statutory or otherwise), hypothecation, trust or deemed trust (whether contractual, statutory, or otherwise), execution, levy, charge, encumbrance, interest in property, or other financial or monetary claim which, in each case, in substance, secures payment or performance of an obligation, or similar charge of any kind.

“**Permitted Encumbrances**” means only those Liens related to the Purchased Assets set forth on **Exhibit C**.

“**Person**” means any individual, corporation, limited liability company, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or other entity.

“**Personal Information**” means information about an identifiable individual, but does not include the name, title or business address or telephone number of an employee of an organization.

“**Purchase Price**” has the meaning set out in Section 2.02.

“**Purchased Assets**” has the meaning set out in Section 2.01.

“**Purchaser’s Solicitor**” means Robins Appleby LLP.

“**Release**” means any release or discharge of any Hazardous Substance including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leach, migration, dispersal, dispensing or disposal.

“**Receiver**” has the meaning set out in the recitals hereto.

“**Receiver’s Certificate**” means a certificate signed by the Receiver substantially in the form attached as **Schedule A** to the Approval and Vesting Order confirming that: (i) the Purchaser has paid, and the Receiver has received payment of, the Purchase Price in relation to the purchase by the Purchaser of the Purchased Assets, and (ii) the conditions to be complied with at or prior to the Time of Closing as set out in Sections 6.01 and 6.02, respectively, have been satisfied or waived by the Receiver or the Purchaser, as applicable, pursuant to Section 6.03.

“**Receivership Order**” has the meaning set out in the recitals hereto.

“**Receiver’s Solicitor**” means Lerner LLP, Attention: Domenico Magisano.

“**Revised Bid**” has the meaning set out in the Sale Process.

“**Sale Process**” has the meaning set out in Section 3.02.

“**Stalking Horse Bid**” has the meaning set out in Section 3.02.

“**Tax Act**” means the *Income Tax Act* (Canada).

“**Time of Closing**” means 9:00 a.m. (Toronto Time) on the Closing Date.

“**Transfer Taxes**” has the meaning set out in Section 2.06.

#### 1.02 **Headings**

The division of this Agreement into Articles and Sections and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Exhibits are to Articles and Sections of and Exhibits to this Agreement.

#### 1.03 **Extended Meanings**

In this Agreement words importing the singular number include the plural and vice versa, words importing any gender include all genders and words importing persons include individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities. The term “including” means “including without limiting the generality of the foregoing” and the term “third party” means any Person other than the Receiver and the Purchaser.

#### 1.04 **Capacity of Receiver**

The Receiver, in executing this Agreement, is entering into this Agreement solely in its capacity as the court appointed receiver of the Properties, and not in its personal or any other capacity. The Receiver shall have no personal or corporate liability of any kind whether in contract, tort or otherwise.

### 1.05 **Statutory References**

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

### 1.06 **Currency**

All references to currency herein are to lawful money of Canada.

### 1.07 **Exhibits**

The following are the Exhibits to this Agreement:

**Exhibit A** - Form of Approval and Vesting Order

**Exhibit B** – HST Undertaking and Indemnity

**Exhibit C** - Permitted Encumbrances

**Exhibit D** – Legal Description

**Exhibit E** – Sales Process

## **ARTICLE 2 - SALE AND PURCHASE**

### 2.01 **Assets to be Sold and Purchased**

Upon and subject to the terms and conditions hereof, the Receiver will sell to the Purchaser and the Purchaser will purchase from the Receiver, as of and with effect from the Time of Closing, all of the right, title, benefit and interest of Debtor in and to the following assets (collectively, the “**Purchased Assets**”):

- (a) the Lands;
- (b) all structures, erections, improvements, appurtenances and fixtures situate on or forming part of the Lands; and
- (c) the Documents.

### 2.02 **Purchase Price**

The aggregate purchase price payable by the Purchaser on Closing to the Receiver for the Purchased Assets will be [REDACTED] the “**Purchase Price**”), plus or minus customary adjustments on account of the sale of the Lands.

### 2.03 **Payment of Purchase Price**

- (1) The Purchase Price will be satisfied by the Purchaser as follows:

- (a) by paying, by wire transfer at the Time of Closing of Canadian dollars funds to an account specified by the Receiver (collectively, the “**Closing Amount**”):
- (i) the amount required for the Receiver to repay the loan owing to Pesciolino Holdings Inc. pursuant to its Charge/Mortgage registered as Instrument No. AT5328799 on December 23, 2019;
  - (ii) an amount equal to the unfunded fees and expenses (plus applicable HST) of the Receiver and its agents and legal counsel, payable by wire transfer on Closing to the Receiver or to whom the Receiver will otherwise direct.
- (b) by assuming a portion of the obligations and liabilities secured by the Charge/Mortgage registered as Instrument No. AT5328801 in favour of Centurion Mortgage Capital Corporation (collectively, the “**Assumed Liabilities**”) which assumed portion shall be in the amount of the balance of the Purchase Price.

#### 2.04 Assumed Liabilities

Other than the Assumed Liabilities, the Purchaser will not assume any liabilities or obligations of the Debtor of any kind, whether known or unknown, contingent, matured or otherwise, whether currently existing or hereinafter created. The Purchaser acknowledges that the assumption of the Assumed Liabilities will require the Purchaser to enter into certain agreements with and provide certain information to Centurion Mortgage Capital Corporation, as necessary for the underwriting of the Purchaser by Centurion Mortgage Capital Corporation, and the Purchaser agrees to enter into such agreements and provide all such information forthwith.

#### 2.05 Property Taxes

(1) The Purchaser and the Receiver shall adjust all municipal realty taxes to the Closing Date. This includes all municipal realty taxes, assessments, levies and penalties of any nature or kind, and interest and costs thereon, including all levies and special charges set forth in the respective tax bills of any government taxation authority.

(2) The Purchaser shall, at its option, be entitled to continue any realty tax appeals, complaints, applications, or proceedings pending for any calendar year prior to the calendar year in which the Closing Date occurs and shall be entitled to receive from the municipality any payment resulting therefrom. To the extent the Purchaser receives any of the aforementioned payments, it shall hold said payments in trust for the Receiver and forthwith remit the payments to the Receiver.

#### 2.06 Transfer Taxes

(1) The Purchaser will be liable for and will pay, or will cause to be paid, all transfer, land transfer, value added, *ad-valorem*, excise, sales, use, consumption, goods or services,



harmonized sales, retail sales, social services, or other similar taxes or duties (collectively, “**Transfer Taxes**”) payable under any Applicable Law on or with respect to the sale and purchase of the Purchased Assets under this Agreement. The Purchaser will prepare and file any affidavits or returns required in connection with the foregoing at its own cost and expense.

(2) The Purchaser shall indemnify and save harmless the Receiver and its employees, advisors and agents from all Claims incurred, suffered or sustained as a result of a failure by the Purchaser:

- (a) to pay any Transfer Taxes payable by the Purchaser; and/or
- (b) to file any returns, certificates, filings, elections, notices or other documents required to be filed by the Purchaser with any federal, provincial or other taxing authorities in connection with the conveyance or transfer of the Purchased Assets.

### 2.07 **Delivery of Purchased Assets**

At the Time of Closing, the Purchaser will take possession of the Purchased Assets where situated.

## **ARTICLE 3– COMPETING BIDS AND SALES PROCESS**

### 3.01 **Bid and Auction Procedures**

The Purchaser and Receiver acknowledge that this Agreement and the transactions contemplated hereby are subject to the marketing and auction process contemplated by the Sale Process and to the approval of the Court.

The Purchaser further acknowledges that the Receiver intends to bring a motion to the Court to seek approval for the Sale Process to market and sell the Purchased Assets. By making an offer pursuant to this Agreement, the Purchaser acknowledges that it has reviewed and accepts the Sale Process.

### 3.02 **The Sale Process**

The parties acknowledge and agree that, as soon as reasonably practicable, the Receiver will apply to the Court for a timetable for and a bidding and sales process (the “**Sale Process**”) with respect to the Purchased Assets, as more particularly set forth in Exhibit E. The Sale Process will recognize this Agreement and in particular the Closing Amount, as a baseline or “stalking horse bid” (the “**Stalking Horse Bid**”), and shall also provide for a marketing process of the Purchased Assets by the Receiver and competitive bidding to be administered by the Receiver. The Purchaser acknowledges and agrees that the aforementioned process is in contemplation of determining whether a higher price than that contemplated in the Stalking Horse Bid can be obtained for the Purchased Assets.

**ARTICLE 4- REPRESENTATIONS AND WARRANTIES****4.01 Receiver's Representations and Warranties**

The Receiver represents and warrants to the Purchaser that, as at the date hereof and as of the Closing Date:

- (a) subject to the entry of the Approval and Vesting Order and any other orders required by the Court in connection with the transactions contemplated herein, the Receiver has the power, authority and right to enter into and deliver this Agreement and to carry out its obligations hereunder;
- (b) subject to the entry of the Approval and Vesting Order and any other orders required by the Court in connection with the transactions contemplated herein, this Agreement constitutes a valid and legally binding obligation of the Receiver, enforceable against the Receiver in accordance with its terms; and
- (c) Debtor is not a non-resident of Canada within the meaning of section 116 of the Tax Act.

**4.02 Purchaser's Representations and Warranties**

The Purchaser represents and warrants to the Receiver that:

- (a) the Purchaser is a corporation duly incorporated, organized and existing under the laws of the Province of Ontario;
- (b) the Purchaser has the power, authority and right to enter into and deliver this Agreement and to carry out its obligations hereunder;
- (c) this Agreement constitutes a valid and legally binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms;
- (d) the Purchaser has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement and completion of the transactions contemplated herein and the entering into of this Agreement in completion of the transactions contemplated herein will not breach its constating documents, any agreement binding on the Purchaser, or Applicable Laws relating to the Purchaser;
- (e) that it has the financial ability through its own resources or through financing that has been arranged with a recognized financial lending institution, to close the transaction contemplated herein and pay the balance of the Purchase Price on the Closing Date;
- (f) the Purchaser has available, and at the Time of Closing will have, sufficient funding to enable the Purchaser to consummate the purchase of the Purchased Assets on the terms set forth herein and otherwise to perform all of the Purchaser's obligations under this Agreement;

- (g) the Purchaser will be registered under Part IX of the *Excise Tax Act* (Canada) on or before the Closing Date; and
- (h) the Purchaser is not a non-resident of Canada within the meaning of section 116 of the Tax Act.

#### 4.03 **“As Is, Where Is”**

(1) The Purchaser acknowledges and agrees that it is purchasing the Purchased Assets on an “as is, where is” basis and on the basis that the Purchaser has conducted to its satisfaction an independent inspection, investigation and verification of the Purchased Assets (including a review of title), and all other relevant matters and has determined to proceed with the transaction contemplated herein and will accept the same at the Time of Closing in their then current state, condition, location, and amounts, subject to all Permitted Encumbrances.

(2) Any documents, materials and information provided by or on behalf of the Receiver to the Purchaser with respect to the Purchased Assets (including the Documents and any confidential information memorandums, management presentations, or material made available to the Purchaser) have been provided to the Purchaser solely to assist the Purchaser in undertaking its own due diligence, and the Receiver has not made and is not making any representations or warranties, implied or otherwise, to or for the benefit of the Purchaser as to the accuracy and completeness of any such documents, materials or information or the achievability of any valuations, estimates or projections. The Purchaser acknowledges that it has not and will not rely upon any such documents, materials or information in any manner, whether as a substitute for or supplementary to its own due diligence, searches, inspections and evaluations. The Receiver and their respective affiliates, directors, officers, employees, agents and advisors shall not be liable for any inaccuracy, incompleteness or subsequent changes to any such documents, materials or information. The Purchaser further acknowledges that the use of the Documents may not be possible without the Purchaser obtaining reliance or other assurances from the author of such Documents directly and further that the interest of the Debtor in the Documents may be subject to copyright or other property rights which may preclude their use by the Purchaser in whole or in part.

### **ARTICLE 5 - COVENANTS**

#### 5.01 **Covenants of the Receiver**

(1) The Receiver will ensure that the representations and warranties of the Receiver set out in Section 4.01 are true and correct in all material respects at the Time of Closing and use reasonable commercial efforts to ensure that the conditions of closing for the benefit of the Purchaser set out in Section 6.01 over which it has reasonable control have been performed or complied with in all material respects by the Time of Closing.

(2) The Receiver shall file with the Court, as soon as practicable after its execution and delivery of this Agreement, a motion seeking the Court’s issuance of the Approval and Vesting Order.

## 5.02 **Covenants of the Purchaser**

(1) The Purchaser will ensure that the representations and warranties of the Purchaser set out in Section 4.02 are true and correct in all material respects at the Time of Closing and use reasonable commercial efforts to ensure that the conditions of closing for the benefit of the Receiver set out in Section 6.02 over which it has reasonable control have been performed or complied with in all material respects by the Time of Closing.

(2) The Purchaser will provide the Receiver with all information within its possession or control that the Receiver may reasonably request to assist the Receiver in obtaining the Approval and Vesting Order.

(3) The Purchaser will comply with the *Personal Information Protection and Electronic Documents Act* (Canada) and other similar Applicable Laws relating to privacy and the protection of Personal Information in respect of the Books and Records, Contracts and any other business and financial records related to the Purchased Assets.

(4) The Purchaser will provide to a third party in a timely manner and without delay such information as may be required or requested by such third party in connection with obtaining any consent, approval or waiver of such third party under the Assumed Liabilities, including confidential, financial and sensitive information.

(5) On Closing, the Purchaser will assume the obligations of the Debtor under the Assumed Liabilities in writing in favour of both the Receiver and any other required parties in such forms as may be required by the Receiver, acting reasonably, and by the other parties, acting in their respective discretion permitted under the Assumed Liabilities.

## **ARTICLE 6 - CONDITIONS AND TERMINATION**

### 6.01 **Conditions for the Benefit of the Purchaser**

The sale by the Receiver and the purchase by the Purchaser of the Purchased Assets is subject to the following conditions, which are for the exclusive benefit of the Purchaser and which are to be performed or complied with:

- (a) the representations and warranties of the Receiver set forth in this Agreement will be true and correct in all material respects at the Time of Closing with the same force and effect as if made at and as of such time;
- (b) the Receiver will have performed or complied in all material respects with all of the obligations and covenants of this Agreement to be performed or complied with by the Receiver at or prior to the Time of Closing;
- (c) no action or proceeding in Canada will be pending by any third party to enjoin or prohibit the sale and purchase of the Purchased Assets at the Time of Closing; and
- (d) the Approval and Vesting Order will have been granted by the Court and such order will not have been stayed, varied in any material respect, set aside or appealed (or

any such appeal shall have been dismissed with no further appeal therefrom) prior to the Time of Closing.

#### 6.02 **Conditions for the Benefit of the Receiver**

The sale by the Receiver and the purchase by the Purchaser of the Purchased Assets is subject to the following conditions, which are for the exclusive benefit of the Receiver and which are to be performed or complied with at or prior to the Time of Closing:

- (a) the representations and warranties of the Purchaser set forth in this Agreement will be true and correct in all material respects at the Time of Closing with the same force and effect as if made at and as of such time;
- (b) the Purchaser will have performed or complied in all material respects with all of the obligations and covenants of this Agreement to be performed or complied with by the Purchaser at or prior to the Time of Closing;
- (c) no action or proceeding in Canada will be pending by any third party to enjoin or prohibit the purchase and sale of the Purchased Assets; and
- (d) the Approval and Vesting Order will have been granted by the Court and such order will not have been stayed, varied in any material respect, set aside or appealed (or any such appeal shall have been dismissed with no further appeal therefrom).

#### 6.03 **Waiver of Condition**

The Purchaser, in the case of a condition set out in Section 6.01, and the Receiver, in the case of a condition set out in Section 6.02, will have the exclusive right to waive the performance or compliance of such condition in whole or in part and on such terms as may be agreed upon without prejudice to any of its rights in the event of non-performance of or non-compliance with any other condition in whole or in part. Any such waiver will not constitute a waiver of any other conditions in favour of the waiving party. Such waiving party will retain the right to complete the purchase and sale of the Purchased Assets herein contemplated.

#### 6.04 **Termination**

This Agreement may be terminated, by delivery of written notice within 2 Business Days of such party learning of such breach with respect to Section 5.04(a) and prior to the Closing Date for any other provision below:

- (a) by the Receiver or the Purchaser if a material breach of any representation, warranty, covenant, obligation or other provision of this Agreement has been committed by the other party and such breach has not been waived or cured within five days following the date on which the non-breaching party notifies the other party of such breach;

- (b) by the Purchaser if a condition in Section 6.01 becomes impossible to satisfy by the Time of Closing (other than through the failure of the Purchaser to comply with its obligations under this Agreement) and the Purchaser has not waived such condition;
- (c) by the Receiver if a condition in Section 6.02 becomes impossible to satisfy prior to the Time of Closing (other than through the failure of the Receiver to comply with its obligations under this Agreement) and the Receiver has not waived such condition; and
- (d) by written agreement of the Purchaser and the Receiver.

#### 6.05 **Effect of Termination**

Each party's right of termination under Section 6.04 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 6.04, all further obligations of the parties under this Agreement will terminate, except that the obligations in Sections 7.04, 9.03, 9.04 and 9.16 will survive; provided, however, that if this Agreement is terminated by a party because of a material breach of a representation or warranty, covenant, obligation or other provision of this Agreement by the other party or because one or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies with respect to such breach will survive such termination unimpaired.

### **ARTICLE 7 - CLOSING ARRANGEMENTS**

#### 7.01 **Closing**

The sale and purchase of the Purchased Assets will be completed at the Time of Closing at the offices of Robins Appleby LLP, 120 Adelaide Street West, Suite 2600, Toronto, Ontario M5H 1T1.

#### 7.02 **Receiver's Closing Deliveries**

On or before the Time of Closing, the Receiver will deliver or cause to be delivered to the Purchaser the following:

- (a) a certificate executed by the Receiver confirming that the representations and warranties of the Receiver in this Agreement are true and correct in all material respects as of the Time of Closing and that the obligations of the Receiver to be performed prior to the Time of Closing have been performed in all material respects;
- (b) an undertaking to readjust the any customary adjustments to the Purchase Price, if necessary;

- (c) an assignment and assumption agreement (the “**Assignment and Assumption Agreement**”), duly executed by the Receiver, effecting the assignment and assumption by the Purchaser of the Assumed Liabilities;
- (d) a copy of the issued and entered Approval and Vesting Order; and
- (e) such other documents or instruments as contemplated or required to be delivered by the Receiver pursuant to this Agreement, all of which shall be in form and substance satisfactory to the parties, acting reasonably.

### 7.03 **Purchaser’s Closing Deliveries**

On or before the Time of Closing, the Purchaser will deliver or cause to be delivered to the Receiver the following:

- (a) payment of the Purchase Price to the Receiver as contemplated by Section 2.03(1);
- (b) a certificate executed by a senior officer of the Purchaser confirming that the representations and warranties of the Purchaser in this Agreement are true and correct in all material respects as of the Time of Closing and that the obligations of the Purchaser to be performed prior to the Time of Closing have been performed in all material respects;
- (c) an undertaking to readjust the customary adjustments to the Purchase Price, if necessary;
- (d) if required, a land transfer tax affidavit;
- (e) the HST Undertaking and Indemnity;
- (f) the Assignment and Assumption Agreement, duly executed by the Purchaser; and
- (g) such other documents or instruments as contemplated or required to be delivered by the Purchaser pursuant to this Agreement, all of which shall be in form and substance satisfactory to the parties, acting reasonably.

### 7.04 **Confidentiality**

Both prior to the Closing Date and, if the sale and purchase of the Purchased Assets hereunder fails to occur for whatever reason thereafter, the Purchaser will not disclose to anyone or use for its own or for any purpose other than the purpose contemplated by this Agreement any confidential information concerning Debtor or the operations obtained by the Purchaser pursuant hereto, and will hold all such information in the strictest confidence and, if the sale and purchase of the Purchased Assets hereunder fails to occur for whatever reason, will return all documents, records and all other information or data relating to Debtor or to the operations which the Purchaser obtained pursuant to this Agreement.

#### 7.05 **Delivery of Receiver's Certificate**

When the Receiver is satisfied that all conditions hereunder have been satisfied or waived, and all documents to be delivered under the terms hereof have been delivered at or before the Time of Closing, the Receiver will deliver an executed copy of the Receiver's Certificate to the Purchaser's counsel in escrow upon the sole condition of receipt by the Receiver of the amounts referred to in Section 2.03(1). All of the foregoing amounts will then be paid by the Purchaser, by wire transfer of immediately available funds to an account designated in writing by the Receiver for this purpose pursuant to Section 2.03(1) hereof. Following written confirmation of receipt by the Receiver of such funds (or such person directed by the Receiver to receive such funds), the Receiver's Certificate will be released from escrow to the Purchaser. Upon such delivery, the closing will be deemed to have occurred at the Time of Closing. The Receiver will file a copy of the Receiver's Certificate with the Court on the next Business Day following the Closing Date and provide evidence of such filing to the Purchaser.

#### 7.06 **Planning Act**

This Agreement is subject to compliance with the *Planning Act* (Ontario). The parties agree that compliance with the *Planning Act* (Ontario) shall be the responsibility of the Purchaser at its costs. The Receiver agrees to execute all documents reasonably requested by the Purchaser in respect thereof.

### **ARTICLE 8 - SURVIVAL AND ACCESS**

#### 8.01 **Survival**

No covenants, representations and warranties of each party contained in this Agreement will survive the completion of the sale and purchase of the Purchased Assets, except for the covenants that by their terms are to be satisfied or survive after the Time of Closing (including without limitation Sections 2.06, 9.03, 9.04, and 9.16), which covenants will continue in full force and effect in accordance with their terms.

#### 8.02 **Access by Purchaser**

The Receiver shall allow the Purchaser, its representatives and advisors to have access to the Lands and subject to providing twenty four (24) hours' Notice, to allow the Purchaser to carry out such non-invasive tests (including soil tests), environmental audits or assessments, surveys and inspections of the Lands as the Purchaser, its representatives or advisors may deem necessary. All such tests and inspections shall be at the sole risk and expense of the Purchaser. The Purchaser acknowledges that the Receiver shall be entitled to have a representative present during each such period of access. The Purchaser shall promptly repair at its sole cost and expense any damage to the Property caused by such tests and inspections and indemnify the Receiver for any damages or costs sustained by the Receiver as a result of the Purchaser's inspections. The Purchaser agrees that this covenant shall survive termination of this Agreement.



## **ARTICLE 9 - GENERAL**

### **9.01 Further Assurances**

Each of the Receiver and the Purchaser will from time to time at the request and expense of the other execute and deliver all such further documents and instruments and do all acts and things as the other party may, either before or after the Closing Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

### **9.02 Time of the Essence**

Time is of the essence of this Agreement.

### **9.03 Fees, Commissions and other Costs and Expenses**

Each of the Receiver and the Purchaser will pay its respective legal and accounting costs and expenses and any real estate or other commissions incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses whatsoever and howsoever incurred and will indemnify and save harmless the other from and against any Claim resulting from any broker's, finder's or placement fee or commission alleged to have been incurred as a result of any action by it in connection with the transactions under this Agreement.

### **9.04 Public Announcements**

Except as required by Applicable Law, no public announcement or press release concerning the sale and purchase of the Purchased Assets may be made by the Receiver or the Purchaser without the prior consent and joint approval of the Receiver and the Purchaser.

### **9.05 Benefit of the Agreement**

This Agreement will enure to the benefit of and be binding upon the successors and permitted assigns of the parties.

### **9.06 Entire Agreement**

This Agreement (including the agreements contemplated hereby) constitute the entire agreement between the parties with respect to the subject matter hereof and such agreements cancel and supersede any prior understandings and agreements between the parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement (including the agreements contemplated hereby).

### **9.07 Amendments and Waivers**

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by both of the parties. No waiver of any breach of any provision of this Agreement

will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.

9.08 **Assignment and Adoption**

Prior to obtaining the Approval and Vesting Order, this Agreement may be assigned by the Purchaser or adopted as a pre-incorporation contract by a newly incorporated corporation without the prior consent of but on notice to the Receiver. Following the Approval and Vesting Order having been obtained, this Agreement may not be assigned by the Purchaser or adopted as a pre-incorporation contract by a newly incorporated corporation without the written consent of the Receiver, which consent may be arbitrarily withheld. It is acknowledged that the Approval and Vesting Order is being obtained to vest title into the name of the Purchaser. Accordingly, as a condition of any consent to an assignment or adoption, the Purchaser will be responsible to pay the Receiver's costs for obtaining any revisions to or preparing materials to obtain an amended Approval and Vesting Order to vest title into the name of the assignee or adoptee. Upon any assignment (but for clarity, not any adoption), the original Purchaser shall nonetheless remain liable until successful completion of this transaction.

9.09 **Notices**

Any demand, notice or other communication to be given in connection with this Agreement must be given in writing and will be given by personal delivery or by electronic means of communication addressed to the recipient as follows:

To the Receiver:

BDO Canada Limited  
20 Wellington Street East  
Suite 500  
Toronto, Ontario M5E 1C5

Fax No.: 416-369-6031  
Email: JParisi@bdo.ca  
Attention: Josie Parisi

With copies to:

Lerners LLP  
225 King Street West  
Suite 1600  
Toronto, Ontario M5V 3M2

Attention: Domenico Magisano

To the Purchaser:

Centurion Acquisition Corporation  
25 Sheppard Avenue West

Toronto, Ontario  
M2N 6S6

E-mail: bvavaroutsos@centurion.ca  
Attention: Bob Vavaroutsos

With copies to:

Robins Appleby LLP  
120 Adelaide Street West  
Suite 2600  
Toronto, Ontario M5H 1T1

Fax No: 416-863-4592  
Email: dmichaud@robapp.com  
Attention: Dominique Michaud

or to such other street address, individual or electronic communication number or address as may be designated by notice given by either party to the other. Any demand, notice or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day.

#### 9.10 **Remedies Cumulative**

The right and remedies of the parties under this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that party may be entitled.

#### 9.11 **No Third Party Beneficiaries**

This Agreement is solely for the benefit of:

- (a) the Receiver, and its successors and permitted assigns, with respect to the obligations of the Purchaser under this Agreement, and
- (b) the Purchaser, and its successors and permitted assigns, with respect to the obligations of the Receiver under this Agreement,

and this Agreement will not be deemed to confer upon or give to any other person any Claim or other right or remedy.

#### 9.12 **Governing Law**

This Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

### 9.13 **Attornment**

For the purpose of all legal proceedings this Agreement will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Agreement. The Receiver and the Purchaser each attorns to the jurisdiction of the courts of the Province of Ontario.

### 9.14 **Appointment of Agent for Service**

The Purchaser nominates, constitutes and appoints the Purchaser's Solicitor its true and lawful agent to accept service of process and to receive all lawful notices in respect of any action arising under this Agreement (other than any notice that is to be given by one party to another pursuant to Section 9.09). Until due and lawful notice of the appointment of another and subsequent agent in the Province of Ontario has been given to and accepted by the Receiver, service of process or of papers and such notices upon the Purchaser's Solicitor will be accepted by the Purchaser as sufficient service.

### 9.15 **Severability**

If any provision of this Agreement is determined by any court of competent jurisdiction to be illegal or unenforceable, that provision will be severed from this Agreement and the remaining provisions will continue in full force and effect.

### 9.16 **No Registration of Agreement**

The Purchaser agrees that it will not register or cause or permit to be registered this Agreement and that no reference to or notice of it or any caution, certificate of pending litigation or other similar court process in respect thereof shall be registered on title to the Lands and/or any part thereof. The Purchaser shall indemnify and save the Receiver harmless from and against any and all Claims whatsoever arising from or with respect to any such registration. This Section shall survive the expiration and/or termination of this Agreement for any reason.

### 9.17 **Counterparts**

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument.

### 9.18 **Electronic Execution**

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

This Agreement shall expire if it has not been accepted by the Receiver on or before July 16, 2024.

*[The balance of this page has been intentionally left blank]*

**IN WITNESS WHEREOF** the parties have executed this Agreement as of the date first above written.

**CENTURION ACQUISITION  
CORPORATION, in trust for a  
corporation to be incorporated**

Per:

---

Name: Greg Romundt

Title: Authorized Signing Officer

**BDO CANADA LIMITED,  
solely in its capacity as receiver of solely  
in its capacity as court-appointed  
receiver of Dundas Shorncliffe Limited  
Partnership and Dundas Shorncliffe  
Ltd., and not in its personal capacity**

---

Per:

Name:

Title:

---

**EXHIBIT A**

**Form of Approval and Vesting Order**

Court File No. CV-23-00694646-00CL

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

THE HONOURABLE JUSTICE            )            DAY, THE [ \_\_ ] DAY OF  
  )            [ \_\_ ], 2024  
  )

BETWEEN:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Applicant

and

**DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP & DUNDAS SHORNCLIFFE LTD.**

Respondent

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by BDO Canada Limited, in its capacity as Court appointed receiver (the “**Receiver**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Asset Purchase Agreement**”) between the Receiver and • (the “**Purchaser**”) dated •, 2024, and vesting in the Purchaser, DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP and DUNDAS SHORNCLIFFE LTD. (collectively, the “**Debtors**”) right, title, benefit and interest in and to the assets described in the Asset Purchase Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of ● sworn ●, 2024 and the ● Report of the Receiver dated ●, 2024 (the “● Report”), and on hearing the submissions of counsel for the Receiver, the Applicant, and the Purchaser, and any such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ● sworn ●, 2024 filed:

1. **THIS COURT ORDERS** that unless otherwise defined herein or the context otherwise requires, capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Asset Purchase 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 Debtors’ right, title, benefit and interest in and to the Purchased Assets described in the Asset Purchase Agreement 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 Receivership Order dated the 4<sup>th</sup> day of August, 2023; (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 B** 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 C**) 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 applicable land registry office or land titles office of a Transfer/Deed of Land or equivalent document, or of an application for registration of this Order in the applicable prescribed form, the applicable land registrar or equivalent official is hereby directed to enter the Purchaser as the owner of the subject 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 B** 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** 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 Debtors' past and current employees. 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 Debtors.

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 Debtors and any bankruptcy order issued pursuant to any such applications; and



- (c) any assignment in bankruptcy made in respect of Debtors;

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 Debtors and shall not be void or voidable by creditors of Debtors, 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 AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario) and Sections 6(3) of the *Retail Sales Act* (Ontario).

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-23-00694646-00CL

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

THE HONOURABLE JUSTICE                    )                   DAY, THE [ \_\_ ] DAY OF  
  )                   [ \_\_ ], 2024  
  )

BETWEEN:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Applicant

and

**DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP & DUNDAS SHORNCLIFFE LTD.**

Respondent

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice \_\_\_\_\_ of the Ontario Superior Court of Justice (the “**Court**”) dated August 4<sup>th</sup>, 2023, BDO Canada Limited was appointed as receiver (the “**Receiver**”) of DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP and DUNDAS SHORNCLIFFE LTD. (collectively, the “**Debtor**”).

B. Pursuant to an Order of the Court dated ●, 2024, the Court approved the agreement of purchase and sale made as of ●, 2024 (the “**Asset Purchase Agreement**”) between the Receiver and ● (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtors’ 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 Asset Purchase 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 Asset Purchase 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 Asset Purchase Agreement;
- 2. The conditions to closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, respectively; 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].

**BDO Canada Limited, in its capacity as Receiver, and not in its personal capacity**

Per: \_\_\_\_\_  
Name:  
Title:

**Schedule B – Claims to be deleted and expunged from title to Real Property**PIN 07550-0051 (LT)

1. Notice as Instrument No. AT5328805
2. Charge in favour of Pesciolino Holdings Inc. registered as Instrument No. AT5328806
3. Notice registered as Instrument No. AT5328807
4. Postponement registered as Instrument No. AT5674648
5. Postponement registered as Instrument No. AT5674649
6. Postponement registered as Instrument No. AT5674650
7. Postponement registered as Instrument No. AT5709906
8. Postponement registered as Instrument No. AT5709907
9. Postponement registered as Instrument No. AT5709908
10. Application to Change Name registered as Instrument No. AT5766785
11. Postponement registered as Instrument No. AT5821000
12. Postponement registered as Instrument No. AT5821001
13. Postponement registered as Instrument No. AT5821002
14. Charge in favour of Mapleview Pear Tree Inc. registered as Instrument No. AT5978724
15. Postponement registered as Instrument No. AT5978784
16. Postponement registered as Instrument No. AT5978785
17. Court Order registered as Instrument \_\_\_\_\_

PIN 07550-0052 (LT)

1. Notice registered as Instrument No. AT5328805
2. Charge in favour of Pesciolino Holdings Inc. registered as Instrument No. AT5328799
3. Charge in favour of Pesciolino Holdings Inc. registered as Instrument No. AT5328806
4. Notice registered as Instrument No. AT5328807
5. Postponement registered as Instrument No. AT5674648

6. Postponement registered as Instrument No. AT5674649
7. Postponement registered as Instrument No. AT5674650
8. Postponement registered as Instrument No. AT5674651
9. Postponement registered as Instrument No. AT5709906
10. Postponement registered as Instrument No. AT5709907
11. Postponement registered as Instrument No. AT5709908
12. Application to Change Name registered as Instrument No. AT5766785
13. Postponement registered as Instrument No. AT5821000
14. Postponement registered as Instrument No. AT5821001
15. Postponement registered as Instrument No. AT5821002
16. Charge in favour of Maplevue Pear Tree Inc. registered as Instrument No. AT5978724
17. Postponement registered as Instrument No. AT5978784
18. Postponement registered as Instrument No. AT5978785
19. Court Order registered as Instrument \_\_\_\_\_

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

(SEE EXHIBIT C)

**EXHIBIT B**

**HST UNDERTAKING AND INDEMNITY**

**TO:** BDO CANADA LIMITED., solely in its capacity as receiver of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd., and not in its personal capacity

**AND TO:** Robins Appleby LLP, its solicitors

**RE:** **Agreement of Purchase and Sale dated July 9, 2024 (the "Agreement") between BDO CANADA LIMITED., solely in its capacity as court appointed receiver of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd., and not in its personal capacity (the "Receiver") and \_\_\_\_\_ (the "Purchaser") in respect of the property municipally known as 5507 and 5509 Dundas Street West, Toronto, Ontario (collectively, the "Purchased Assets")**

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IN CONSIDERATION of and notwithstanding closing of the above-noted purchase, the undersigned hereby covenants and agrees that with respect to Harmonized Sales Tax (“HST”) payable pursuant to the *Excise Tax Act* (the “Act”) by reason of the sale of the Property and all buildings, structures and improvements thereon, the Purchaser represents, warrants and agrees that:

- (i) It is purchasing the Purchased Assets as principal for its own account and same is not being purchased by the Purchaser as an agent, trustee or otherwise on behalf of or for another person;
- (ii) It is registered under Subdivision (d) of Division V of Part IX of the *Act* for the collection and remittance of HST; its registration number is \_\_\_\_\_; and such registration is in good standing and has not been withdrawn or revoked and shall file returns and remit any HST owing on the sale to the Receiver General to the extent required by the *Act*;
- (iii) It shall be liable to and shall self-assess and remit to the appropriate governmental authority all HST which is payable under the *Act* in connection with the transfer of the Purchased Assets made pursuant to this Agreement of Purchase and Sale, all in accordance with the *Act*;
- (iv) It acknowledges that the Receiver is relying upon the accuracy of the above representations and warranties in not collecting HST and allowing the Purchaser to self-assess and remit HST to the Receiver General in accordance with the *Act*, and that such representation and warranties shall not merge on the closing of the transaction;
- (v) It shall indemnify and save harmless the Receiver from and against any and all HST, penalties, costs and/or interest which may become payable by or assessed against the Receiver as a result of any inaccuracy, misstatement or misrepresentation made in connection with any matter raised in this paragraph or contained in any declaration referred to herein; and

- (vi) If HST is payable in respect of this transaction in accordance with the Act, the undersigned, having paid or agreed to pay the consideration for the sale, is liable for payment of HST thereon.

The above warranties, certificates and agreements will survive the closing of this transaction and continue in full force and effect thereafter.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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

Name:

Title:

*I have the authority to bind the corporation*



**EXHIBIT C**  
**PERMITTED ENCUMBRANCES**

1. The reservations, limitations, provisions and conditions expressed in the original grant from the Crown and all unregistered rights, interests and privileges in favour of the Crown under or pursuant to any applicable statute or regulation.
2. Any subdivision agreement, development agreement, servicing agreement, site plan agreement or any other agreement, document, regulation, subdivision control by-law or other instrument containing provisions relating to the Lands or the use, development, installation of services and utilities or the erection of buildings or other improvements in or on the Lands.
3. All easements, licenses, rights-of-way, watercourses and rights (and all reference plans with respect thereto), whether registered or unregistered, including without limitation those for access or for the installation and maintenance of public and private utilities and other services including without limitation, telephone lines, hydro-electric lines, gas mains, water mains, sewers and drainage and other services or for the maintenance, repair or replacement of any adjoining building or lands, including any cost sharing agreement relating thereto, or any right of re-entry reserved by a predecessor in title.
4. Any restrictive covenants and building restrictions affecting the Lands.
5. Any defects of title or encroachments by or onto the Lands, whether by gardens, fences, trees, buildings, foundations, or other structures or things, which may be revealed by any survey or reference plan of the Lands, whether now in existence or not.
6. Utility agreements, and other similar agreements with Authorities or private or public utilities affecting the Lands.
7. Liens for taxes, local improvements, assessments or governmental charges or levies not at the time due or delinquent.
8. Undetermined, inchoate or statutory liens and charges (including, without limitation, the liens of public utilities, workers, suppliers of materials, contractors, subcontractors, architects and unpaid Receivers of moveable property) incidental to any current operations of the Lands which have not been filed pursuant to any legal requirement or which relate to obligations not yet due or delinquent.
9. Zoning restrictions, restrictions on the use of the Lands or minor irregularities in title thereto.
10. The reservations, limitations, conditions and exceptions to title set out in the *Land Titles Act (Ontario)*.
11. Instrument No. EB254155
12. Instrument No. 64R8387

13. Instrument No. EB542779
14. Instrument No. TB34882
15. Instrument No. E317117
16. Instrument No. AT1090313
17. Charge in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5328801
18. Notice of Assignment of Rents – General in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5328802
19. Notice of Right of First Refusal in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5328804
20. Instrument No. AT5674643
21. Postponement registered as Instrument No. AT5674645
22. Postponement registered as Instrument No. AT5674647
23. Notice in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5709874
24. Notice in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5820957

**EXHIBIT D**  
**LEGAL DESCRIPTION**

PIN 07550-0052 (LT)

LT 13, PL 2104 , EXCEPT PART 1, 64R1955, PART 7, RS1028, & PART 26, 64R8387 ; S/T  
EB542779,TB34882 ETOBICOKE , CITY OF TORONTO

PIN 07550-0051 (LT)

PT LT 14, PL 2104 , AS IN EB429988 ; ETOBICOKE , CITY OF TORONTO

**EXHIBIT E**  
**SALES PROCESS**

**INTRODUCTION**

By order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated August 4, 2023 which did not become effective until March 26, 2024 (the “**Appointment Order**”), BDO Canada Limited (“**BDO**”) was appointed as receiver and manager (in such capacities, the “**Receiver**”), without security, of all of the assets, undertakings, and properties, including the real property municipally known as 5507-5509 Dundas Street West, Toronto, Ontario and the associated Project (as defined below) and all other property, assets and undertakings related thereto (collectively the “**Property**”) of Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd. (collectively, “**Dundas**” or the “**Debtor**”). The real property was approved for construction of a 22-storey, 242,187 square foot mixed use building with up to 265 residential rental suites and 176 parking stalls (the “**Project**”).

**THE OPPORTUNITY**

It is anticipated that, on or about May 16, 2024, the Receiver will, *inter alia*, apply to the Court to approve the sale and investment solicitation process (“**SISP**”) described herein (the “**Process Approval Order**”). It is further anticipated that the Process Approval Order will also (i) authorize the Receiver to enter into a fully binding and conditional purchase and sale agreement (the “**Stalking Horse Agreement**”) between the Receiver and Centurion Acquisition Corporation, in trust for a corporation to be incorporated (the “**Stalking Horse Bidder**”) pursuant to which the Stalking Horse Purchaser will make an offer to purchase the Property; and (ii) approve the transaction contemplated by the Stalking Horse Agreement.

The Opportunity may involve the recapitalization, investment in, arrangement or reorganization of the Debtor or the business of the Debtor (the “**Business**”) as a going concern or a sale of some or all of the Property as a going concern or otherwise, or some combination thereof (each, a “**Transaction**”).

The Process Approval Order, the procedures in respect of the SISP as contained herein (the “**SISP Procedures**”) and any subsequent orders issued by the Court pertaining to the SISP Procedures shall exclusively govern the process for soliciting and selecting bids for the Transaction.

The purpose of these SISP Procedures is to determine whether a better Transaction than the Stalking Horse Agreement may be obtained by the Receiver in a formal marketing process approved by the Court. For the purposes of these SISP Procedures, a “**Superior Offer**” shall mean:

- a) a credible, reasonably certain and financially viable offer made by a Qualified Bidder (as defined herein) to be a counterparty to a Transaction, the terms of which offer are more favourable and no more burdensome or conditional than the terms contained in the Stalking Horse Agreement; and
- b) an offer that provides for cash consideration in an amount equal to the purchase price in the Transaction, plus an incremental increase of \$\_\_\_\_\_.

Except to the extent otherwise set forth in a definitive sale or investment agreement with a Successful Bidder (as defined below), any sale of the Property or investment in the Debtor will be on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Receiver, or any of their respective agents, advisors or representatives, and, in the event of a sale, all of the right, title and interest of the Debtor in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to a Court order, except as otherwise provided in such Court order.

**TIMELINE**

The following table sets out the key milestones under the SISP:

Milestone	Deadline
Commencement of SISP	May 16, 2024
Distribution of the Notice and Teaser Letter	May 20, 2024
Bid Deadline	June 28, 2024
Auction	July 5, 2024
Sale Approval Hearing	July 15 to July 19, 2024
Closing Date Deadline	On or before July 29, 2024

The dates set out in the SISP may be extended by the Receiver in its sole discretion.

**SOLICITATION OF INTEREST**

As soon as reasonably practicable:

1. the Receiver will prepare a list of potential bidders, including (i) parties that have approached the Receiver indicating an interest in the opportunity, and (ii) local and international strategic and financial parties who the Receiver believes may be interested in purchasing the Property or investing in the Debtor pursuant to the SISP (collectively, “**Known Potential Bidders**”);

2. the Receiver will arrange for a notice of the SISP (and such other relevant information which the Receiver considers appropriate) (the “**Notice**”) to be published in The Globe and Mail (National Edition) and any other newspaper or journal as the Receiver considers appropriate, if any; and
3. the Receiver will prepare: (i) a process summary (the “**Teaser Letter**”) describing the opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; and (ii) a non-disclosure agreement in form and substance satisfactory to the Receiver (an “**NDA**”).

The Receiver will publish the Notice and send the Teaser Letter and NDA to all Known Potential Bidders by no later than May 23, 2024 and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Receiver as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

## **INTERESTED PARTIES**

### *Delivery of Confidential Information Package*

Any party who wishes to participate in the SISP must provide to the Receiver, unless the Receiver confirms to such potential bidder that the below documents are already available to the Receiver, the following:

1. an NDA executed by it and a letter setting forth the identity of the potential bidder, the contact information for such potential bidder and full disclosure of the direct and indirect principals of the potential bidder; and
2. such form of financial disclosure and credit quality support or enhancement that allows the Receiver to make a reasonable determination as to the potential bidder’s financial and other capabilities to consummate a transaction that would constitute a Superior Offer.

If the Receiver determines, exercising its reasonable business judgement that a bidder: (i) has delivered the documents contemplated in the immediately preceding paragraph; and (ii) has the financial capability based on the availability of financing, experience and other considerations, to be able to consummate a sale or investment pursuant to the SISP, then such bidder shall be deemed to be a “**Qualified Bidder**”. For greater certainty, no bidder shall be deemed not to be a Qualified Bidder without the approval of the Receiver.

At any time during Phase 1 of the SISP, the Receiver may, in its reasonable business judgment eliminate a Qualified Bidder from the SISP, in which case such Qualified Bidder will be eliminated from the SISP and will no longer be a Qualified Bidder for the purposes of the SISP.

The Receiver will prepare and send to each Qualified Bidder a confidential information package providing additional information considered relevant to the potential Transaction (the “**Confidential Information Package**”).

The Receiver and its respective advisors make no representation or warranty as to the information contained in the Confidential Information Package or otherwise made available pursuant to the SISP, except to the extent expressly contemplated in any definitive sale or investment agreement with a Successful Bidder (as defined below) ultimately executed and delivered by the Receiver.

Qualified Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the SISP and any Transaction they enter into with the Receiver.

### ***Due Diligence***

The Receiver shall, in its reasonable business judgment and subject to competitive and other business considerations, afford each Qualified Bidder such access to due diligence materials and information relating to the Property as it deems appropriate. Due diligence access may include management presentations, access to electronic data rooms, on-site inspections, and other matters which a Qualified Bidder may reasonably request and as to which the Receiver in its reasonable business judgment may agree.

The Receiver will designate a representative to coordinate all reasonable requests for additional information and due diligence access from a Qualified Bidder and the manner in which such requests must be communicated. The Receiver will not be obligated to furnish any information relating to the Property or Business to any person other than to a Qualified Bidder. Further, and for the avoidance of doubt, selected due diligence materials may be withheld from certain Qualified Bidders if the Receiver determines such information to represent proprietary or sensitive competitive information.

### **FORMAL BINDING OFFERS**

Qualified Bidders that wish to make a formal offer to purchase or make an investment in the Debtor (a “**Bidder**”) shall submit a binding offer (the “**Bid**”) that complies with all of the following requirements to the Receiver at the addresses specified in Schedule “A” hereto (including by email or fax transmission), so as to be received by them not later than 5:00 PM (Eastern Time) on June 28, 2024 (the “**Bid Deadline**”):

1. the Bid may be an offer to acquire all, substantially all or a portion of the Property (a “**Sale Proposal**”), or to make an investment in, restructure, reorganize or refinance the

- Business (an “**Investment Proposal**”), or such other structure as the Bidder may propose;
2. in the case of a Sale Proposal, it identifies or contains the following:
    - a. the purchase price in Canadian dollars, including details of any liabilities to be assumed by the Bidder and key assumptions supporting the valuation;
    - b. a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
    - c. a specific indication of the financial capability of the Bidder and the expected structure and financing of the transaction;
    - d. a description of the conditions and approvals required for a final and binding offer;
    - e. an outline of any additional due diligence required to be conducted in order to submit a final and binding offer; and
    - f. any other terms or conditions of the Sale Proposal that the Bidder believes are material to the transaction;
  3. in the case of an Investment Proposal, it identifies the following:
    - a. a description of how the Bidder proposes to structure the proposed investment;
    - b. the aggregate amount of the equity and/or debt investment to be made in the Business in Canadian dollars;
    - c. the underlying assumptions regarding the pro forma capital structure;
    - d. a specific indication of the sources of capital for the Bidder and the structure and financing of the Transaction;
    - e. a description of the conditions and approvals required for a final and binding offer;
    - f. an outline of any additional due diligence required to be conducted in order to submit a final and binding offer;
    - g. all conditions to closing that the Bidder may wish to impose; and
    - h. any other terms or conditions of the Investment Proposal that the Bidder believes are material to the transaction;



4. in the case of either a Sale Proposal or an Investment Proposal, it contains such other information as reasonably requested by the Receiver and it has a reasonable prospect of resulting in a Superior Offer.
5. the Bid includes a letter stating that the Bidder's offer is irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Bidder is selected as the Successful Bidder (as defined below), its offer shall remain irrevocable until the closing of the Transaction with the Successful Bidder;
6. the Bid includes duly authorized and executed Transaction agreements, including the purchase price, investment amount and any other key economic terms expressed in Canadian dollars (the "**Purchase Price**"), together with all exhibits and schedules thereto;
7. the Bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed Transaction, that will allow the Receiver to make a determination as to the Bidder's financial and other capabilities to consummate the proposed Transaction;
8. the Bid is not conditional on:
  - a. the outcome of any further due diligence by the Bidder, apart from, if applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which was withheld during the due diligence process prior to the Bid Deadline, or
  - b. obtaining financing;
9. the Bid fully discloses the identity of each entity or person that will be entering into the Transaction, that is participating in, or benefiting from, such bid, including any equity holders;
10. for a Sale Proposal, the Bid includes a commitment by the Bidder to provide a non-refundable deposit in the amount of not less than 5% of the Purchase Price offered upon the Bidder being selected as the Successful Bidder (as defined below);
11. for an Investment Proposal, the Bid includes a commitment by the Bidder to provide a non-refundable deposit in the amount of not less than 5% of the total new investment contemplated in the bid upon the Bidder being selected as the Successful Bidder (as defined below);
12. the Bid includes acknowledgments and representations from the Bidder that the Bidder:
  - a. has had an opportunity to conduct any and all due diligence regarding the Property, and Business prior to making its offer (apart from, to the extent applicable, the disclosure of any due diligence materials representing proprietary or sensitive

competitive information withheld during the due diligence process prior to the Bid Deadline);

- b. has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its Bid; and
  - c. did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Business or the Property or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s);
13. the Bid is received by the Bid Deadline;
14. the Bid constitutes, in the reasonable business judgment of the Receiver, a Superior Offer; and
15. the Bid contemplates closing the Transaction set out therein on or before July 29, 2024 (the “Closing Date”).

A Bid that qualifies with the requirements set out above shall be considered a “**Qualified Bid**”. For greater certainty, the Stalking Horse Agreement shall be deemed to be a Qualified Bid.

The Receiver may waive strict compliance with any one or more of the non-material foregoing requirements and deem such non-compliant bids to be a Qualified Bid.

### **SELECTION OF SUCCESSFUL BIDDERS**

Following the Bid Deadline, the Receiver will assess the Bids received in consultation with its counsel. The Receiver shall approve the disqualification of any Bids that are deemed not to be Qualified Bids. Only Bidders whose Bids have been designated as Qualified Bids are eligible to become the Successful Bidder(s).

The Receiver shall notify each Bidder in writing as to whether its Bid constituted a Qualified Bid within two (2) business days following the Bid Deadline, or at such later time as the Receiver deems appropriate.

If no Qualified Bids (either individually or in the aggregate), other than the Stalking Horse Agreement have been received by the Bid Deadline, then the Receiver may consider an extension of the Bid Deadline for up to 7 business days to allow any party that submitted a Bid to consult with the Receiver and to revise such Bid such that it would provide for, or that might reasonably be expected to provide for, a Superior Offer.

### ***Evaluation of Competing Bids***

A Qualified Bid will be evaluated upon many factors, including, without limitation, items such as:

1. the Purchase Price and the net value provided by such Qualified Bid,
2. the identity, circumstances and ability of the Bidder to successfully complete such Transaction,
3. the proposed Transaction documents,
4. factors affecting the speed, certainty and value of the Transaction,
5. the assets included or excluded from the Bid,
6. the likelihood and timing of consummating such Transaction, and
7. whether the Transaction results in a Superior Offer.

each as determined by the Receiver, in consultation with its counsel.

### *Selection of Successful Bid*

The Receiver shall:

1. first, review and evaluate each Qualified Bid, provided that the Receiver may contact any Bidder to clarify the terms of any Bid, and the applicable Bidder may amend, modify or vary such Bid for the purpose of clarification;
2. second, identify if any Qualified Bid is a Superior Offer; and
3. third, if one or more Qualified Bids are considered to be Superior Offers, those Qualified Bidders presenting a Superior Offer shall proceed to an auction with the Stalking Horse Bidder to be held on or before July 5, 2024 (the “**Auction**”), which shall proceed according to the Auction Procedures set out in **Schedule “B”** to this SISP to identify the “**Successful Bid**”, and the Bidder making such Successful Bid, the “**Successful Bidder**”.

If no Superior Offer is received by the Bid Deadline, the Auction will not be held and the Stalking Horse Bidder will be declared to be the Successful Bidder. The determination of any Successful Bid by the Receiver shall be subject to approval by the Court.

### *Sale Approval Motion Hearing*

At the hearing of the motion to approve any Transaction with a Successful Bidder (the “**Sale Approval Hearing**”), the Receiver shall seek, among other things, approval from the Court to consummate the Successful Bid. All the Qualified Bids other than the Successful Bid, if any, shall be deemed rejected by the Receiver on and as of the date of approval of the Successful Bid by the Court.

### **DEPOSIT**

All deposits shall be held by the Receiver in a single noninterest-bearing account designated solely for such purpose. A deposit paid by a Successful Bidder shall be dealt with in accordance with the definitive documents for the transactions contemplated by the Successful Bid. Deposits, and any interest earned thereon, paid by Bidders not selected as the Successful Bidder shall be returned to such Bidder within three business days of Court approval of the Successful Bid.

### **CONFIDENTIALITY AND ACCESS TO INFORMATION**

All discussions regarding a Transaction, Sale Proposal, Investment Proposal, Bid or Successful Bid should be directed through the Receiver. Under no circumstances should the management of the Debtor be contacted directly without the prior consent of the Receiver. Any such unauthorized contact or communication could result in exclusion of the interested party from the SISP at the discretion of the Receiver.

Participants and prospective participants in the SISP shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of Qualified Bidders, Bidders, Qualified Bids, the details of any Bids or Qualified Bids submitted or the details of any confidential discussions or correspondence between the Receiver and such other Bidders or Qualified Bidders in connection with the SISP, except to the extent that the Receiver, with the consent of the applicable participants, is seeking to combine separate Bids into a single Bid.

Notwithstanding the foregoing, under no circumstances will the Receiver share any material information concerning any of the Bids with any person other than its advisors.

### **SUPERVISION OF THE SISP**

This SISP does not, and will not be interpreted to, create any contractual or other legal relationship between the Receiver and any Qualified Bidder, Bidder, or any other party, other than as specifically set forth in a definitive agreement that may be signed with the Receiver.

Without limiting the preceding paragraph, the Receiver shall not have any liability whatsoever to any person or party, including without limitation any Qualified Bidder, Bidder, the Successful Bidder, or any other creditor or other stakeholder of the Debtor, for any act or omission related to

the process contemplated by this SISP Procedure, except to the extent such act or omission is the result from gross negligence or wilful misconduct of the Receiver. By submitting a Bid, each Bidder or Successful Bidder shall be deemed to have agreed that it has no claim against the Receiver in respect of the SISP for any reason whatsoever, except to the extent that such claim is the result of gross negligence or wilful misconduct by the Receiver.

Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.

**Schedule “A”**

**Addresses of Receiver**

**To the Receiver**

**BDO Canada Limited**

20 Wellington Street East, Suite 500  
Toronto, ON M5E 1C5

Attention: Josie Parisi  
Email: [jparisi@bdo.ca](mailto:jparisi@bdo.ca)

## Schedule “B”

### AUCTION PROCEDURES

1. On or before July 5, 2024, the Receiver will confirm those Qualified Bidders who present a Superior Offer (“**Superior Bidders**”) that their Bid will be advanced to the Auction.
2. Unless otherwise ordered by the Court, only the authorized representatives, professional advisors or agents of the Stalking Horse Bidder and each Superior Bidder shall be eligible to attend at the Auction and make any Subsequent Bid (as defined below) at the Auction.
3. The Auction, if any, shall be conducted by the Receiver, on or before July 5, 2024 at 10:00 a.m. (Eastern Time) via video conference.
4. At the Auction, all Superior Bidders and the Stalking Horse Bidder shall be permitted to increase their Superior Bids and the Stalking Horse Agreement in accordance with the procedures set forth herein (each, a “**Subsequent Bid**”). All Subsequent Bids presented during the Auction shall be made and received via video conference on an open basis. All participating Superior Bidders and the Stalking Horse Bidder shall be entitled to be present for all bidding with the understanding that the true identity of each participating Superior Bidder shall be fully disclosed to all other Superior Bidders and the Stalking Horse Bidder and that all material terms of each Subsequent Bid presented during the Auction will be fully disclosed to the Stalking Horse Bidder and all other participating Superior Bidders throughout the entire Auction.
5. All Superior Bidders and the Stalking Horse Bidder at the Auction must have at least one individual representative with authority to bind such Superior Bidder and the Stalking Horse Bidder present at the Auction.
6. The Auction shall be recorded by the Receiver for their exclusive use and shall not be recorded by any other party.
7. At least three (3) days prior to the Auction, the Receiver will advise the Stalking Horse Bidder and all other Superior Bidders which of the Superior Bid or of the Stalking Horse Bidder the Receiver has determined in its reasonable business judgment, after consultation with its advisors, constitutes the then highest or otherwise best offer Sale Proposal or Investor Proposal (the “**Starting Bid**”).
8. Bidding at the Auction will begin with the Starting Bid and continue, in one or more rounds of bidding, so long as during each round at least one Subsequent Bid is submitted by a Superior Bidder or the Stalking Horse Bidder that (i) improves upon such Superior

Bidder's immediately prior Superior Bid or upon the Stalking Horse Agreement, as the case may be, and meets the overbid requirement set forth in paragraph 8 below, and (ii) the Receiver determines, in its reasonable business judgment, after consultation with its advisors, such Subsequent Bid is a higher or otherwise better offer than the then current leading Superior Bid.

9. Bidding at the Auction shall be in increments of \$100,000 and shall continue until such time as the highest and best bid is determined by the Receiver's reasonable business judgment after consultation with its advisors. For the purpose of evaluating the value of the consideration provided by each bid (including any Subsequent Bid by the Stalking Horse Bidder) presented at the Auction, the value will: (i) be deemed to be the net consideration payable to the Receiver after considering, *inter alia*, any Break Fee due to the Stalking Horse Bidder under the Stalking Horse Agreement; and (ii) take into account any additional liabilities to be assumed by a Superior Bidder.
10. After the first round of bidding and between each subsequent round of bidding, the Receiver shall announce the Subsequent Bid that the Receiver has determined in its reasonable business judgment, after consultation with its advisors, to be the then highest or best bid (the "**Leading Bid**"). A round of bidding will conclude after each participating Superior Bidder and the Stalking Horse Bidder has had an opportunity to submit a Subsequent Bid with full knowledge of the Leading Bid.
11. If no Superior Bidder or the Stalking Horse Bidder submits a Subsequent Bid (as determined by the Receiver) after a period of 30 minutes following the Receiver's acceptance of a Subsequent Bid as the Leading Bid, and the Receiver chooses not to adjourn the Auction further, the Receiver shall enter into a binding agreement of purchase and sale or investment substantially on the same terms as the Superior Bid or the Stalking Horse Agreement (as the case may be), as amended by the Leading Bid, with the Superior Bidder or the Stalking Horse Bidder (the Successful Bidder) that submitted the highest and best bid as determined by the Receiver (the "**Accepted Bid**"), whereupon the Auction will be concluded.
12. At the Auction, the Receiver, after consultation with its advisors, may employ and announce additional procedural rules that are fair and reasonable under the circumstances (e.g., the amount of time allotted to make Subsequent Bids) for conducting the Auction; provided, however, that such rules are (a) not inconsistent with the Auction Procedures, the *Bankruptcy and Insolvency Act*, any order of the Courts entered in connection with the Auction Procedures and (b) disclosed to each Superior Bidder and the Stalking Horse Bidder at the Auction.



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June 25, 2024

Attn: Josie Parisi  
Dundas Shorncliffe Limited Partnership  
C/O BDO Canada Limited  
500 – 20 Wellington St. E.  
Toronto ON M5E 1C5

Dear Josie Parisi:

**Subject: Proposed changes to the goods and services tax/harmonized sales tax (GST/HST) return for the period from 2024-03-01 to 2024-03-26**  
**Business number: 75820 6874 RT0001**

Your GST/HST return has been selected for audit for the period noted above. Our records indicate that Dundas Shorncliffe Limited Partnership has an appointed Receiver by way of Court Order dated March 26, 2024 and has not paid all of the GST/HST outstanding to their suppliers as per the outstanding liabilities filed. Based on this information we now propose to re-assess your return as follows.

Period ending	Net tax as filed	Proposed changes to net tax	Revised net tax
2024-03-26	Unfiled	\$61,581.02	\$61,581.02

We have enclosed a proposed summary of audit adjustments and detailed working paper to support the changes.

Every recipient of a taxable supply made in Canada is required to pay the GST/HST payable in respect of the supply as per section 165 of the Excise Tax Act (ETA). By way of Court Order dated March 26, 2024, Dundas Shorncliffe Limited Partnership was appointed a Receiver and has not paid all of the GST/HST outstanding to their suppliers as per the outstanding liabilities filed. Under paragraph 296(1)(b) of the ETA, we are proposing to assess the GST/HST payable on taxable supplies received as GST/HST has not been paid to the supplier.

This assessment is based on the most current creditor's list available. If this attached creditor listing is not current, or you have paid off some of your creditors, please provide an updated list along with proof to show that a payment has been made to resolve or lower the debt. Also, please identify which creditors have not supplied taxable supplies and are considered to be exempt.

If you have more information about the proposed changes that you would like us to consider, including any new or previously requested information that would support your position, or if you have any questions, please call me at the phone number listed below. My team leader, Sheila Boyle, can also be reached at 431-335-5419.

Sincerely,

Christopher Touchette  
Examiner  
GST/HST Audit Division  
Eastern Prairie Tax Services Office

Telephone: 1-833-595-0204  
Facsimile: 1-833-545-2885  
Address: 400 – 360 Main St  
P.O. Box 1022 Stn Main  
Winnipeg MB R3C 2W2  
Website: [canada.ca/taxes](http://canada.ca/taxes)

Enclosures

**Business Number:** 75820 6874 RT0001  
**Name:** Dundas Shorncliffe Limited Partnership  
**Audit Period:** March 1, 2024 to March 26, 2024  
**Subject:** Calculation for the assessment under paragraph 296(1)(b) of the ETA

**Auditor:** Christopher Touchette  
**Date:** June 25, 2024  
**WP#:** 5000

**Purpose:** To determine the calculation for the assessment under paragraph 296(1)(b) of the *Excise Tax Act* (ETA)

**Procedure:**

- (1) Review list of creditors from Receiver's website.
- (2) Determine if each creditor has provided a taxable service.
- (3) Prepare a calculation of the potential Goods and Services Tax/Harmonized Sales Tax (GST/HST) that was payable that is included in the amounts owing.
- (4) Propose to assess GST/HST claimed as an ITC on unpaid accounts under paragraph 296(1)(b)

**Results:**

- (1) Reviewed the list of creditors from Receiver's website, WP0401. Determined that the listing of creditors was broken down by unsecured creditors and secured creditors. Focused review on the unsecured creditors as secured creditors may be entitled to security.
- (2) Determined if each unsecured creditor provided a taxable service based on the name of the corporation and the likely goods or services which were acquired from that creditor. Examples of creditors where a taxable supply was not likely acquired include those who provide financial investment and loans, amounts owed to related parties who never claimed input tax credits (ITCs), corporations not registered for GST/HST, and amounts owing for property taxes.
- (3) Determined the potential GST/HST which was included in the payable amount where the unsecured creditor supplied a taxable supply by multiplying the payable amount by the factor of 13/113. This factor was based on the fact that the registrant is physically located in Ontario where the rate of HST is 13%. Set a materiality threshold of \$100 of potential HST per creditor. Amounts which were less than this amount will not be included in the proposed assessment under paragraph 296(1)(b).

Unsecured Creditor	Amount	Taxable Supply?	Potential HST (13/113*Amount)	Comments	
BNKC Architects Inc.	\$ 51,773.83	Yes	\$ 5,956.28	Property taxes	
CB Ross Partners	\$ 5,614.52	Yes	\$ 645.92		
City of Toronto - Property Tax arrears estimate	\$ 175,000.00	No	\$ -		
Contessa Developments Inc	\$ 66,200.00	Yes	\$ 7,615.93		
Cushman & Wakefield	\$ 5,210.71	Yes	\$ 599.46		
Dentons	\$ 56,894.36	Yes	\$ 6,545.37		
Horosko Planning Law	\$ 5,413.84	Yes	\$ 622.83		
Popovich Associates	\$ 4,553.90	Yes	\$ 523.90		
RWDI	\$ 2,542.50	Yes	\$ 292.50		
Torkin Manes Barristers & Solicitors	\$ 32,519.03	Yes	\$ 3,741.13		
Turner Fleischer Architects Inc	\$ 8,955.25	Yes	\$ 1,030.25		
United Engineering Inc	\$ 13,277.50	Yes	\$ 1,527.50		
Valcoustics Canada Ltd	\$ 5,725.71	Yes	\$ 658.71		
Mapleview Pear Tree Inc	\$ 1,574,000.00	No	\$ -		Loan
Dundas Shorecliffe Ltd	\$ 1,770,000.00	No	\$ -		Loan from related
Asta Corporation Inc	\$ 89,100.00	Yes	\$ 10,250.44		No RT found
2464793 Ontario Inc	\$ 187,500.00	Yes	\$ 21,570.80		
6 Link Incorporated	\$ 1,121,000.00	No	\$ -		
Charger Moneta Corp	\$ 1,375,000.00	No	\$ -	Loan	
<b>Total Unsecured Creditors</b>	<b>\$ 6,550,281.15</b>		<b>\$ 61,581.02</b>		

**Total Unsecured Creditors (Taxable Supply) \$ 473,700.13**

**HST paid (13% of Taxable Supply) \$ 61,581.02**

**(4) Proposal:**

P/E 2024-03-26

		<b>Unfiled</b>		<b>Proposed</b>	<b>Difference</b>	<b>ETA Reference</b>	<b>Note</b>
<b>Sales</b>	\$	-	\$	-	\$0.00		
<b>GST/HST</b>	\$	-	\$	61,581.02	\$61,581.02	296(1)(b)	1
<b>ITC</b>	\$	-	\$	-	\$0.00		
<b>Net Tax</b>		<b>\$0.00</b>		<b>\$61,581.02</b>	<b>\$61,581.02</b>		

**Notes:**

- 1 Every recipient of a taxable supply made in Canada is required to pay the GST/HST payable in respect of the supply as per section 165 of the Excise Tax Act (ETA). By way of Court Order dated March 26, 2024, Dundas Shorncliffe Limited Partnership was appointed a Receiver and has not paid all of the GST/HST outstanding to their suppliers as per the outstanding liabilities filed. Under paragraph 296(1)(b) of the ETA, we are proposing to assess the GST/HST payable on taxable supplies received as GST/HST has not been paid to the suppliers.

### Proposed Statement of Audit Adjustments

<b>Business Number:</b>	75820 6874 RT0001	<b>Date Issued:</b>	June 25, 2024
<b>Name:</b>	Dundas Shorncliffe Limited Partnership	<b>Tax Services Office:</b>	Eastern Prairie
<b>Audit Period:</b>	March 1, 2024 to March 26, 2024	<b>WP#:</b>	0311

Adj #	Period End	Sales Adjustment Amount	GST/HST Adjustment Amount	ITC Adjustment Amount	Adjustment to Net Tax For Period	ETA Reference	s.285 Penalty	Note
1	2024-03-26	\$0.00	\$61,581.02	\$0.00	\$61,581.02	296(1)(b)	No	1
<b>Total</b>		\$0.00	\$61,581.02	\$0.00	\$61,581.02			

**Note:**

- 1 Every recipient of a taxable supply made in Canada is required to pay the GST/HST payable in respect of the supply as per section 165 of the Excise Tax Act (ETA). By way of Court Order dated March 26, 2024, Dundas Shorncliffe Limited Partnership was appointed a Receiver and has not paid all of the GST/HST outstanding to their suppliers as per the outstanding liabilities filed. Under paragraph 296(1)(b) of the ETA, we are proposing to assess the GST/HST payable on taxable supplies received as GST/HST has not been paid to the suppliers as detailed in working paper 5000.

File No. 31-459834

IN THE MATTER OF THE RECEIVERSHIP OF  
DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP and  
DUNDAS SHORNCLIFFE LTD.

RECEIVER'S SCHEDULE OF RECEIPTS AND DISBURSEMENTS  
For the period March 26, 2024 to July 29, 2024

## INTERIM STATEMENT

## RECEIPTS:

Receiver's Borrowings	\$ 26,000.00
Advance from Secured Creditor	42,581.21
Interest	488.66
	<u>69,069.87</u>

## DISBURSEMENTS:

Filing Fees	80.42
Insurance	1,820.76
HST Paid	5,921.37
Bank Charges	68.00
Site Security & Maintenance	7,882.00
Private Receivership fees	37,667.00
	<u>53,439.55</u>

## RECEIPTS OVER DISBURSEMENTS

\$ 15,630.32

ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**BETWEEN:**

**Centurion Mortgage Capital Corporation**

Applicant

- and -

**Dundas Shorncliffe Limited Partnership**

**And Dundas Shorncliffe Ltd.**

Respondents

**AFFIDAVIT OF JOSIE PARISI**

I, JOSIE PARISI, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY** that:

1. I am a Partner of BDO Canada Limited, and as such have personal knowledge of the matters referred to herein.
2. By Order of the Honourable Justice Kimmel, dated August 4, 2023 (the "Order"), BDO Canada Limited was appointed as Receiver (the "Receiver") Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd.
3. Pursuant to the Order, the Receiver has provided services and incurred disbursements which are more particularly described in the detailed accounts attached hereto and marked as **Exhibit "A"**.



4. The time shown in the detailed accounts attached as Exhibit "A" are a fair and accurate description of the services provided and the amounts charged by the Receiver, which reflect the Receiver's time as billed at its standard billing rates.
5. The Receiver requests that the Court approve its interim account for the period from March 27, 2024 to July 26, 2024 in the amount of \$115,670.47, inclusive of HST of \$13,307.22.
6. The Receiver also request that the Court approve the estimate of professional time to complete the Receivership administration estimated at \$20,000, plus HST, which the Receiver will only draw upon based on actual time and expenses incurred.
7. This affidavit is sworn in support of the Receiver's motion for, among other things, approval of its fees and disbursements and those of its legal representatives and for no other or improper purpose.

SWORN BEFORE ME at the City of Toronto, )  
 in the Province of Ontario, this )  
 29<sup>th</sup> day of July, 2024 )



\_\_\_\_\_  
 Commissioner for Taking Affidavits, etc )



\_\_\_\_\_  
 Josie Parisi, CPA, CA, CBV, CIRP, LIT )

**Antonio Montesano, a Commissioner, etc.,  
 Province of Ontario, for BDO Canada LLP  
 and BDO Canada Limited, and  
 their subsidiaries, associates and affiliates.  
 Expires December 21, 2026.**

This is Exhibit "A" referred to in the affidavit of

Josie Parisi

Sworn before me this 29<sup>th</sup>, July, 2024



A COMMISSIONER FOR TAKING AFFIDAVITS

**Antonio Montesano, a Commissioner, etc.,  
Province of Ontario, for BDO Canada LLP  
and BDO Canada Limited, and  
their subsidiaries, associates and affiliates.  
Expires December 21, 2026.**




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 INVOICE
 

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Centurion Mortgage Capital Corporation  
 25 Sheppard Ave West  
 Toronto, ON M2N 6S6

Attention: Bob Vavaroutsos  
 AVP, Mortgage Investments & Joint Ventures

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Date	Invoice No.
July 26, 2024	CINV#1

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Re Dundas Shorncliffe Limited Partnership and Dundas Shorncliffe Ltd. - Receivership

FOR PROFESSIONAL SERVICES RENDERED in connection with our Receivership Engagement for the period from March 27, 2024 to July 26, 2024 as per the details below.

Our Fee:	\$ 102,363.25
HST - 13% (#R101518124)	13,307.22
Total Due	<u>\$ 115,670.47</u>

<i>Summary of Time Charges</i>	Hours	Rate	Amount
J. Parisi, Partner	27.6	605.00	16,698.00
M. Marchand, Partner	0.5	605.00	302.50
G. Cerrato, Director	59.8	605.00	36,179.00
C. Bowra, Sr. Manager	5.0	575.00	2,875.00
A. Fielding, Manager	90.7	425.00	38,547.50
T. Chesley, Analyst	9.1	245.00	2,217.25
T. Montesano, Sr. Administrator	15.7	330.00	5,181.00
J. Hue, Administrator	1.1	330.00	363.00
M. Head, Administrator	0.5	180.00	90.00
Total	<u>210.0</u>		<u>\$ 102,363.25</u>

Staff	Date	Comments	Hours
J. Parisi	27-Mar-24	Review file to refresh. Review creditors listing. Email to borrower's counsel re creditors listing. Email to T Montesano regarding 245 notice.	0.7
T. Montesano	27-Mar-24	Correspond with J. Parisi re preparing Receiver notice; make changes to existing Notice; prepare schedule A, send same to J. Parisi for review.	1.0
G. Cerrato	28-Mar-24	Review of Statement of Receiver; review of correspondence received.	0.5
J. Parisi	29-Mar-24	Correspondence with D. Bourassa to request creditor listing. Review Affidavit of B. Vavaroutsos.	0.3
J. Parisi	1-Apr-24	Call with D. Michaud and B. Vavaroutsos.	0.6
G. Cerrato	1-Apr-24	Call with Centurion and its counsel to discuss sale process.	0.5
J. Parisi	2-Apr-24	Finalize 245 notice. Review insurance. Arrange for site inspections.	0.4
T. Montesano	2-Apr-24	Fax Receivers Notice and copy of Receivership Order to the OSB; draft door notice; send same to R. Tuzi	0.6
G. Cerrato	2-Apr-24	Amend receiver's notice.	0.5
J. Parisi	3-Apr-24	Review materials to prepare CIM. Discussions with C. Bowra re CIM.	0.9
T. Montesano	3-Apr-24	Draft and send bank letters to various bank, call with T. Roach at brokerlink to discuss status of insurance policy, scan copy of Receivership documents to same; call with Teresa at Bank of Nova Scotia; discuss branch where the bank account is held; call and leave message for assistant branch manager.	2.5
C. Bowra	3-Apr-24	Review of data room information.	0.6
J. Parisi	4-Apr-24	Discussions with R. Tuzi regarding securing premises. Correspondence with Centurion re same. Review website materials. Correspondence with C. Bowra re sales process.	0.5
C. Bowra	4-Apr-24	Review of information and discussion regarding the same. Review and edit website update. Discussions regarding CIM and teaser.	0.8
T. Chesley	4-Apr-24	Draft website posting for receivership appointment. Review existing marketing material and draft CIM. Draft NDA	2.8
T. Montesano	4-Apr-24	Call with BNS to obtain location of bank and contact information at branch; call and leave message with Branch Manager.	0.7
J. Parisi	5-Apr-24	Review email and photos from Rocco regarding the condition of the building.	0.3
T. Chesley	5-Apr-24	Continue draft of Confidential Information Memorandum ("CIM").	0.5
T. Montesano	5-Apr-24	Call with T. Roach from Brokerlink re request copy of insurance policy; call with P. Lam from Bank of Nova Scotia re request for	1.0

Staff	Date	Comments	Hours
		bank account information; request copy of bank statements; convert account to deposit only.	
T. Chesley	8-Apr-24	CIM draft updates.	1.4
T. Montesano	8-Apr-24	Call with T. Roach from Brokerlink re request copy of insurance policy; receive copy of policy send copy of same to G. Cerrato and J. Parisi.	0.2
T. Montesano	9-Apr-24	Call with P. Tom BNS re request for details about bank account.	0.6
J. Parisi	10-Apr-24	Call from Rocco regarding break in at Dundas after it was secured. Email to B. Vavaroutsos to advise of same. Call from Rocco regarding police attending at facility. Correspondence with counsel for Pesciolino Holdings.	0.5
T. Chesley	10-Apr-24	CIM draft.	0.6
T. Montesano	10-Apr-24	Call Lareau Insurance re discuss renewing insurance; spoke with Frédéric Lamoureux advised that the policy was cancelled in July 2023 and that notice of cancellation was sent to the Company; requested copy of cancellation notice; contact Richard Bruce Centurion Asset Management Inc. To advise of same; numerous calls to P. Tam at BNS re request for the Companies bank account information; request for bank statements; confirm if payment of insurance is being debited from the account.	1.5
G. Cerrato	10-Apr-24	Review of photographs; call with R. Tuzi to discuss issues with break in and discuss possible solutions to removing vagrants from the building.	0.7
J. Parisi	11-Apr-24	Call with S. Stewart and B. Vavaroutsos and G. Cerrato to discuss securing the property.	0.3
T. Montesano	11-Apr-24	Send request to IT to create website.	0.3
G. Cerrato	11-Apr-24	Call to discuss property and insurance; call to insurer and review insurance.	0.7
T. Chesley	12-Apr-24	Draft teaser, CIM updates, website posting, news paper advertisement.	2.4
C. Bowra	12-Apr-24	Review of CIM, teaser and newspaper ad, make changes and discussions regarding the same.	2.0
T. Chesley	15-Apr-24	Website updates; data room uploads. Teaser draft updates.	0.8
C. Bowra	15-Apr-24	Discussions regarding CIM and teaser and review of the same.	0.8
J. Parisi	16-Apr-24	Call with Craig Mills of Miller Thomson and provide update on status of estate and sales process.	0.3
C. Bowra	17-Apr-24	Review of draft teaser and newspaper ad.	0.3
T. Chesley	18-Apr-24	Finalization of draft teaser, CIM, NDA.	0.8
C. Bowra	18-Apr-24	Review of NDA and CIM and discussion regarding the same.	0.5

Staff	Date	Comments	Hours
T. Montesano	25-Apr-24	Call with P. Tam BNS re discuss status re request to provide bank account information; discuss return of insurance payment; request call back; call with G. Cerrato to discuss same.	0.6
G. Cerrato	26-Apr-24	Review of correspondence from R. Tuzi re further break in; review of draft APS prepared by Robins Appleby.	0.8
G. Cerrato	29-Apr-24	Review of draft stalking horse APS; drafting court report.	3.9
J. Parisi	29-Apr-24	Call with Gary to discuss history and prior listing agreement.	0.5
G. Cerrato	30-Apr-24	Conference call with counsel and Centurion to discuss Stalking Horse Bid.	0.5
J. Parisi	30-Apr-24	Call with Centurion and Robins Appleby regarding APS and sales process. Call with D. Magisano regarding mandate.	0.6
T. Montesano	30-Apr-24	Call with T. Roach from Brokerlink re arrangements to pay insurance; prepare payment of same.	0.4
J. Parisi	2-May-24	Call with Avison to request an update.	0.3
T. Montesano	2-May-24	Calls to Globe and Mail, DCN and NRU to obtain quotes to insert notice; process payment of Insurance; create request in workday.	1.5
G. Cerrato	3-May-24	Drafting court report; review of marketing budget; discussions with T. Montesano re same.	2.0
J. Parisi	6-May-24	Call with D. Magisano regarding application for sale approval order.	0.4
G. Cerrato	6-May-24	Update call with counsel.	0.5
J. Parisi	7-May-24	Review letter from city regarding graffiti removal.	0.2
T. Montesano	7-May-24	Call with S. Lum from NRU publishing re request quote.	0.3
J. Parisi	8-May-24	Review draft report.	1.2
G. Cerrato	8-May-24	Call with D. Magisano and D. Michaud to discuss sale process and strategy and motion record filing.	0.8
J. Parisi	9-May-24	Call with Richard Bruce re Centurion's debt. Review edits to court report suggested by D. Michaud.	0.4
G. Cerrato	9-May-24	Review of comments to report from counsel; updating report; updating SISP terms.	3.5
J. Parisi	10-May-24	Call with D. Michaud regarding closing. Call with G. Cerrato regarding report and changes. Review and provide comments on 1st Report of Receiver.	1.3
G. Cerrato	10-May-24	Drafting report; calls with counsel re amendments to report; call with J. Parisi re same.	2.5
J. Parisi	13-May-24	Review notice of motion and draft order.	0.4

Staff	Date	Comments	Hours
G. Cerrato	13-May-24	Review of motion record and draft order; call with D. Michaud to discuss redacting stalking horse offer; further updates to court report.	2.2
G. Cerrato	14-May-24	Review of factum.	0.5
J. Parisi	14-May-24	Correspondence with G. Cerrato re sales process.	0.3
M. Marchand	15-May-24	Review court report.	0.5
G. Cerrato	15-May-24	Attendance in court; review of buyer's list; call with A. Fielding; discussions with T. Montesano; reviewing marketing materials.	2.5
A. Fielding	16-May-24	Updating prospective buyer's list per G. Cerrato instructions. Researching entities with missing contact details and updating.	3.8
J. Parisi	16-May-24	Call with G. Cerrato to discuss CIM and other marketing materials.	0.4
J. Parisi	17-May-24	Correspondence with Tory's re Tarion.	0.2
J. Parisi	21-May-24	Call with Rocco regarding break in. Advising Centurion regarding same. Review marketing materials to be published in the Globe and Mail and provide comments.	0.6
A. Fielding	21-May-24	Phone call with G. Cerrato re. Campaign tasks; Updating Buyer's Listing; Requesting ad updates from T. Montesano; Requesting dataroom be set up per J. Parisi instructions; Corresponding with Globe and Mail and NRU re. Updating ad proof.	4.2
G. Cerrato	21-May-24	Call with A. Fielding to discuss sale process.	0.8
A. Fielding	22-May-24	Phone call/s with G. Cerrato and Globe and Mail to discuss updates to sales ad and approval for publishing; Requesting updates to Globe and Mail via email; Requesting rates and proof draft from NRU and constructconnect (Daily Commercial News); Phone call with constructconnect contact to disc. Requirements; Preparing updates for BDO website and requesting IT assistance; Phone call with G. Cerrato re. Urgent tasks for campaign; Preparing MLS forms.	4.8
G. Cerrato	22-May-24	Call with A. Fielding to review various marketing issues; updating website information; reviewing MLS forms; review of other materials for data room.	2.1
A. Fielding	23-May-24	Updating Daily Commercial News (DCN) with prospective date for running ad; phone call with Erik from DCN; Requesting assistance from IT to update website; review and disc. Of updates with IT; Receipt of ad proof/ tear sheet from Globe & mail and forwarding to G. Cerrato - saving to file; Updating MLS form with G. Cerrato; Reviewing MLS website and requesting costing for ads.	5.0
G. Cerrato	23-May-24	Calls with A. Fielding; reviewing marketing materials; review of documentation to insert into sales data room.	1.7
J. Parisi	24-May-24	Review teaser and provide comments to G. Cerrato. Call with Tarion.	0.6

Staff	Date	Comments	Hours
A. Fielding	24-May-24	Updating MLS with costing; meeting with G. Cerrato to disc. Forms; Corresponding with IT to update link website link to include extra hyphen due to issue with Globe & Mail ad; Phone call and receipt of email from DCN to disc. Costing and timing; requesting update to Globe and Mail ad; Responding to enquiries with directions to website for further information and NDA. Saving to file.	5.9
G. Cerrato	24-May-24	Reviewing marketing materials; updating budget; calls with A. Fielding to discuss sale process; reviewing CIM; call with R. Tuzi re monitoring costs; review of APA; call with Tarion together with J. Parisi.	3.3
J. Parisi	27-May-24	Call with G. Cerrato for the marketing budget for the sales process. Send email to B. Vavaroutsos regarding same.	0.2
G. Cerrato	27-May-24	Call with A. Fielding re update on status of sale process.	0.5
A. Fielding	27-May-24	Discussions with BDO risk re. CASL policy and compliance for the purpose of sending buyer's list the marketing teaser; updating G. Cerrato on policy; Researching parties on buyers list and updating contact details and notes on consent provided to receive marketing materials; finalising MLS documents for G. Cerrato and saving marketing photos to file.	5.0
J. Parisi	28-May-24	Review notice from City of Toronto.	0.3
A. Fielding	28-May-24	Researching and attempting to contact buyer's list entities for consent to send marketing materials; Following up and organising order form for construct connect per G. Cerrato directions; Responding to interested parties enquiries; updating MLS forms; phone call with MLS listing provider re. Further details and broker commissions.	4.0
G. Cerrato	28-May-24	Review of materials; call with A. Fielding re status update;	1.0
J. Hue	28-May-24	Request for to post Motion Record and Receiver's Report to case website.	0.5
J. Parisi	29-May-24	Review language to be included in borrowing certificate in respect of interest.	0.2
A. Fielding	29-May-24	Researching and attempting to contact buyer's list entities for consent to send marketing materials.	3.8
T. Montesano	29-May-24	Create file in estates.	0.2
J. Parisi	30-May-24	Call with Muzzo Group regarding interest in Dundas Property.	0.2
A. Fielding	30-May-24	Researching and calling buyer's list parties to receive consent to send marketing materials.	5.5
G. Cerrato	30-May-24	Review and update CIM and forward to counsel for review; update call with A. Fielding on status of sale process; call with D. Magisano to discuss draft APA; CIM and other sale process issues.	2.2



Staff	Date	Comments	Hours
A. Fielding	31-May-24	Filling out banking form for G. Cerrato to provide to Centurion; Researching parties on buyer's list and attempting to contact/ find details online for consent to send marketing materials; reviewing CIM per G. Cerrato's instructions; Uploading CIM to dataroom; Organising MLS payment; Following up Daily Commercial News for confirmation of ad run; Reviewing tear sheet from NRU; Reviewing changes to NDA from interested party - forwarding to G. Cerrato and lawyers on file for review and comment; reviewing NDA from interested party and saving to file.	4.1
J. Hue	3-Jun-24	Request to update the case website with the Order and Service List.	0.2
J. Parisi	3-Jun-24	Correspondence with R. Tuzi regarding break in.	0.2
A. Fielding	3-Jun-24	Researching buyer's list parties and updating comments/ contact details where available; Phone calls to parties to confirm consent to send marketing material.	4.0
G. Cerrato	3-Jun-24	Fielding broker calls; update with A. Fielding re status of sale process; review of APS.	1.5
A. Fielding	4-Jun-24	Researching buyer's list parties and updating comments/ contact details where available; Phone calls to parties to confirm consent to send marketing material; phone calls from interested parties with questions on process; saving NDA's to file and adding parties to data room.	4.0
G. Cerrato	4-Jun-24	Update call with A. Fielding; review and amend MLS listing documents.	0.8
A. Fielding	5-Jun-24	Researching buyer's list parties and updating comments/ contact details where available; Phone calls to parties to confirm consent to send marketing material; phone calls from interested parties with questions on process; saving NDA's to file and adding parties to data room.	5.2
G. Cerrato	6-Jun-24	Calls from Avison & Young ("AY") broker re sale process; call with bylaw officer re coordinating graffiti removal; update call with A. Fielding re sale process status; review of buyer solicitation interest; email re Receiver's Certificate.	1.7
T. Montesano	7-Jun-24	Process payment of invoices.	0.6
A. Fielding	7-Jun-24	Meeting with G. Cerrato re. status of advertising tasks; receipt of NDA and setting up accessing to data room for party; Phone calls with parties with queries; sending out marketing teasers to remaining parties on buyers list.	2.0
G. Cerrato	7-Jun-24	Meeting with A. Fielding re various issues related to sale process;	1.0
J. Parisi	10-Jun-24	Call with R. Tuzi re graffiti.	0.1
A. Fielding	10-Jun-24	Meeting with G. Cerrato re. Buyer's list; reviewing top developers and reviewing contact details; attempting to contact buyers list entities through alternative contact details; Receipt	3.5

Staff	Date	Comments	Hours
		of NDA's and saving to file; going back to parties to request updated NDA (with buyers details); adding to dataroom; updating buyer's list.	
G. Cerrato	10-Jun-24	Reviewing status of sale process; discussions with A. Fielding; respond to inquiries.	1.1
J. Parisi	11-Jun-24	Review email from city regarding graffiti.	0.2
A. Fielding	11-Jun-24	Attempting to contact buyers list entities through alternative contact details; Receipt of NDA's and saving to file; going back to parties to request updated NDA (with buyers details); adding to dataroom; updating buyer's list; phone call with G. Cerrato and Ihor Dziadyk (Remax) re. Potential purchaser; Forwarding marketing teaser and NDA; Following up ad copies.	4.0
A. Fielding	12-Jun-24	Updating buyer's list with information on NDA's received & data room access; Adding additional party to data room per Terracap request; Reviewing responses for NDA and following up broker for party details to add to data room as NDA received.	2.5
G. Cerrato	12-Jun-24	Review and amend APS; call with A. Fielding re sale process; respond to interested party inquiries.	1.4
J. Parisi	13-Jun-24	Review email from Centurion regarding update on refinancing. Discussion with G. Cerrato re same.	0.1
A. Fielding	13-Jun-24	Updating buyer's list with information on NDA's received & data room access; Adding additional party to data room; Reviewing responses for NDA and following up broker for party details to add to data room as NDA received.	3.0
T. Montesano	14-Jun-24	Prepare payment to re-imburse BDO for payment of payment to MLS.	0.3
A. Fielding	14-Jun-24	Updating buyer's list with information on NDA's received & data room access; Adding additional party to data room; Reviewing responses for NDA and following up broker for party details to add to data room as NDA received.	2.0
T. Montesano	17-Jun-24	Prepare payment of invoice.	0.6
A. Fielding	17-Jun-24	Review of NDA's provided, saving to file; going back to parties where NDAs require further updates; Adding parties to dataroom.	0.8
G. Cerrato	18-Jun-24	Call with AY re sale process.	0.5
G. Cerrato	18-Jun-24	Respond to call from interested party; review status of sale process.	0.6
J. Hue	19-Jun-24	Correspondence with J. Parisi regarding filing fee, prepare the cheque requisition for approval and instructions to return the advanced cheque from the firm. Efile remittance with the OSB.	0.4
A. Fielding	20-Jun-24	Reviewing emails from G. Cerrato re. Dataroom files; brief meeting with J. Parisi and G. Cerrato re. Data room document notifications; reviewing Donnelly website for information;	1.3

Staff	Date	Comments	Hours
		updating data room and sending notification; phone call from realty re. Interested party and information property; sending teaser; confirming all NDAs filed.	
G. Cerrato	20-Jun-24	Review of Phase 2 for 5509 and Final Soil Reports received Centurion; arrange to have posted in data room; call with J. Smith from AY re information request of his client.	0.7
M. Head	20-Jun-24	Bank reconciliation	0.5
T. Montesano	21-Jun-24	Receive response and bank statements from BNS re bank account information; review and save to the network, send copy of same to J. Parisi and G. Cerrato.	0.4
A. Fielding	24-Jun-24	Responding to interested party enquiries on sale process; reviewing and updating master spreadsheet.	1.0
J. Parisi	25-Jun-24	Call with G. Cerrato re potential purchaser. Receive call from CRA re HST filings.	0.4
G. Cerrato	25-Jun-24	Call with Maple Lands, prospective bidder together with AY broker;	0.6
A. Fielding	25-Jun-24	Phone call with G. Cerrato re interested parties and responses; phone calls from interested parties; updating master spreadsheet.	1.0
T. Montesano	25-Jun-24	Process payment of various supplier invoices.	0.4
A. Fielding	26-Jun-24	Phone calls with G. Cerrato on items for sales process; review of enquiries from interested parties; confirming updates to data room; preparing wire details correspondence for uploading to the data room per G. Cerrato's instructions; Responding to interested party enquiries. Reviewing Data room items.	2.0
G. Cerrato	26-Jun-24	Respond to calls from prospective purchasers re sale process.	0.8
A. Fielding	27-Jun-24	Responding to interested party queries via phone and email.	0.8
J. Parisi	28-Jun-24	Call from potential purchaser. Review emails with offers as provided. Discussions with G. Cerrato re summary of offers.	1.3
A. Fielding	28-Jun-24	Phone calls with interested party re. submission of offer and deposit to receivers account; confirming details provided are correct; meeting with G. Cerrato to discuss submissions; Forwarding updates on APS required for receipt to Receivers accounts; discussion with treasury to confirm status of wire deposits being paid to receivers account; saving offers to file; meetings with G. Cerrato on offers; responding to prospective bidder enquiries via email.	3.6
G. Cerrato	28-Jun-24	Review of offers received; calls with J. Parisi re update; correspondence with prospective purchasers re deposits and other issues.	1.3
J. Parisi	30-Jun-24	Review offers.	2.2

Staff	Date	Comments	Hours
J. Parisi	2-Jul-24	Call with D. Magisano re offers including Pescolino's offer. Call with G. Cerrato re best offer and next steps.	2.0
G. Cerrato	2-Jul-24	Conference call with D. Magisano re offers including Pescolino's offer. Call with Parisi to discuss offers and next steps.	2.0
J. Parisi	3-Jul-24	Call with G. Cerrato re non-qualified bids. Email to D. Magisano re bids. Email to B. Vavaroutsos regarding bids received. Call with D. Magisano re auction process. Prepare letters to non-qualifying bidders.	2.1
G. Cerrato	3-Jul-24	Call with J. Parisi re non-qualified bids. Email to D. Magisano re bids; call with D. Magisano re auction process; review of letters to bidders.	1.5
J. Parisi	4-Jul-24	Call to discuss qualified bidders and auction. Correspondence with Bidders. Call with Centurion regarding bid process. Prepare summary of auction procedures. Call with C. Mills of Miller Thomson re Pescolino's offer.	3.5
G. Cerrato	4-Jul-24	Calls to discuss qualified bidders and steps forward.	1.1
J. Parisi	5-Jul-24	Call with Bob. Attend auction. Call with D. Magisano. Correspondence with C. Mills re outcome of auction. Attend auction.	1.3
A. Fielding	5-Jul-24	Preparing for auction; meeting with J. Parisi & G. Cerrato; attending auction; saving recording and relevant documents to file.	3.0
G. Cerrato	5-Jul-24	Review of auction procedures and letters sent to participants; Call with J. Parisi to discuss live auction and set up; attend live auction.	2.0
J. Parisi	8-Jul-24	Call with G. Cerrato re booking court time and court report. Discuss issue related to Pescolino mortgage.	0.3
T. Montesano	8-Jul-24	Process payment invoice. Prepare and send request to CRA to create RT0002 account.	0.9
A. Fielding	8-Jul-24	Assisting with returning deposits to bidders.	0.7
J. Parisi	9-Jul-24	Call with D. Michaud re finalizing documentation and proceeding to court. Return deposits. Discussions with G. Cerrato re report.	0.6
T. Montesano	9-Jul-24	Process payment of invoices, Lock-it Key and Security.	0.3
A. Fielding	9-Jul-24	Confirming deposit refunds processed with L. Dula.	0.2
T. Montesano	11-Jul-24	Process payment of invoices.	0.4
J. Parisi	12-Jul-24	Call with R. Tuzi regarding property check.	0.2
T. Montesano	12-Jul-24	Contact Aviva Insurance; prepare payment of insurance premiums for July 2024.	0.4
G. Cerrato	25-Jul-24	Review of security opinion; drafting court report.	3.7



Staff	Date	Comments	Hours
G. Cerrato	26-Jul-24	Discussion with J. Parisi re court date; call with D. Magisano re same; drafting court report;	3.3

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

BETWEEN:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Applicant

-and-

**DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP  
AND DUNDAS SHORNCLIFFE LTD.**

Respondents

**AFFIDAVIT OF DOMINIQUE MICHAUD**

I, **DOMINIQUE MICHAUD** of the City of Toronto, in the Province of Ontario **MAKE OATH AND SAY:**

1. I am a partner of the law firm of Robins Appleby LLP ("**Robins**"), the lawyers for BDO Canada Limited (the "**Receiver**"), as the court-appointed receiver and manager over Dundas Shorncliffe Limited Partnership and its General Partner, Dundas Shorncliffe Ltd. (collectively referred to as, the "**Companies**") and, as such, have knowledge of the matters contained in this Affidavit.

2. Pursuant to the Order of Justice Kimmel dated August 4, 2023, the Receiver was appointed as Receiver of all the assets, undertakings and properties of the Companies (the "**Receivership Order**").

3. This affidavit is made in connection with the Receiver's motion for, *inter alia*, the approval of the fees and disbursements of Robins with respect to legal services rendered as independent counsel to the Receiver's in connection with the receivership from May 1, 2024 up to May 30, 2024 (the "**Billing Period**"). Attached as **Exhibit "A"** is a record of the legal services rendered by Robins to the Receiver and disbursements incurred during this period (the "**Robins Invoice**"). To the best of my knowledge, the Robins Invoice provides a fair and accurate description of the activities undertaken and the services rendered by Robins during this period.

4. Attached as **Exhibit "B"** is a summary of the names, year of call, hourly rates, time expended by the lawyers and other professionals at Robins whose time is reflected in the dockets recorded in Exhibit "A".

5. During the Billing Period, the total fees billed by Robins were \$16,802.00 plus disbursements of \$339.00 and applicable taxes of \$2,184.26 for an aggregate amount of \$19,325.26.

6. I have reviewed the Robins Invoices and consider the time expended for legal fees charged to be fair and reasonable for the services performed. To the best of my knowledge, the rates charges by Robins are comparable to the rates charged for legal services of a similar nature and complexity by other medium sized firms in the Toronto market.

**SWORN remotely by Dominique Michaud**  
at the City of Toronto, in the Province of  
Ontario, before me on the 29<sup>th</sup> day of July,  
2024, in accordance with *O. Reg. 431/20*,  
Administering Oath or Declaration  
Remotely.



---

Commissioner for Taking Affidavits  
*(or as may be)*

**JOEY JAMIL**

---

**DOMINIQUE MICHAUD**



---

THIS IS **EXHIBIT "A"** REFERRED TO IN  
THE AFFIDAVIT OF **DOMINIQUE MICHAUD**  
SWORN BEFORE ME ON  
THE 29<sup>TH</sup> DAY OF JULY, 2024

  
A Commissioner, Notary, Etc.

**JOEY JAMIL**

---



BDO Canada Limited  
500-20 Wellington Street East  
Toronto, ON M5E 1C5

DATE: May 31, 2024  
**CLIENT No.:** 7796  
FILE No.: 2300246  
INVOICE No.: 183064  
H.S.T. No.: 12139 1205 RT0001

Attention: Josie Parisi

	<b>RE: Receivership - Dundas Shorncliffe Limited Partnership, by its General Partner Dundas Shorncliffe Ltd.</b>
	<b>FOR ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including the following:</b>
01-May-24	Meeting between Dominique Michaud and Joey Jamil regarding revised motion materials;
	Conference between Dominique Michaud and Joey Jamil regarding motion to approve sale process; review file; draft motion materials;
02-May-24	Draft sale process approval motion materials;
03-May-24	Telephone conference with Bob Vavaroutsos regarding refinancing and purchase price;
06-May-24	Draft motion materials;
07-May-24	Telephone conference with Gary Cerrato regarding credit bid;
08-May-24	Telephone conference with Receiver regarding stalking horse bid; draft motion materials; various telephone conferences with Centurion regarding credit bid;
	Draft motion materials; conference between Dominique Michaud and Joey Jamil regarding motion materials; review first report of receiver; review file;
09-May-24	Review and revise sale approval motion materials; telephone conference with Centurion regarding sale approval;
	Conference between Dominique Michaud and Joey Jamil regarding revisions to Notice of Motion and receiver's report; draft Factum; revise Notice of Motion;
10-May-24	Complete motion materials regarding sale process;



	<p>Texts, emails and telephone conferences between Gary Cerrato and Joey Jamil regarding stalking horse agreement; draft motion materials; telephone conference between Joey Jamil and Ladislav Kovac regarding SISP; telephone conference between Dominique Michaud and Joey Jamil regarding receiver report and SISP; review receiver report, stalking horse agreement, and SISP;</p> <p>Correspondence between Ladislav Kovac and Joey Jamil with respect to Appendix G and sales process; revise agreement of purchase and sale;</p>	
12-May-24	Review revised Receiver's report, and appendices; draft and revise motion materials;	
13-May-24	Review and revise sale process motion materials; telephone conference between Craig Mills and Dominique Michaud; telephone conference between Doug Bourassa and Dominique Michaud;	
	Conference between Joey Jamil and Ishmeet Juneja; work on the footnotes and list of authorities on the Factum; email from Ishmeet Juneja to Joey Jamil;	
	Draft and revise motion materials; conference between Dominique Michaud and Joey Jamil regarding motion; telephone conversation between Gary Cerrato and Joey Jamil regarding revisions;	
14-May-24	Engage file regarding potential adjournment; email and telephone call to Doug Bourassa from Dominique Michaud;	
	Revise and finalize Factum for stalking horse Sale Approval Order;	
15-May-24	Prepare for receivership motion, attend receivership motion;	
	Prepare for and attend sale process approval motion; report to Centurion and Domenico Magisano regarding Approval Order;	
28-May-24	Telephone call regarding sale process approval order; telephone call with Bob Vavaroutsos regarding discharge of receiver; email to Gary Cerrato regarding sale approval order; Review Endorsement by W.D. Black J.; draft correspondence to Kystra Ryan regarding uploading to Caselines;	
	Review draft Orders; email to Justice Black; prepare Requisition; arrange to enter Order;	
30-May-24	Telephone conference with Bob Vavaroutsos regarding loan repayment;	
	<b>OUR FEE</b>	<b>\$16,802.00</b>



**DISBURSEMENTS**

*\* Indicates not subject to H.S.T.*

Notice of Motion/Motion Record

\*339.00

**Total Disbursements**

**\$339.00**

H.S.T. (13%)

on \$16,802.00 Fees

2,184.26

on \$0.00 Disbursements

0.00

**Total H.S.T.**

**\$2,184.26**

**TOTAL FEES, DISBURSEMENTS and H.S.T.**

**\$19,325.26**

Outstanding account dated: 30-Apr-24 | Ref. No. 182706

8,386.29

**TOTAL OUTSTANDING**

**\$27,711.55**

**ROBINS APPLEBY LLP**

Per:

**Dominique Michaud**

E. & O.E.

AWL

**Online bill payment** is now available through most major banks. Please use the "Client No." located on this invoice as your online bill payment Account No., save "Robins Appleby LLP" as a "Payee" and proceed to "Pay Bills". If you require assistance, please call our office at 416-868-1080 and a member of the Robins Appleby accounting team would be pleased to help.

**Account Due When Rendered.** In accordance with section 33 of the *Solicitors Act*, interest will be charged at the rate of **3.00%** per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered.

---

THIS IS **EXHIBIT "B"** REFERRED TO IN  
THE AFFIDAVIT OF **DOMINIQUE MICHAUD**  
SWORN BEFORE ME ON  
THE 29<sup>TH</sup> DAY OF JULY, 2024

  
A Commissioner, Notary, Etc.

**JOEY JAMIL**

---

**Fees and Disbursement Summary of Robins Appleby LLP for the period from May 1, 2024 up to  
May 31, 2024**

<b>NAME</b>	<b>YEAR OF CALL</b>	<b>HOURLY RATE</b>	<b>TOTAL HOURS</b>	<b>TOTAL FEES BILLS</b>
Dominique Michaud	2009	\$740	11.6	\$8,584.00
Ladislav Kovac	2014	\$625	1.7	\$1,062.50
Joey Jamil	2018	\$440	14.4	\$6,336.00
Colin Hunt	2023	\$325	1.0	\$325.00
Kystra Ryan	Law Clerk	\$300	0.5	\$150.00
Ishmeet Juneja	Summer Law Student	\$265	1.3	\$344.50
<b>SUBTOTAL FEES:</b>				<b>\$16,802.00</b>
H.S.T. @13%				\$2,184.26
<b>TOTAL FEES:</b>				<b><u>\$18,986.26</u></b>
Disbursements				\$339.00
H.S.T. @13%				\$0.00
<b>TOTAL DISBURSEMENTS:</b>				<b><u>\$339.00</u></b>
<b>TOTAL FEES, DISBURSEMENTS &amp; H.ST.</b>				<b><u>\$19,325.26</u></b>

**CENTURION MORTGAGE  
CAPITAL CORPORATION**

–and- **DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP  
PARTNERSHIP et al.**

*Applicant*

*Respondents*

Court File No.: CV-23-00694646-00CL

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

**PROCEEDING COMMENCED AT TORONTO**

**AFFIDAVIT OF DOMINIQUE MICHAUD**

**ROBINS APPLEBY LLP**

Barristers & Solicitors  
2600 - 120 Adelaide Street West  
Toronto ON M5H 1T1

**Dominique Michaud LSO No. 56871V**

Email: [dmichaud@robapp.com](mailto:dmichaud@robapp.com)  
Tel: (416) 360-3795

**Joey Jamil LSO No. 74614L**

Email: [jjamil@robapp.com](mailto:jjamil@robapp.com)  
Tel: (416) 360-3783

Lawyers for the Court-Appointed Receiver,  
BDO Canada Limited

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

and

DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP AND DUNDAS  
SHORNCLIFFE LTD.

Respondents

**AFFIDAVIT OF SPENCER JONES  
(sworn July 29, 2024)**

I, Spencer Jones, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

- 1. I am a lawyer with Lerner LLP, counsel to BDO Canada Limited, in its capacity as receiver (the “**Receiver**”), in these proceedings. As such, I have knowledge of the matters hereinafter deposed, except where stated to be on information and belief, and where so stated, I verily believe that information or belief to be true.
- 2. Attached and marked hereto as **Exhibit “A”** to this affidavit are copies of the accounts rendered by Lerner LLP to the Receiver for legal fees and disbursements for the period from May 2, 2024 to July 5, 2024.
- 3. A total of approximately 24.2 hours were expended by Lerner LLP during the period noted above in performing legal services to the Receiver, totalling \$17,044.50 in fees, \$907.95 in disbursements, and \$2,333.83 in HST.
- 4. Lerner LLP expects to incur additional fees not to exceed \$15,000.00, plus disbursements and HST, with respect to activities from July 6, 2024, onward to complete its administration of the debtor’s estate.



5. To the best of my knowledge, the rates charged by Lerners LLP are comparable to the normal hourly rates charged for the provision of similar services by other legal firms in the Toronto market.

6. This affidavit is sworn in connection with a motion for an Order of this Honourable Court to, among other things, approve the fees and disbursements of counsel to the Receiver, and for no improper purpose.

**SWORN BEFORE ME:**  in person  by video conference  
by Spencer Jones at the City of Toronto, in the Regional Municipality of Metropolitan Toronto, before me at the City of Toronto, in the Regional Municipality of Metropolitan Toronto, on July 29, 2024, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (*or as may be*)



---

Signature of Commissioner (*or as may be*)  
Victoria Lois Gifford, a Commissioner, etc.,  
Province of Ontario, for Lerners LLP,  
Barristers and Solicitors.  
Expires November 27, 2025.



---

Signature of Deponent  
Spencer Jones

**THE FOLLOWING IS EXHIBIT "A"**

**TO THE AFFIDAVIT OF SPENCER JONES**

**SWORN BEFORE ME (VIRTUALLY) THIS 29<sup>th</sup> DAY OF JULY, 2024.**



---

A Commissioner, etc.

Victoria Lois Gifford, a Commissioner, etc.,  
Province of Ontario, for Lemers LLP,  
Barristers and Solicitors.  
Expires November 27, 2025.

# LERNERS

Lerners LLP  
 225 King Street West  
 Suite 1600  
 Toronto, ON M5V 3M2  
 Telephone: 416.867.3076  
 Facsimile: 416.867.9192  
 www.lerners.ca

BDO Canada Limited  
 633 Colborne Street, Unit 100  
 London, ON N6B 2V3

May 27, 2024

Invoice Number.: 40132616  
 HST #R119462497

Re: BDO re Centurion Mortgage Capital Corporation and Dundas Shorncliffe

Our File Number: 00096724-00014

FOR PROFESSIONAL SERVICES RENDERED during the period commencing May 2, 2024 and ending May 8, 2024

## FEES:

02-May-24	DNM	Email exchange with client; Review of material	0.20	hrs.
06-May-24	EYF	Review application record in preparation for motion seeking approval of sales process; draft order regarding same; Review other materials on receiver's website; Draft notice of motion; Email correspondence with D. Magisano regarding sales process	2.60	hrs.
06-May-24	DNM	Call with client re upcoming motion; Review initial application record; Begin review of APS	0.80	hrs.
07-May-24	EYF	Review draft of first report and stalking horse sale agreement; Draft notice of motion and draft order; Email correspondence with D. Magisano regarding same and next steps; Voicemail message from D. Magisano regarding same	3.80	hrs.
07-May-24	DMW	Discussions with Dom on the BDO APS; Review draft APS and Receiver's Report; Review PIN Printouts;	0.50	hrs.
07-May-24	SET	Obtain PIN printouts and maps for 5507 and 5509 Dundas Street West, Toronto; Confirmation of all properties; Copies of instruments; Emails to D. Woodward	0.20	hrs.
07-May-24	DNM	Review aps; Emails re same; Discuss motion materials with E. Fan; Voicemail exchange with G. Cerrato; Email exchange with lender counsel; Call with G Cerrato re sale process motion	0.90	hrs.
08-May-24	DMW	Review PIN Printouts; Review APS; Revisions to APS; Email to D. Magisanowith revised APS; Email to D. Magisano with revised APS	1.60	hrs.
08-May-24	DNM	Call with client; Call with client and lender counsel re sales process	0.50	hrs.
		Total Hours	11.10	

INTEREST ON ACCOUNTS OUTSTANDING IN EXCESS OF 30 DAYS  
 WILL BE CHARGED AT 9.20% PER ANNUM.

FEES	7,536.00
Plus HST	<u>979.68</u>
TOTAL FEES FOR PROFESSIONAL SERVICES	8,515.68

**TOTALS BY LAWYERS, STUDENTS & CLERKS**

Domenico N. Magisano	2.40 hrs	\$800.00 hr	\$1,920.00
Emily Y. Fan	6.40 hrs	\$680.00 hr	\$4,352.00
David M. Woodward	2.10 hrs	\$580.00 hr	\$1,218.00
Sue E. Tomlinson	0.20 hrs	\$230.00 hr	\$46.00
Total	11.10		\$7,536.00

**TAXABLE DISBURSEMENTS:**

Teraview - Subsearch	<u>177.50</u>
TOTAL TAXABLE DISBURSEMENTS	177.50
Plus HST	<u>23.08</u>
TOTAL TAXABLE DISBURSEMENTS: (INCL TAX)	<u>200.58</u>
TOTAL FEES, DISBURSEMENTS AND TAXES	8,716.26
TOTAL DUE AND OWING	<u>8,716.26</u>

This is our account herein

LERNERS LLP

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

Domenico N. Magisano

DNM

E. & O. E.



**Lerners LLP**  
 225 King Street West  
 Suite 1600  
 Toronto, ON M5V 3M2  
 Telephone: 416.867.3076  
 Facsimile: 416.867.9192  
 www.lerners.ca

Domenico N. Magisano

BDO Canada Limited  
 633 Colborne Street, Unit 100  
 London, ON N6B 2V3

May 27, 2024

Invoice Number.: 40132616  
 HST #R119462497

Re: BDO re Centurion Mortgage Capital Corporation and Dundas Shorncliffe

Our File Number: 00096724-00014

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### INVOICE SUMMARY

Fees	7,536.00
Disbursements	177.50
HST	<u>1,002.76</u>
Total Fees, Disbursements and Taxes	\$8,716.26

THIS INVOICE IS PAYABLE UPON RECEIPT IN CANADIAN DOLLARS

**Payment by Wire Transfer:**

Bank Name: Royal Bank of Canada  
 Bank Address: 465 Richmond St, London, ON N6A 5P4 Canada  
 Account Name: Lerners LLP  
 SWIFT Code: ROYCCAT2

Bank Number: 003  
 Transit Number: 02722  
 Account Number: 1218692

**Payment by Interac e-transfer:** Accepted from all major Canadian banks. Remit to: [payments@lerners.ca](mailto:payments@lerners.ca)

PLEASE RETURN THIS PAGE WITH YOUR REMITTANCE

INTEREST ON ACCOUNTS OUTSTANDING IN EXCESS OF 30 DAYS  
 WILL BE CHARGED AT 9.20% PER ANNUM.

# LERNERS

Lerners LLP  
 225 King Street West  
 Suite 1600  
 Toronto, ON M5V 3M2  
 Telephone: 416.867.3076  
 Facsimile: 416.867.9192  
 www.lerners.ca

BDO Canada Limited  
 633 Colborne Street, Unit 100  
 London, ON N6B 2V3

June 24, 2024

Invoice Number.: 40135706  
 HST #R119462497

Re: BDO re Centurion Mortgage Capital Corporation and Dundas Shorncliffe

Our File Number: 00096724-00014

FOR PROFESSIONAL SERVICES RENDERED during the period commencing May 22, 2024 and ending June 12, 2024

## FEES:

22-May-24	DNM	Emails re Tarion interest in matter	0.20	hrs.
24-May-24	DNM	Call with Tarion counsel; Review of NDA and APS	0.40	hrs.
30-May-24	DNM	Call with G. Cerrato	0.40	hrs.
31-May-24	DNM	Review CIM; Email to G. Cerrato re same	0.50	hrs.
01-Jun-24	DNM	Email from client re amendments to NDA; Review NDA changes and provide comments to client	0.40	hrs.
07-Jun-24	DNM	Email exchange with G. Cerrato re APS	0.10	hrs.
09-Jun-24	DNM	review and amend draft APS; Email to client re same	1.20	hrs.
10-Jun-24	DNM	Call with G. Cerrato re APS; Email re same	0.30	hrs.
10-Jun-24	VLG	Review parcels; prepare list of permitted encumbrances; Emails re same	0.60	hrs.
11-Jun-24	DNM	Email exchange with client; Review of parcel for property and consider permitted encumbrances; Email to client re same	0.70	hrs.
12-Jun-24	NAC	Reviewed file; reviewed subsearches and registrations; comparing Agreements of Purchase and Sale; Drafting comments re Permitted Encumbrances; e-mails re same	0.90	hrs.
		Total Hours	5.70	

FEES	3,967.50
Plus HST	<u>515.78</u>
TOTAL FEES FOR PROFESSIONAL SERVICES	4,483.28

**TOTALS BY LAWYERS, STUDENTS & CLERKS**

Domenico N. Magisano	4.20 hrs	\$800.00 hr	\$3,360.00
Nicholas A. Cummings	0.90 hrs	\$495.00 hr	\$445.50
Victoria L. Gifford	0.60 hrs	\$270.00 hr	\$162.00
Total	5.70		\$3,967.50

**TAXABLE DISBURSEMENTS:**

Teraview - Subsearch		<u>89.70</u>	
TOTAL TAXABLE DISBURSEMENTS		89.70	
Plus HST		<u>11.66</u>	
TOTAL TAXABLE DISBURSEMENTS: (INCL TAX)			<u>101.36</u>
TOTAL FEES, DISBURSEMENTS AND TAXES			4,584.64
TOTAL DUE AND OWING			<u>4,584.64</u>

This is our account herein

LERNERS LLP

Per: 

Domenico N. Magisano

DNM

E. & O. E.



Lerners LLP  
 225 King Street West  
 Suite 1600  
 Toronto, ON M5V 3M2  
 Telephone: 416.867.3076  
 Facsimile: 416.867.9192  
 www.lerners.ca

Domenico N. Magisano

BDO Canada Limited  
 633 Colborne Street, Unit 100  
 London, ON N6B 2V3

June 24, 2024

Invoice Number.: 40135706  
 HST #R119462497

Re: BDO re Centurion Mortgage Capital Corporation and Dundas Shorncliffe

Our File Number: 00096724-00014

### INVOICE SUMMARY

Fees	3,967.50
Disbursements	89.70
HST	<u>527.44</u>
Total Fees, Disbursements and Taxes	<u>\$4,584.64</u>
<b>TOTAL BALANCE DUE</b>	<b><u><u>\$4,584.64</u></u></b>

THIS INVOICE IS PAYABLE UPON RECEIPT IN CANADIAN DOLLARS

**Payment by Wire Transfer:**

Bank Name: Royal Bank of Canada  
 Bank Address: 465 Richmond St, London, ON N6A 5P4 Canada  
 Account Name: Lerners LLP  
 SWIFT Code: ROYCCAT2

Bank Number: 003  
 Transit Number: 02722  
 Account Number: 1218692

**Payment by Interac e-transfer:** Accepted from all major Canadian banks. Remit to: [payments@lerners.ca](mailto:payments@lerners.ca)

PLEASE RETURN THIS PAGE WITH YOUR REMITTANCE

INTEREST ON ACCOUNTS OUTSTANDING IN EXCESS OF 30 DAYS  
 WILL BE CHARGED AT 8.95% PER ANNUM.



# LERNERS

Lerners LLP  
 225 King Street West  
 Suite 1600  
 Toronto, ON M5V 3M2  
 Telephone: 416.867.3076  
 Facsimile: 416.867.9192  
 www.lerners.ca

BDO Canada Limited  
 633 Colborne Street, Unit 100  
 London, ON N6B 2V3

July 12, 2024

Invoice Number.: 40137742  
 HST #R119462497

Re: BDO re Centurion Mortgage Capital Corporation and Dundas Shorncliffe

Our File Number: 00096724-00014

FOR PROFESSIONAL SERVICES RENDERED during the period commencing June 28, 2024 and ending July 5, 2024

## FEES:

28-Jun-24	DNM	Brief review of offers; Email exchange with client re same; Voicemail from client re same	0.50	hrs.
02-Jul-24	DMW	Review Planning Act issue; Review PINs and PIN Map; Review Transfers; Emails with D. Magisano;	0.20	hrs.
02-Jul-24	VLG	Review parcels and transfers re planning act; Conversation with D. Magisano and S. Tomlinson re same	0.30	hrs.
02-Jul-24	DNM	Review of offers received; Call with clients re possible planning act issue and status of sales process; Review parcel searches re mortgages; Email to Centurion counsel re sale process	1.00	hrs.
03-Jul-24	DMW	Review Plans and prior emails on Planning Act issue; Review Reference Plans; Review Planning Act exemption and meeting with A. Granger; Email to D. Magisano with Planning Act exemption and opinion that Lots can be sold separately; Emails with D. Magisano on the status of mortgages on the separate parcels	0.80	hrs.
03-Jul-24	DNM	Message from D. Michaud; Emails re review of purchase agreements; Consider same; Call with D. Michaud; Call with J. Parisi re auction and purchase agreements	1.00	hrs.
04-Jul-24	DNM	Complete security review of Centurion security; Calls with client email exchange re auction; Calls with Centurion counsel; Various email exchanges with stakeholders	2.00	hrs.
05-Jul-24	DNM	Prepare and participate in auction for real estate; Calls with client re same; Emails re Pescolino security	1.60	hrs.
		Total Hours	7.40	

FEES	5,541.00
Plus HST	<u>720.33</u>
TOTAL FEES FOR PROFESSIONAL SERVICES	6,261.33

**TOTALS BY LAWYERS, STUDENTS & CLERKS**


Domenico N. Magisano	6.10 hrs	\$800.00 hr	\$4,880.00
David M. Woodward	1.00 hrs	\$580.00 hr	\$580.00
Victoria L. Gifford	0.30 hrs	\$270.00 hr	\$81.00
Total	7.40		\$5,541.00

**TAXABLE DISBURSEMENTS:**

Teraview - Subsearch	<u>54.00</u>	
18 ECORE Certificate of Status Report	8.00	
18 ECORE Certificate of Status Report	34.30	
17 ECORE Certificate of Status Report	26.00	
17 ECORE Certificate of Status Fee	21.45	
16 ECORE EDD ON PPR Search - Electronic Report	8.00	
16 ECORE EDD ON PPR Search - Electronic Fee	34.30	
15 ECORE EDD Entity Profile Report	8.00	
15 ECORE EDD Entity Profile Report Fee	21.45	
14 ECORE EDD Entity Profile Report	8.00	
14 ECORE EDD Entity Profile Report Fee	21.45	
12 ECORE EDD Ontario Writs Locator (OWL) Report	72.09	
12 ECORE EDD Ontario Writs Locator (OWL) Fee	54.95	
11 ECORE EDD Ontario Writs Locator (OWL) Fee	72.09	
11 ECORE EDD Ontario Writs Locator (OWL) Fee	54.95	
19 & 20 ECORE EDD Bank Act Sec. 427 Fee	109.90	
19 & 20 ECORE EDD Bank Act Sec. 427 Report	<u>31.82</u>	
TOTAL TAXABLE DISBURSEMENTS	640.75	
Plus HST	<u>83.30</u>	
TOTAL TAXABLE DISBURSEMENTS: (INCL TAX)		<u>724.05</u>
TOTAL FEES, DISBURSEMENTS AND TAXES		6,985.38
TOTAL DUE AND OWING		<u>6,985.38</u>

This is our account herein

LERNERS LLP

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

Domenico N. Magisano

DNM

E. & O. E.



Lerners LLP  
 225 King Street West  
 Suite 1600  
 Toronto, ON M5V 3M2  
 Telephone: 416.867.3076  
 Facsimile: 416.867.9192  
 www.lerners.ca

Domenico N. Magisano

BDO Canada Limited  
 633 Colborne Street, Unit 100  
 London, ON N6B 2V3

July 12, 2024

Invoice Number.: 40137742  
 HST #R119462497

Re: BDO re Centurion Mortgage Capital Corporation and Dundas Shorncliffe

Our File Number: 00096724-00014

### INVOICE SUMMARY

Fees	5,541.00
Disbursements	640.75
HST	<u>803.63</u>
Total Fees, Disbursements and Taxes	<u>\$6,985.38</u>
<b>TOTAL BALANCE DUE</b>	<b><u><u>\$6,985.38</u></u></b>

THIS INVOICE IS PAYABLE UPON RECEIPT IN CANADIAN DOLLARS

**Payment by Wire Transfer:**

Bank Name: Royal Bank of Canada  
 Bank Address: 465 Richmond St, London, ON N6A 5P4 Canada  
 Account Name: Lerners LLP  
 SWIFT Code: ROYCCAT2

Bank Number: 003  
 Transit Number: 02722  
 Account Number: 1218692

**Payment by Interac e-transfer:** Accepted from all major Canadian banks. Remit to: [payments@lerners.ca](mailto:payments@lerners.ca)

PLEASE RETURN THIS PAGE WITH YOUR REMITTANCE

INTEREST ON ACCOUNTS OUTSTANDING IN EXCESS OF 30 DAYS  
 WILL BE CHARGED AT 8.95% PER ANNUM.

CENTURION MORTGAGE CAPITAL  
CORPORATION

Applicant

DUNDAS SHORNCLIFFE LIMITED  
PARTNERSHIP et al.

Respondents

Court File No.: CV-23-00694646-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AFFIDAVIT OF SPENCER JONES  
(sworn July 29, 2024)**

LERNERS LLP  
225 King Street West, Suite 1500  
Toronto, ON M5V 3M2

Domenico Magisano LS#: 45725E  
dmagisano@lerner.ca  
Tel: 416.601.4121

Lawyers for the Receiver

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

THE HONOURABLE ) TUESDAY, THE 6<sup>TH</sup>  
 )  
JUSTICE ) DAY OF AUGUST, 2024  
 )

B E T W E E N:

CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

and

DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP  
AND DUNDAS SHORNCLIFFE LTD.

Respondents

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by BDO Canada Limited in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Dundas Shorncliffe Limited Partnership and its general partner Dundas Shorncliffe Ltd. (the "**GP**" and collectively, 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 Centurion Acquisition Corporation, in trust for a corporation to be incorporated (the "**Purchaser**") dated July 9, 2024, and appended to the Report of the Receiver dated July 29, 2024 (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.

**ON READING** the Report and on hearing the submissions of counsel for the Receiver, counsel for the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Victoria Gifford, sworn July 30, 2024 filed:

1. **THIS COURT ORDERS** that the time for service of this Notice of Motion and the Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
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 Kimmel dated August 4, 2023 (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 Toronto (number 80) of a Transfer/Deed of Land in the form prescribed by the *Land Registration Reform Act* duly executed by the Receiver, 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 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.



9. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of the date of this order without any need for entry or filing.

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**Schedule "A"**  
**Form of Receiver's Certificate**

Court File No. CV-23-00694646-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(Commercial List)**

B E T W E E N:

CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

and

DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP  
AND DUNDAS SHORNCLIFFE LTD.

Respondents

**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Kinmel of the Ontario Superior Court of Justice (the "**Court**") dated August 4, 2023, BDO Canada Limited was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of Dundas Shorncliffe Limited Partnership and its general partner Dundas Shorncliffe Ltd. (the "**GP**" and collectively, the "**Debtor**").

B. Pursuant to an Order of the Court dated August 6, 2024 the Court approved the agreement of purchase and sale made as of July 9, 2024 (the "**Sale Agreement**") between the Receiver and Centurion Acquisition Corporation, in trust for a corporation to be incorporated (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].

**BDO Canada Limited, in its capacity as  
Receiver of the undertaking, property and  
assets of Dundas Shorncliffe Limited  
Partnership and its general partner Dundas  
Shorncliffe Ltd., and not in its personal  
capacity**

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

Name:

Title:

**Schedule "B"**  
**Purchased Assets**

PIN 07550-0052 (LT)

LT 13, PL 2104, EXCEPT PART 1, 64R1955, PART 7, RS1028, & PART 26, 64R8387 ; S/T  
EB542779,TB34882 ETOBICOKE , CITY OF TORONTO

PIN 07550-0051 (LT)

PT LT 14, PL 2104 , AS IN EB429988 ; ETOBICOKE , CITY OF TORONTO

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

PIN 07550-0051 (LT)

1. Notice as Instrument No. AT5328805
2. Charge in favour of Pesciolino Holdings Inc. registered as Instrument No. AT5328806
3. Notice registered as Instrument No. AT5328807
4. Postponement registered as Instrument No. AT5674648
5. Postponement registered as Instrument No. AT5674649
6. Postponement registered as Instrument No. AT5674650
7. Postponement registered as Instrument No. AT5709906
8. Postponement registered as Instrument No. AT5709907
9. Postponement registered as Instrument No. AT5709908
10. Application to Change Name registered as Instrument No. AT5766785
11. Postponement registered as Instrument No. AT5821000
12. Postponement registered as Instrument No. AT5821001
13. Postponement registered as Instrument No. AT5821002
14. Charge in favour of Mapleview Pear Tree Inc. registered as Instrument No. AT5978724
15. Postponement registered as Instrument No. AT5978784
16. Postponement registered as Instrument No. AT5978785

PIN 07550-0052 (LT)

1. Notice registered as Instrument No. AT5328805
2. Charge in favour of Pesciolino Holdings Inc. registered as Instrument No. AT5328799
3. Charge in favour of Pesciolino Holdings Inc. registered as Instrument No. AT5328806
4. Notice registered as Instrument No. AT5328807
5. Postponement registered as Instrument No. AT5674648
6. Postponement registered as Instrument No. AT5674649
7. Postponement registered as Instrument No. AT5674650

8. Postponement registered as Instrument No. AT5674651
9. Postponement registered as Instrument No. AT5709906
10. Postponement registered as Instrument No. AT5709907
11. Postponement registered as Instrument No. AT5709908
12. Application to Change Name registered as Instrument No. AT5766785
13. Postponement registered as Instrument No. AT5821000
14. Postponement registered as Instrument No. AT5821001
15. Postponement registered as Instrument No. AT5821002
16. Charge in favour of Maplevue Pear Tree Inc. registered as Instrument No. AT5978724
17. Postponement registered as Instrument No. AT5978784
18. Postponement registered as Instrument No. AT5978785

**Schedule "D"**  
**Permitted Encumbrances, Easements and Restrictive Covenants**  
**related to the Real Property**

**(unaffected by the Vesting Order)**

1. The reservations, limitations, provisions and conditions expressed in the original grant from the Crown and all unregistered rights, interests and privileges in favour of the Crown under or pursuant to any applicable statute or regulation.
2. Any subdivision agreement, development agreement, servicing agreement, site plan agreement or any other agreement, document, regulation, subdivision control by-law or other instrument containing provisions relating to the Lands or the use, development, installation of services and utilities or the erection of buildings or other improvements in or on the Lands.
3. All easements, licenses, rights-of-way, watercourses and rights (and all reference plans with respect thereto), whether registered or unregistered, including without limitation those for access or for the installation and maintenance of public and private utilities and other services including without limitation, telephone lines, hydro-electric lines, gas mains, water mains, sewers and drainage and other services or for the maintenance, repair or replacement of any adjoining building or lands, including any cost sharing agreement relating thereto, or any right of re-entry reserved by a predecessor in title.
4. Any restrictive covenants and building restrictions affecting the Lands.
5. Any defects of title or encroachments by or onto the Lands, whether by gardens, fences, trees, buildings, foundations, or other structures or things, which may be revealed by any survey or reference plan of the Lands, whether now in existence or not.
6. Utility agreements, and other similar agreements with Authorities or private or public utilities affecting the Lands.
7. Liens for taxes, local improvements, assessments or governmental charges or levies not at the time due or delinquent.
8. Undetermined, inchoate or statutory liens and charges (including, without limitation, the liens of public utilities, workers, suppliers of materials, contractors, subcontractors, architects and unpaid Receivers of moveable property) incidental to any current operations of the Lands which have not been filed pursuant to any legal requirement or which relate to obligations not yet due or delinquent.
9. Zoning restrictions, restrictions on the use of the Lands or minor irregularities in title thereto.
10. The reservations, limitations, conditions and exceptions to title set out in the *Land Titles Act (Ontario)*.
11. Instrument No. EB254155
12. Instrument No. 64R8387

13. Instrument No. EB542779
14. Instrument No. TB34882
15. Instrument No. E317117
16. Instrument No. AT1090313
17. Charge in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5328801
18. Notice of Assignment of Rents – General in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5328802
19. Notice of Right of First Refusal in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5328804
20. Instrument No. AT5674643
21. Postponement registered as Instrument No. AT5674645
22. Postponement registered as Instrument No. AT5674647
23. Notice in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5709874
24. Notice in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5820957



Court File No. —CV-23-00694646-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

(Commercial List)

THE HONOURABLE ) ~~WEEKDAY~~TUESDAY, THE #6<sup>TH</sup>  
JUSTICE )  
DAY OF ~~MONTH~~AUGUST, ~~20~~YR2024

BETWEEN:

**PLAINTIFF**CENTURION MORTGAGE CAPITAL CORPORATIONPlaintiffApplicant

—and—

**DEFENDANT**DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP  
AND DUNDAS SHORNCLIFFE LTD.Defendant  
Respondents**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by ~~[RECEIVER'S NAME]~~BDO Canada Limited in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of ~~[DEBTOR]~~ ~~(the "~~Dundas Shorncliffe Limited Partnership and its general partner Dundas Shorncliffe Ltd. (the "GP" and collectively, 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]~~Centurion Acquisition Corporation, in trust for a corporation to be incorporated (the "**Purchaser**") dated ~~[DATE]~~July 9, 2024, and appended to the Report of the Receiver dated ~~[DATE]~~July 29, 2024 (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.

**ON READING** the Report and on hearing the submissions of counsel for the Receiver, ~~[NAMES OF OTHER PARTIES APPEARING]~~counsel for the Purchaser, no one appearing for

any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~Victoria Gifford, sworn ~~[DATE]~~July 30, 2024 filed<sup>4</sup>:

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

2. ~~4.~~ **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. ~~2.~~ **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 otherwise (collectively, the "**Claims**"<sup>5</sup>) including, without limiting

~~<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.~~

~~<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~~

the generality of the foregoing: (i) any encumbrances or charges created by the ~~Order~~order of the Honourable Justice ~~[NAME]~~Kimmel dated ~~[DATE]~~August 4, 2023 (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. ~~3.~~ **THIS COURT ORDERS** that upon the registration in the Land Registry Office for ~~the~~ ~~[Registry Division of {LOCATION}]~~Toronto (number 80) 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} 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.

5. ~~4.~~ **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 same priority as they had with respect to the Purchased Assets immediately

~~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".~~

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.

6. ~~5.~~ **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 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.

~~<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.~~

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

8. ~~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.

9. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of the date of this order without any need for entry or filing.

---

Schedule "~~A~~"  
Form of Receiver's Certificate

Court File No. CV-23-00694646-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

(Commercial List)

BETWEEN:  
**PLAINTIFF**

CENTURION MORTGAGE CAPITAL CORPORATION  
**Plaintiff**

Applicant

-and-

**DEFENDANT**

DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP  
AND DUNDAS SHORNCLIFFE LTD.

**Defendant**  
Respondents

**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Justice Kinmel of the Ontario Superior Court of Justice (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ August 4, 2023, BDO Canada Limited was appointed as the receiver (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR]~~ Dundas Shorncliffe Limited Partnership and its general partner Dundas Shorncliffe Ltd. (the "GP" and collectively, the "Debtor").

B. Pursuant to an Order of the Court dated ~~[DATE]~~ August 6, 2024 the Court approved the agreement of purchase and sale made as of ~~[DATE OF AGREEMENT]~~ July 9, 2024 (the "Sale Agreement") between the Receiver ~~[Debtor]~~ and ~~[NAME OF PURCHASER]~~ and Centurion Acquisition Corporation, in trust for a corporation to be incorporated (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]~~ **BDO Canada Limited**,  
in its capacity as Receiver of the  
undertaking, property and assets of  
~~[DEBTOR]~~ **Dundas Shorncliffe Limited  
Partnership and its general partner Dundas  
Shorncliffe Ltd.**, and not in its personal  
capacity

Per: \_\_\_\_\_  
Name:  
Title:

**Schedule "B"**  
**Purchased Assets**

PIN 07550-0052 (LT)

LT 13, PL 2104, EXCEPT PART 1, 64R1955, PART 7, RS1028, & PART 26, 64R8387 ; S/T  
EB542779, TB34882 ETOBICOKE , CITY OF TORONTO

PIN 07550-0051 (LT)

PT LT 14, PL 2104 , AS IN EB429988 ; ETOBICOKE , CITY OF TORONTO



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

PIN 07550-0051 (LT)

1. [Notice as Instrument No. AT5328805](#)
2. [Charge in favour of Pesciolino Holdings Inc. registered as Instrument No. AT5328806](#)
3. [Notice registered as Instrument No. AT5328807](#)
4. [Postponement registered as Instrument No. AT5674648](#)
5. [Postponement registered as Instrument No. AT5674649](#)
6. [Postponement registered as Instrument No. AT5674650](#)
7. [Postponement registered as Instrument No. AT5709906](#)
8. [Postponement registered as Instrument No. AT5709907](#)
9. [Postponement registered as Instrument No. AT5709908](#)
10. [Application to Change Name registered as Instrument No. AT5766785](#)
11. [Postponement registered as Instrument No. AT5821000](#)
12. [Postponement registered as Instrument No. AT5821001](#)
13. [Postponement registered as Instrument No. AT5821002](#)
14. [Charge in favour of Mapleview Pear Tree Inc. registered as Instrument No. AT5978724](#)
15. [Postponement registered as Instrument No. AT5978784](#)
16. [Postponement registered as Instrument No. AT5978785](#)

PIN 07550-0052 (LT)

1. [Notice registered as Instrument No. AT5328805](#)
2. [Charge in favour of Pesciolino Holdings Inc. registered as Instrument No. AT5328799](#)
3. [Charge in favour of Pesciolino Holdings Inc. registered as Instrument No. AT5328806](#)
4. [Notice registered as Instrument No. AT5328807](#)
5. [Postponement registered as Instrument No. AT5674648](#)
6. [Postponement registered as Instrument No. AT5674649](#)

- [7. Postponement registered as Instrument No. AT5674650](#)
- [8. Postponement registered as Instrument No. AT5674651](#)
- [9. Postponement registered as Instrument No. AT5709906](#)
- [10. Postponement registered as Instrument No. AT5709907](#)
- [11. Postponement registered as Instrument No. AT5709908](#)
- [12. Application to Change Name registered as Instrument No. AT5766785](#)
- [13. Postponement registered as Instrument No. AT5821000](#)
- [14. Postponement registered as Instrument No. AT5821001](#)
- [15. Postponement registered as Instrument No. AT5821002](#)
- [16. Charge in favour of Maplevue Pear Tree Inc. registered as Instrument No. AT5978724](#)
- [17. Postponement registered as Instrument No. AT5978784](#)
- [18. Postponement registered as Instrument No. AT5978785](#)

**Schedule “D—”**  
**Permitted Encumbrances, Easements and Restrictive Covenants**  
**related to the Real Property**

**(unaffected by the Vesting Order)**

1. The reservations, limitations, provisions and conditions expressed in the original grant from the Crown and all unregistered rights, interests and privileges in favour of the Crown under or pursuant to any applicable statute or regulation.
2. Any subdivision agreement, development agreement, servicing agreement, site plan agreement or any other agreement, document, regulation, subdivision control by-law or other instrument containing provisions relating to the Lands or the use, development, installation of services and utilities or the erection of buildings or other improvements in or on the Lands.
3. All easements, licenses, rights-of-way, watercourses and rights (and all reference plans with respect thereto), whether registered or unregistered, including without limitation those for access or for the installation and maintenance of public and private utilities and other services including without limitation, telephone lines, hydro-electric lines, gas mains, water mains, sewers and drainage and other services or for the maintenance, repair or replacement of any adjoining building or lands, including any cost sharing agreement relating thereto, or any right of re-entry reserved by a predecessor in title.
4. Any restrictive covenants and building restrictions affecting the Lands.
5. Any defects of title or encroachments by or onto the Lands, whether by gardens, fences, trees, buildings, foundations, or other structures or things, which may be revealed by any survey or reference plan of the Lands, whether now in existence or not.
6. Utility agreements, and other similar agreements with Authorities or private or public utilities affecting the Lands.
7. Liens for taxes, local improvements, assessments or governmental charges or levies not at the time due or delinquent.
8. Undetermined, inchoate or statutory liens and charges (including, without limitation, the liens of public utilities, workers, suppliers of materials, contractors, subcontractors, architects and unpaid Receivers of moveable property) incidental to any current operations of the Lands which have not been filed pursuant to any legal requirement or which relate to obligations not yet due or delinquent.
9. Zoning restrictions, restrictions on the use of the Lands or minor irregularities in title thereto.
10. The reservations, limitations, conditions and exceptions to title set out in the *Land Titles Act (Ontario)*.
11. Instrument No. EB254155

12. [Instrument No. 64R8387](#)
13. [Instrument No. EB542779](#)
14. [Instrument No. TB34882](#)
15. [Instrument No. E317117](#)
16. [Instrument No. AT1090313](#)
17. [Charge in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5328801](#)
18. [Notice of Assignment of Rents – General in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5328802](#)
19. [Notice of Right of First Refusal in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5328804](#)
20. [Instrument No. AT5674643](#)
21. [Postponement registered as Instrument No. AT5674645](#)
22. [Postponement registered as Instrument No. AT5674647](#)
23. [Notice in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5709874](#)
24. [Notice in favour of Centurion Mortgage Capital Corporation registered as Instrument No. AT5820957](#)

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<b>Summary report:</b>	
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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

THE HONOURABLE ) TUESDAY, THE 6<sup>TH</sup>  
 )  
JUSTICE ) DAY OF AUGUST, 2024  
 )

B E T W E E N:

CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

and

DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP  
AND DUNDAS SHORNCLIFFE LTD.

Respondents

**DISTRIBUTION AND DISCHARGE ORDER**

**THIS MOTION**, made by BDO Canada Limited its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Dundas Shorncliffe Limited Partnership and its general partner Dundas Shorncliffe Ltd. (the "**GP**" and collectively, the "**Debtor**") for an order:

1. approving the activities of the Receiver as set out in the report of the Receiver dated July 29, 2024 (the "**Report**");
2. approving the fees and disbursements of the Receiver and its counsel;
3. approving the distribution of the remaining proceeds available in the estate of the Debtor;
4. discharging BDO Canada Limited as Receiver of the undertaking, property and assets of the Debtor; and,

5. releasing BDO Canada Limited from any and all liability, as set out in paragraph 5 of this Order,

was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Report, the affidavits of the Receiver and its counsel as to fees (the "**Fee Affidavits**"), and on hearing the submissions of counsel for the Receiver, no one else appearing although served as evidenced by the Affidavit of Victoria Gifford, sworn July 30, 2024, filed;

1. **THIS COURT ORDERS** that the activities of the Receiver, as set out in the Report, are hereby approved.

2. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, as set out in the Report and the Fee Affidavits, are hereby approved.

3. **THIS COURT ORDERS** that the Receiver shall distribute the amount of \$\_\_\_\_\_ to Pesciolino Holdings Ltd., as more particularly described at paragraph 43 of the Report.

4. **THIS COURT ORDERS** that upon payment of the amounts set out in paragraph 3 hereof and upon the Receiver filing a certificate certifying that it has completed the other activities described in the Report, the Receiver shall be 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 BDO Canada Limited in its capacity as Receiver.

5. **THIS COURT ORDERS AND DECLARES** that BDO Canada Limited is hereby released and discharged from any and all liability that BDO Canada Limited now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of BDO Canada Limited 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, BDO Canada Limited 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.

6. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of the date of this order without any need for entry or filing.

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

THE HONOURABLE ) ~~WEEKDAY~~TUESDAY, THE #6<sup>TH</sup>  
 )  
JUSTICE ) DAY OF ~~MONTH~~AUGUST, ~~20~~YR2024

B E T W E E N:

**PLAINTIFF**

CENTURION MORTGAGE CAPITAL CORPORATION  
**Plaintiff**

Applicant

—and—

**DEFENDANT**

DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP  
AND DUNDAS SHORNCLIFFE LTD.

**Defendant**  
Respondents

**DISTRIBUTION AND DISCHARGE ORDER**

**THIS MOTION**, made by ~~[RECEIVER'S NAME]~~ in BDO Canada Limited its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of ~~[DEBTOR]~~ ~~(the "~~Dundas Shorncliffe Limited Partnership and its general partner Dundas Shorncliffe Ltd. (the "GP" and collectively, the "Debtor")~~");~~ for an order:

1. approving the activities of the Receiver as set out in the report of the Receiver dated ~~[DATE]~~July 29, 2024 (the "**Report**");
2. approving the fees and disbursements of the Receiver and its counsel;
3. approving the distribution of the remaining proceeds available in the estate of the Debtor; ~~[and]~~
4. discharging ~~[RECEIVER'S NAME]~~BDO Canada Limited as Receiver of the undertaking, property and assets of the Debtor; and,

5. releasing ~~[RECEIVER'S NAME]~~BDO Canada Limited from any and all liability, as set out in paragraph 5 of this Order<sup>1</sup>,

was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Report, the affidavits of the Receiver and its counsel as to fees (the "Fee Affidavits"), and on hearing the submissions of counsel for the Receiver, no one else appearing although served as evidenced by the Affidavit of ~~[NAME]~~Victoria Gifford, sworn ~~[DATE]~~July 30, 2024, filed<sup>2</sup>;

1. **THIS COURT ORDERS** that the activities of the Receiver, as set out in the Report, are hereby approved.

2. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, as set out in the Report and the Fee Affidavits, are hereby approved.

3. **THIS COURT ORDERS** that, ~~after payment of the fees and disbursements herein approved,~~ the Receiver shall ~~pay the monies remaining in its hands to [NAME OF PARTY]~~<sup>3</sup>distribute the amount of \$ \_\_\_\_\_ to Pesciolino Holdings Ltd., as more particularly described at paragraph 43 of the Report.

4. **THIS COURT ORDERS** that upon payment of the amounts set out in paragraph 3 hereof ~~[and upon the Receiver filing a certificate certifying that it has completed the other activities described in the Report]~~, the Receiver shall be 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 ~~[RECEIVER'S NAME]~~BDO Canada Limited in its capacity as Receiver.

<sup>1</sup>~~If this relief is being sought, stakeholders should be specifically advised, and given ample notice. See also Note 4, below.~~

<sup>2</sup>~~This model order assumes that the time for service does not need to be abridged.~~

<sup>3</sup>~~This model order assumes that the material filed supports a distribution to a specific secured creditor or other party.~~

5. **{THIS COURT ORDERS AND DECLARES** that ~~{RECEIVER'S NAME}~~BDO Canada Limited is hereby released and discharged from any and all liability that ~~{RECEIVER'S NAME}~~BDO Canada Limited now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of ~~{RECEIVER'S NAME}~~BDO Canada Limited 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, ~~{RECEIVER'S NAME}~~BDO Canada Limited 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.<sup>4</sup>

6. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of the date of this order without any need for entry or filing.

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<sup>4</sup>The model order subcommittee was divided as to whether a general release might be appropriate. On the one hand, the Receiver has presumably reported its activities to the Court, and presumably the reported activities have been approved in prior Orders. Moreover, the Order that appointed the Receiver likely has protections in favour of the Receiver. These factors tend to indicate that a general release of the Receiver is not necessary. On the other hand, the Receiver has acted only in a representative capacity, as the Court's officer, so the Court may find that it is appropriate to insulate the Receiver from all liability, by way of a general release. Some members of the subcommittee felt that, absent a general release, Receivers might hold back funds and/or wish to conduct a claims bar process, which would unnecessarily add time and cost to the receivership. The general release language has been added to this form of model order as an option only, to be considered by the presiding Judge in each specific case. See also Note 1, above.

<b>Summary report:</b>	
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CENTURION MORTGAGE CAPITAL CORPORATION  
Applicant

-and- DUNDAS SHORNCLIFFE LIMITED PARTNERSHIP, ET AL.  
Respondents

Court File No. CV-23-00694646-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**MOTION RECORD**

**LERNERS LLP**

225 King Street West, Suite 1600  
Toronto ON M5V 3M2

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Lawyers for the Receiver