

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**CANADIAN IMPERIAL BANK OF COMMERCE**

Plaintiff

- and -

**SIMRANJIT DHILLON, MANDHIR DHILLON, SARBJIT DHILLON, MANDEEP  
DHILLON, 908593 ONTARIO LIMITED, operating as Eagle Travel Plaza, 1393382  
ONTARIO LIMITED, 2145744 ONTARIO LIMITED, 2145754 ONTARIO LIMITED,  
1552838 ONTARIO INC., 2189788 ONTARIO INC., 2123618 ONTARIO LIMITED,  
1849722 ONTARIO LIMITED, 2469244 ONTARIO LIMITED, 2364507 ONTARIO  
LIMITED, 1254044 ONTARIO LIMITED and 2612550 ONTARIO LIMITED**

Defendants

**MOTION RECORD**  
(returnable October 11, 2019)

Date: October 11, 2019

**AIRD & BERLIS LLP**

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181 Bay Street, Suite 1800  
Toronto, Ontario M5J 2T9

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*Lawyers for BDO Canada Limited in its  
capacity as the court-appointed Receiver of  
908593 Ontario Limited, operating as  
Eagle Travel Plaza, et al.*

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN :

**CANADIAN IMPERIAL BANK OF COMMERCE**

Plaintiff

- and -

**SIMRANJIT DHILLON, MANDHIR DHILLON, SARBJIT DHILLON, MANDEEP  
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ONTARIO LIMITED, 2145744 ONTARIO LIMITED, 2145754 ONTARIO LIMITED,  
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LIMITED, 1254044 ONTARIO LIMITED and 2612550 ONTARIO LIMITED**

Defendants

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# TAB 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**CANADIAN IMPERIAL BANK OF COMMERCE**

Plaintiff

- and -

**SIMRANJIT DHILLON, MANDHIR DHILLON, SARBJIT DHILLON, MANDEEP  
DHILLON, 908593 ONTARIO LIMITED, operating as Eagle Travel Plaza, 1393382  
ONTARIO LIMITED, 2145744 ONTARIO LIMITED, 2145754 ONTARIO LIMITED,  
1552838 ONTARIO INC., 2189788 ONTARIO INC., 2123618 ONTARIO LIMITED,  
1849722 ONTARIO LIMITED, 2469244 ONTARIO LIMITED, 2364507 ONTARIO  
LIMITED, 1254044 ONTARIO LIMITED and 2612550 ONTARIO LIMITED**

Defendants

**NOTICE OF MOTION  
(returnable October 11, 2019)**

BDO Canada Limited (“**BDO**”), in its capacity as Court-appointed receiver and manager (in such capacity, the “**Receiver**”) of the assets, undertakings and properties of 908593 Ontario Limited operating as Eagle Travel Plaza, 1393382 Ontario Limited, 2145744 Ontario Limited, 2145754 Ontario Limited, 1552838 Ontario Inc., 2189788 Ontario Inc., 2123618 Ontario Limited, 1849722 Ontario Limited, 2469244 Ontario Limited, 2364507 Ontario Limited, 1254044 Ontario Limited and 2612550 Ontario Limited (collectively, the “**Debtors**”), will make a motion to a the Honourable Mr. Justice Hainey on Friday, October 11, 2019 at 12:00 p.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

1. **THE MOTION IS FOR**, amongst other things, an order:

- (a) if necessary, abridging the time for service and filing of this notice of motion and the motion record or, in the alternative, dispensing with same;
- (b) amending and restating the Order of the Honourable Mr. Justice Hainey dated September 30, 2019 (as amended, the “**Appointment Order**”), to increase the Receiver’s borrowing limit under the Receiver’s Borrowing Charge (as defined in the Appointment Order) to \$10,000,000; and
- (c) such further and other relief as counsel may advise and this Court may permit.

2. **THE GROUNDS FOR THE MOTION ARE:**

*Appointment Order*

- (a) pursuant to the Appointment Order, BDO was: (i) appointed as Receiver, without security, of all the assets, undertakings and properties of the Debtors, including all proceeds thereof (the “**Property**”); and (ii) empowered and authorized, but not obligated, to act at once in respect of all of the Property;
- (b) the circumstances leading up to the Receiver’s appointment are summarized in the motion record filed by Canadian Imperial Bank of Commerce (“**CIBC**”) in support of its application to appoint the Receiver, which has been sealed;
- (c) paragraph 24 of the Appointment Order authorizes the Receiver to borrow by way of a revolving credit facility or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$2,000,000 (the “**Borrowing Limit**”) or such greater amount as the Court may by further order authorize, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by the Appointment Order, including interim expenditures;

***Borrowing Limit Increase***

- (d) on Friday, October 4, 2019, the Honourable Mr. Justice Hailey signed an amendment to the Appointment Order increasing the Borrowing Limit to \$5,000,000 (the “**First Borrowing Limit Increase**”);
- (e) since the date of the First Borrowing Limit Increase, the Receiver has made significant expenditures of the funds advanced to it by CIBC pursuant to paragraph 24 of the Appointment Order, due to the high daily costs of operating the Debtors’ business, including, without limitation, funding requirements for fuel alone in the sum of more than \$1,000,000 per day;
- (f) as the date hereof, the Receiver’s balance is approximately \$1,000,000 short of the current \$5,000,000 Borrowing Limit;
- (g) the Receiver anticipates that it will require additional funding over the course of the near term to fund the exercise of the powers and duties conferred upon it by the Appointment Order;
- (h) the Receiver accordingly requests an increase of \$5,000,000 to the Borrowing Limit, such that the new Borrowing Limit will be \$10,000,000;
- (i) the facts set out in the Second Report of the Receiver dated October 10, 2019 (the “**Second Report**”);
- (j) the inherent and equitable jurisdiction of this Court;
- (k) the terms of the Appointment Order;
- (l) the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (m) rules 1.04, 1.05, 2.01, 2.03, 3.02, 16, 17 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- (n) such further and other grounds as counsel may advise and this Court may permit.

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

- (a) the Second Report; and
- (b) such further and other material as counsel may submit and this Court may permit.

Date: October 11, 2019

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*Lawyers for BDO Canada Limited in its  
capacity as the court-appointed Receiver of  
the Debtors*

**TO: ATTACHED SERVICE LIST**

CANADIAN IMPERIAL BANK OF COMMERCE

Plaintiff

-and-

SIMRANJIT DHILLON et al.

Defendants

Court File No. CV-19-00628293-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**Proceedings commenced at Toronto**

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**NOTICE OF MOTION  
(returnable October 11, 2019)**

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*Lawyers for BDO Canada Limited in its capacity as the court-appointed Receiver of 908593 Ontario Limited, operating as Eagle Travel Plaza, et al.*



# TAB 2

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) FRIDAY, THE 11<sup>TH</sup>  
JUSTICE HAINEY ) DAY OF OCTOBER, 2019

B E T W E E N :

**CANADIAN IMPERIAL BANK OF COMMERCE**

Plaintiff

- and -

**SIMRANJIT DHILLON, MANDHIR DHILLON, SARBJIT DHILLON, MANDEEP  
DHILLON, 908593 ONTARIO LIMITED, operating as Eagle Travel Plaza, 1393382  
ONTARIO LIMITED, 2145744 ONTARIO LIMITED, 2145754 ONTARIO LIMITED,  
1552838 ONTARIO INC., 2189788 ONTARIO INC., 2123618 ONTARIO LIMITED,  
1849722 ONTARIO LIMITED, 2469244 ONTARIO LIMITED, 2364507 ONTARIO  
LIMITED, 1254044 ONTARIO LIMITED and 2612550 ONTARIO LIMITED**

Defendants

**ORDER**

**THIS MOTION**, made by BDO Canada Limited (“**BDO**”), in its capacity as Court-appointed receiver and manager (in such capacity, the “**Receiver**”) of the assets, undertakings and properties of 908593 Ontario Limited operating as Eagle Travel Plaza, 1393382 Ontario Limited, 2145744 Ontario Limited, 2145754 Ontario Limited, 1552838 Ontario Inc., 2189788 Ontario Inc., 2123618 Ontario Limited, 1849722 Ontario Limited, 2469244 Ontario Limited, 2364507 Ontario Limited, 1254044 Ontario Limited and 2612550 Ontario Limited (collectively, the “**Debtors**”), for an order, amongst other things, amending and restating the Order of the Honourable Mr. Justice Hainey dated September 30, 2019 (as amended, the “**Appointment Order**”) to increase the Receiver’s borrowing limit under the Receiver’s Borrowing Charge (as

defined in the Appointment Order) to \$10,000,000, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Second Report and the appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list although duly served as appears from the affidavit of service of Diana McMillen sworn October 11, 2019,

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
  
  2. **THIS COURT ORDERS** that the Appointment Order be and is hereby amended and restated in the form attached hereto as **Schedule "A"**.
-

**SCHEDULE "A"**

See attached.

CANADIAN IMPERIAL BANK OF COMMERCE

Plaintiff

-and-

SIMRANJIT DHILLON et al.

Defendants

Court File No. CV-19-00628293-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**  
**Proceedings commenced at Toronto**

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**ORDER**

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*Lawyers for BDO Canada Limited in its capacity as the court-appointed Receiver of 908593 Ontario Limited, operating as Eagle Travel Plaza, et al.*

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.

)

MONDAY, THE 30<sup>TH</sup>

)

JUSTICE HAINEY

)

DAY OF SEPTEMBER, 2019

B E T W E E N:

CANADIAN IMPERIAL BANK OF COMMERCE

Plaintiff

and

SIMRANJIT DHILLON, MANDHIR DHILLON, SARBJIT DHILLON,  
MANDEEP DHILLON, 908593 ONTARIO LIMITED, operating as Eagle Travel  
Plaza, 1393382 ONTARIO LIMITED, 2145744 ONTARIO LIMITED, 2145754  
ONTARIO LIMITED, 1552838 ONTARIO INC., 2189788 ONTARIO INC.,  
2123618 ONTARIO LIMITED, 1849722 ONTARIO LTD., 2469244 ONTARIO  
LIMITED, 2364507 ONTARIO LIMITED, 1254044 ONTARIO LIMITED and  
2612550 ONTARIO LIMITED

Defendants

**AMENDED ORDER**

THIS MOTION made by the Plaintiff 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 receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of 908593 ONTARIO LIMITED, operating as Eagle Travel Plaza, 1393382 ONTARIO LIMITED, 2145744 ONTARIO LIMITED, 2145754 ONTARIO

LIMITED, 1552838 ONTARIO INC., 2189788 ONTARIO INC., 2123618 ONTARIO LIMITED, 1849722 ONTARIO LTD, 2469244 ONTARIO LIMITED, 2364507 ONTARIO LIMITED, 1254044 ONTARIO LIMITED and 2612550 ONTARIO LIMITED (collectively the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record dated September 30, 2019 and on hearing the submissions of counsel for the applicant, counsel for BDO Canada Limited in its capacity as proposed receiver, and upon being advised that counsel for certain of the Debtors was given notice of this motion, 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 Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

#### **APPOINTMENT**

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

#### **RECEIVER'S POWERS**

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality

of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the 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, investigators, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;



- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
- (l) without the approval of this Court in respect of any transaction not exceeding \$500,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and

- (m) 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;
- (n) 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;
- (o) 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;
- (p) 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;
- (q) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (r) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (s) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;

- (t) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (u) to provide copies of any materials that Grant Thornton Limited requests, and which the Receiver believes, acting reasonably, the Grant Thornton requires, which may be of assistance or required as part of Grant Thornton's engagement by the Plaintiff to conduct a forensic investigation. Materials shall include but shall not be limited to electronic records or information contained therein.
- (v) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

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

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on 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 Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. THIS COURT ORDERS that all Persons are hereby enjoined and restrained from in any way altering, concealing, defacing, destroying, discarding, erasing or otherwise tampering or adversely dealing with any of the Property of the Debtors or from removing any Property out of the ordinary course of business, from the premises of the Debtors without the prior written consent of the Receiver.

8. THIS COURT ORDERS that any security personnel engaged by the Receiver pursuant to paragraph 3(b) herein shall be authorized and entitled, but not required, to escort or remove any Persons onto or from the Property of the Debtors as the Receiver may in its sole discretion consider it necessary or desirable to escort or remove.

9. 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.

**OBLIGATIONS OF THE DEBTORS AND OTHERS**

10. THIS COURT ORDERS that all of the current and former directors, officers, employees, agents, accountants, and shareholders of the Debtors, and all other persons acting on their instructions or behalf and all persons with notice of this order are hereby restrained from:

- (a) selling, removing, dissipating, alienating, transferring, assigning, encumbering, or similarly dealing with the Property, wherever situate, without prior approval of the Receiver;
- (b) instructing, requesting, counselling, demanding , or encouraging any other person to do the acts identified in subparagraph 10(a) above; and
- (c) facilitating, assisting in, aiding, abetting, or participating in any of the activities subparagraph 10(a) above.

without prior written instructions from the Receiver.

**NO PROCEEDINGS AGAINST THE RECEIVER**

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

**NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

12. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

13. THIS COURT ORDERS that all rights and remedies against the Debtors, 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 Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

14. 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 Debtors, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

15. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current

telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

16. 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**

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



## **PIPEDA**

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

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

19. 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**

20. 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**

21. 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.

22. 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.

23. 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**

24. 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 \$10,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

25. 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.

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

27. 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**

28. 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 [www.extranets.bdo.ca/eagletravelplaza](http://www.extranets.bdo.ca/eagletravelplaza).

29. 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 Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or 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.

**GENERAL**

30. 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.

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

32. 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.

33. 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.

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

35. 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.

36. THIS COURT ORDERS that, until further Order of this Court, the Motion Record in support of this Motion shall be sealed and not form part of the public record and any persons served with a copy of it shall keep it and its contents confidential and shall not disclose its contents to any person except their legal counsel.

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**Schedule "A"**

**RECEIVER CERTIFICATE**

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

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

THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an action having Court file number \_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

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.

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.

All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

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.

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.

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\_\_.

[RECEIVER'S NAME], solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per:

\_\_\_\_\_  
Name:

Title:



CANADIAN IMPERIAL BANK OF COMMERCE  
Plaintiff

-and- SIMRANJIT DHILLON et al.  
Defendants

Court File No. CV-19-00628293-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**AMENDED ORDER**

**LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP**

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Lawyers for the Plaintiff

# TAB 3

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

**BETWEEN:**

**CANADIAN IMPERIAL BANK OF COMMERCE**

**Plaintiff**

**- and -**

**SIMRANJIT DHILLON, MANDHIR DHILLON, SARBJIT DHILLON,  
MANDEEP DHILLON, 908593 ONTARIO LIMITED, operating as Eagle Travel  
Plaza, 1393382 ONTARIO LIMITED, 2145744 ONTARIO LIMITED, 2145754  
ONTARIO LIMITED, 1552838 ONTARIO INC., 2189788 ONTARIO INC.,  
2123618 ONTARIO LIMITED, 1849722 ONTARIO LTD., 2469244 ONTARIO  
LIMITED, 2364507 ONTARIO LIMITED, 1254044 ONTARIO LIMITED and  
2612550 ONTARIO LIMITED**

**Defendants**

**SECOND REPORT OF BDO CANADA LIMITED, IN ITS CAPACITY  
AS COURT APPOINTED RECEIVER AND MANAGER**

**October 11, 2019**

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## **Background**

1. By way of an order of the Honourable Justice Hainey dated September 30, 2019 (as amended, the "Appointment Order"), BDO Canada Limited was appointed as the receiver and manager (in such capacities, the "Receiver"), without security, of all of the assets, undertakings and properties of 908593 ONTARIO LIMITED, operating as Eagle Travel Plaza ("908"), 1393382 ONTARIO LIMITED, 2145744 ONTARIO LIMITED, 2145754 ONTARIO LIMITED, 1552838 ONTARIO INC., 2189788 ONTARIO INC., 2123618 ONTARIO LIMITED, 1849722 ONTARIO LTD, 2469244 ONTARIO LIMITED, 2364507 ONTARIO LIMITED, 1254044 ONTARIO LIMITED and 2612550 ONTARIO LIMITED (collectively, the "Debtors") acquired for, or used in relation to a business carried on by the Debtors.

2. 908 is the principal Debtor. 908, together with certain of the other Debtors, operates a number of truck service centres and fueling stations in Southwestern Ontario, and a fleet member reward card program used by its customers at gas stations located in Canada and the United States. The service centres are located in Tilbury, Chatham, and Sarnia (two locations). The remaining Debtors are related companies who own, operate and/or guarantee related businesses and/or assets.

## **Purpose of this Report**

3. This constitutes the Receiver's second report to the Court in this matter (the "Second Report"). It is filed in support of the BDO's request for an order, *Inter alia* (the "BDO Motion"):

- (a) amending and restating the Appointment Order to increase the Receiver's borrowing limit under the Receiver's Borrowing Charge (as defined in the Appointment Order) to \$10,000,000.

## **Scope and Terms of Reference**

4. This Second Report has been prepared for the limited purpose of supporting the BDO Motion and for the use of this Court. Accordingly, the reader is cautioned that the Second

Report may not be appropriate for any other purpose. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of the Second Report for purposes other than as set out herein.

5. All court materials (other than those sealed by Court order) and orders and endorsements issued and filed in these receivership proceedings are available on the Receiver's website at: [www.extranets.bdo.ca/eagletravelplaza](http://www.extranets.bdo.ca/eagletravelplaza) and will remain available on the website for a period of six (6) months following the Receiver's discharge.

#### **Receiver's Borrowing Limit**

6. In light of the circumstances of its appointment, the Receiver was appointed without an accurate appreciation of the cash needs associated with running the Debtors' businesses. The Receiver has been working diligently since its appointment to gain a greater understanding of those needs, and is continuing to learn about the costs associated with the Debtors' operations.

7. Pursuant to paragraph 24 of the Appointment Order, the Receiver was initially authorized to borrow by way of a revolving credit facility or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$2,000,000 (the "Borrowing Limit"), or such greater amount as the Court may by further order authorize, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by the Appointment Order, including interim expenditures.

8. On Friday, October 4, 2019, the Honourable Mr. Justice Haaney signed an amendment to the Appointment Order increasing the Borrowing Limit to \$5,000,000 (the "First Borrowing Limit Increase"). A copy of the Appointment Order, as amended, is attached hereto as Appendix A.

9. Since the First Borrowing Limit Increase, the Receiver has made significant expenditures in the course of operating the Debtors' business, including, most significantly, expenditures associated with purchasing fuel through the Debtors' fleet card programme, as well as for the operating gas stations. Notably, and without limitation, the Receiver has been required to pay

the Debtors' primary suppliers, Pilot Travel Centers LLC and Flying J Canada Inc. (together, "Pilot"), more than \$1,000,000 per day in fuel costs during the period October 7 through October 15, 2019, as part of an interim "stabilization" agreement. The Receiver has also been required to make payments to and post deposits with T-check and Com Data, two other suppliers associated with the fleet card business, totalling more than \$825,000, with new amounts coming due multiple times per week, in order to maintain the Receiver's accounts within the required margin.

10. The Receiver's access to funds has been complicated by the fact that, to date, a material portion of payments received from customers have been returned for non-sufficient funds, or stopped. As a result, there is considerable uncertainty surrounding the Receiver's receipt of funds. As the Receiver does not have certainty that such receipts will be honoured, the Receiver is not comfortable using those receipts for the operation of the Debtor's business, until after the expiry of a ten-day hold period.

11. As of the date of this Second Report, the balance available to the Receiver under the Borrowing Limit is approximately \$1,000,000 short of the current \$5,000,000 Borrowing Limit.

12. The Receiver anticipates that it will require additional funding over the course of the next several days of the receivership proceedings to pay for critical daily supplies, such as gas for the gas stations, which supplies enable the Debtors' business to operate on a business as usual basis, together with various costs associated with the fleet card business. Currently, the Receiver estimates its immediate needs as, approximately and without limitation:

- (a) \$2 million in fuel payments to Pilot to October 15, 2019;
- (b) \$400,000 (\$300K USD) for T-check;
- (c) \$200,000 (\$150K USD) for Com Data;
- (d) \$400,000 for gas purchases for operating gas stations from Parkland and AMCO;

- (e) \$40,000 in convenience store inventory purchases; and
- (f) \$25,000 per week in payroll costs.

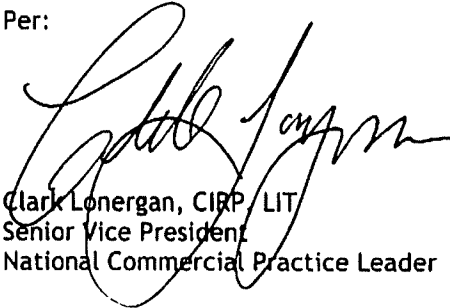
13. The Receiver is exercising all efforts possible to stabilize the business, and expending such funds as are necessary to achieve such stabilization.

14. Accordingly, the Receiver requests an increase of \$5,000,000 to the Borrowing Limit to cover the obligations that will likely accrue, and thereby enable the Receiver to continue to carry out its mandate pursuant to the Appointment Order. The Receiver advises the Court that it will only make those draw-downs necessary to its function as Receiver.

All of which is respectfully submitted this 11<sup>th</sup> day of October 2019.

**BDO CANADA LIMITED,**  
solely in its capacity as Court-appointed receiver and manager  
of SIMRANJIT DHILLON, MANDHIR DHILLON, SARBJIT DHILLON,  
MANDEEP DHILLON, 908593 ONTARIO LIMITED, operating as  
Eagle Travel Plaza, 1393382 ONTARIO LIMITED, 2145744  
ONTARIO LIMITED, 2145754 ONTARIO LIMITED, 1552838  
ONTARIO INC., 2189788 ONTARIO INC., 2123618 ONTARIO  
LIMITED, 1849722 ONTARIO LTD., 2469244 ONTARIO LIMITED,  
2364507 ONTARIO LIMITED, 1254044 ONTARIO LIMITED and  
2612550 ONTARIO LIMITED

Per:



Clark Lonergan, CFP®, LIT  
Senior Vice President  
National Commercial Practice Leader



# APPENDIX A

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.

)

MONDAY, THE 30<sup>TH</sup>

JUSTICE HAINEY

)

DAY OF SEPTEMBER, 2019

)

BETWEEN:



CANADIAN IMPERIAL BANK OF COMMERCE

Plaintiff

and

SIMRANJIT DHILLON, MANDHIR DHILLON, SARBJIT DHILLON,  
MANDEEP DHILLON, 908593 ONTARIO LIMITED, operating as Eagle Travel  
Plaza, 1393382 ONTARIO LIMITED, 2145744 ONTARIO LIMITED, 2145754  
ONTARIO LIMITED, 1552838 ONTARIO INC., 2189788 ONTARIO INC.,  
2123618 ONTARIO LIMITED, 1849722 ONTARIO LTD., 2469244 ONTARIO  
LIMITED, 2364507 ONTARIO LIMITED, 1254044 ONTARIO LIMITED and  
2612550 ONTARIO LIMITED

Defendants

**AMENDED ORDER**

THIS MOTION made by the Plaintiff 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 receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of 908593 ONTARIO LIMITED, operating as Eagle Travel Plaza, 1393382 ONTARIO LIMITED, 2145744 ONTARIO LIMITED, 2145754 ONTARIO

LIMITED, 1552838 ONTARIO INC., 2189788 ONTARIO INC., 2123618 ONTARIO LIMITED, 1849722 ONTARIO LTD, 2469244 ONTARIO LIMITED, 2364507 ONTARIO LIMITED, 1254044 ONTARIO LIMITED and 2612550 ONTARIO LIMITED (collectively the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record dated September 30, 2019 and on hearing the submissions of counsel for the applicant, counsel for BDO Canada Limited in its capacity as proposed receiver, and upon being advised that counsel for certain of the Debtors was given notice of this motion, 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 Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

### **APPOINTMENT**

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

### **RECEIVER'S POWERS**

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality

of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the 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, investigators, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;

- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
- (l) without the approval of this Court in respect of any transaction not exceeding \$500,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and

- (m) 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;
- (n) 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;
- (o) 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;
- (p) 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;
- (q) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (r) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (s) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;

- (t) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (u) to provide copies of any materials that Grant Thornton Limited requests, and which the Receiver believes, acting reasonably, the Grant Thornton requires, which may be of assistance or required as part of Grant Thornton's engagement by the Plaintiff to conduct a forensic investigation. Materials shall include but shall not be limited to electronic records or information contained therein.
- (v) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

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

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on 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 Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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



the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. THIS COURT ORDERS that all Persons are hereby enjoined and restrained from in any way altering, concealing, defacing, destroying, discarding, erasing or otherwise tampering or adversely dealing with any of the Property of the Debtors or from removing any Property out of the ordinary course of business, from the premises of the Debtors without the prior written consent of the Receiver.

8. THIS COURT ORDERS that any security personnel engaged by the Receiver pursuant to paragraph 3(b) herein shall be authorized and entitled, but not required, to escort or remove any Persons onto or from the Property of the Debtors as the Receiver may in its sole discretion consider it necessary or desirable to escort or remove.

9. 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.

## **OBLIGATIONS OF THE DEBTORS AND OTHERS**

10. THIS COURT ORDERS that all of the current and former directors, officers, employees, agents, accountants, and shareholders of the Debtors, and all other persons acting on their instructions or behalf and all persons with notice of this order are hereby restrained from:

- (a) selling, removing, dissipating, alienating, transferring, assigning, encumbering, or similarly dealing with the Property, wherever situate, without prior approval of the Receiver;
- (b) instructing, requesting, counselling, demanding , or encouraging any other person to do the acts identified in subparagraph 10(a) above; and
- (c) facilitating, assisting in, aiding, abetting, or participating in any of the activities subparagraph 10(a) above.

without prior written instructions from the Receiver.

## **NO PROCEEDINGS AGAINST THE RECEIVER**

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

## **NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

12. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

13. THIS COURT ORDERS that all rights and remedies against the Debtors, 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 Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

14. 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 Debtors, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

15. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current

telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

16. 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**

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

## **PIPEDA**

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

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

19. 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**

20. 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**

21. 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.

22. 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.

23. 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**

24. 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 \$5,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

25. 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.

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

27. 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**

28. 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 [www.extranets.bdo.ca/eagletravelplaza](http://www.extranets.bdo.ca/eagletravelplaza).



29. 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 Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or 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.

**GENERAL**

30. 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.

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

32. 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.

33. 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.

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

35. 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.

36. THIS COURT ORDERS that, until further Order of this Court, the Motion Record in support of this Motion shall be sealed and not form part of the public record and any persons served with a copy of it shall keep it and its contents confidential and shall not disclose its contents to any person except their legal counsel.



---

C. Irwin  
Registrar

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

OCT 04 2019

PER / PAR: 

**Schedule "A"**

**RECEIVER CERTIFICATE**

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

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

THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an action having Court file number \_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

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.

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.

All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

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.

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.

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\_\_.

[RECEIVER'S NAME], solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per:

\_\_\_\_\_  
Name:

Title:

CANADIAN IMPERIAL BANK OF COMMERCE  
Plaintiff

-and- SIMRANJIT DHILLON et al.  
Defendants

Court File No. CV-19-00628293-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**ORDER**

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# TAB 4

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**(as of October 11, 2019)**

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Lawyers for FirstOntario Credit Union

AND TO: **SIMRANJIT DHILLON**

Defendant

AND TO: **MANDHIR DHILLON**

Defendant

AND TO: **SARBJIT DHILLON**

Defendant

AND TO: **MANDEEP DHILLON**

Defendant

AND TO: **908593 ONTARIO LIMITED, OPERATING AS EAGLE TRAVEL PLAZA**

Defendant

AND TO: **1393382 ONTARIO LIMITED**

Defendant

AND TO: **2145744 ONTARIO LIMITED**

Defendant

AND TO: **2145754 ONTARIO LIMITED**

Defendant

AND TO: **1552838 ONTARIO INC.**

Defendant

AND TO: **2189788 ONTARIO INC.**

Defendant

AND TO: **2123618 ONTARIO LIMITED**

Defendant

AND TO: **1849722 ONTARIO LTD.**

Defendant

AND TO: **2469244 ONTARIO LIMITED**

Defendant

AND TO: **2364507 ONTARIO LIMITED**

Defendant

AND TO: **1254044 ONTARIO LIMITED**

Defendant

AND TO: **2612550 ONTARIO LIMITED**

Defendant

37528787.1

CANADIAN IMPERIAL BANK OF COMMERCE

Plaintiff

-and-

SIMRANJIT DHILLON et al.

Defendants

Court File No. CV-19-00628293-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**Proceedings commenced at Toronto**

**MOTION RECORD  
(returnable October 11, 2019)**

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*Lawyers for BDO Canada Limited in its capacity as the court-appointed Receiver of 908593 Ontario Limited, operating as Eagle Travel Plaza, et al.*