

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
COMMERCIAL LIST**

**IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985,
c. B-3, as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c. C43,
as amended**

B E T W E E N:

HSBC BANK CANADA

Applicant

- and -

DMI EXIM LIMITED

Respondent

**MOTION RECORD
(Returnable April 24, 2024)**

April 5, 2024

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Suite 3200
TD West Tower, Toronto-Dominion Centre
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Lawyers for the Court-appointed Receiver

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**ONTARIO
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**IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985,
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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
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**IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985,
c. B-3, as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c. C43,
as amended**

B E T W E E N:

HSBC BANK CANADA

Applicant

- and -

DMI EXIM LIMITED

Respondent

NOTICE OF MOTION
(returnable April 24, 2024)

KPMG Inc., in its capacity as Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of all of the undertaking, property and assets of DMI Exim Limited (the “**Debtor**”) will make a motion to the Ontario Superior Court of Justice (Commercial List) on Wednesday, April 24, 2024 at 10:00 am, or as soon after that time as the motion can be heard, by videoconference at Toronto, Ontario.

THE MOTION IS FOR:

1. An order, in substantially the form attached at Tab 3 (the “**Order**”) of the Motion Record (the “**Motion Record**”) that, among other things:
 - a) approves the purchase and sale agreement dated December 22, 2023, as amended (the “**Sale Agreement**”) and the associated transaction (the “**Transaction**”) between the Receiver and North Medafix Corporation (the “**Purchaser**”) and, upon delivery of a certificate by the Receiver containing confirmation of the

closing of the Transaction, vesting in the Purchaser all of the Debtor's right, title and interest in and to the Property (as defined in the Sale Agreement);

- b) seals the Confidential Appendices (as defined in the First Report of the Receiver (the "**Report**")); and
- c) grants such other relief as counsel may request and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

2. On July 28, 2023, the Debtor made an assignment in bankruptcy. By order dated August 1, 2023, (the "**Appointment Order**"), KPMG Inc. was appointed as Receiver of the Debtor.
3. The Debtor owns the Property, a condominium unit municipally known as 10 Falconer Drive, Unit 3, Mississauga, Ontario. Pursuant to its powers under the Appointment Order, the Receiver took steps to market the Property.
4. The Receiver's marketing efforts, as described in the Report, resulted in the execution of the Sale Agreement. The Receiver believes that it made a sufficient effort to obtain the best price for the Property following a fair process. The Receiver did not act improvidently. The Receiver believes that the purchase price for the Property is fair and commercially reasonable, and that the approval of the Sale Agreement is in the best interest of all parties. The Receiver respectfully requests that the Court make the order sought. It is a requirement of the Sale Agreement that an approval and vesting order be obtained.
5. The Confidential Appendices to the Report are: (i) a summary of the offers received in the process leading to sale of Property, and (ii) an unredacted copy of the Sale

Agreement, both of which the Receiver believes should not be made publicly available until after closing of the Transaction.

6. The *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, including s.243 thereof.
7. The *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, including s.101 thereof.
8. The *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, including Rules 1.04, 2.03, 3.02, and 37.
9. Such further and other grounds as counsel may advise and this Court may permit.

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

10. The Report; and
11. Such further and other documentary evidence as the counsel may advise and this Court may permit.

April 2, 2024

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Lawyers for the Court-appointed Receiver

TO: SERVICE LIST

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

**IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3,
as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c. C43, as amended**

B E T W E E N:

HSBC BANK CANADA

Applicant

- and -

DMI EXIM LIMITED

Respondent

**SERVICE LIST
(as at March 15, 2024)**

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AND TO:	<p>RECONSTRUCT LLP 200 Bay Street, Suite 2305 P.O. Box 120 Toronto, ON M5J 2J3</p> <p>R. Brendan Bissell Tel: (416) 613-0066 Email: bbissell@reconllp.com</p> <p>Lawyers for the Respondent</p>
AND TO:	<p>KPMG INC. Bay Adelaide Centre 333 Bay Street, Suite 4600 Toronto, ON M5H 2S5</p> <p>Anamika Gadia Tel: (416) 777-3842 Email: agadia@kpmg.ca</p> <p>George Bourikas Tel: (416) 777-8500 Email: gbourikas@kpmg.ca</p> <p>Cameron Rodrigues Email: cameronrodrigues@kpmg.ca</p> <p>Court-appointed Receiver</p>
AND TO:	<p>GRANT THORNTON LIMITED 200 King Street West, 11th floor Toronto, ON M5H 3T4</p> <p>Robert Stelzer Tel: (416) 607-8849 Email: rob.stelzer@ca.gt.com</p> <p>Paul Kouadio Tel: (416) 369-7004 Email: paul.kouadio@ca.gt.com</p> <p>Trustee with respect to Respondent's Proposal (Estate No. 32-2956516)</p>

AND TO:	BMW CANADA INC. 50 Ultimate Drive Richmond Hill, ON L4S 0C8 Maria Susana Diaz <i>Corporate Counsel</i> Tel: (905) 428-5388 Email: sue.diaz@bmwgroup.ca PPSA registrant
AND TO:	DEPARTMENT OF JUSTICE (CANADA) Ontario Regional Office 120 Adelaide Street West, Suite 400 Toronto, ON M5H 1T1 Email: AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca
AND TO:	MINISTER OF FINANCE INSOLVENCY UNIT 6th Floor, 33 King Street West Oshawa, ON L1H 8H5 Insolvency Unit Email: insolvency.unit@ontario.ca
AND TO:	CANADA REVENUE AGENCY 1 Front Street West Toronto, ON M5J 2X6 Email: AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca

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IN THE MATTER OF section 243(1) of the Bankruptcy and Insolvency Act, RSC 1985, c. B-3, as amended and section 101 of the Courts of Justice Act, RSO 1990, c. C43, as amended

HSBC BANK CANADA

- and -

DMI EXIM LIMITED

Applicant

Respondent

Court File No. CV-23-00703534-00CL

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

Proceedings commenced at Toronto, Ontario

NOTICE OF MOTION

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Lawyers for the Court-appointed Receiver

TAB 2

Court File No.: CV-23-00703534-00CL

**FIRST REPORT OF KPMG INC.,
IN ITS CAPACITY AS RECEIVER AND MANAGER OF**

DMI Exim Limited

APRIL 4, 2024

Court File No.: CV-23-00703534-00CL

IN THE MATTER OF section 243(1) of the Bankruptcy and Insolvency Act, RSC 1985, c. B-3, as amended and section 101 of the Courts of Justice Act, RSO 1990, c. C43, as amended

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

HSBC BANK CANADA

Applicant

AND

DMI EXIM LIMITED

Respondent

FIRST REPORT OF KPMG INC.,
in its capacity as Receiver and Manager of
DMI Exim Limited

DATED APRIL 4, 2024

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CONFIDENTIAL APPENDIX “B” – Sale Agreement (unredacted)

I. INTRODUCTION

1. On August 1, 2023 (the “**Receivership Date**”), upon application by HSBC Bank Canada (the “**Applicant**”), KPMG Inc. (“**KPMG**”) was appointed as receiver and manager (in such capacity, the “**Receiver**”) pursuant to an order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under 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, without security, of all of the assets, undertakings, and properties of DMI Exim Limited (“**DMI**”), including DMI’s lands and premises municipally known as 10 Falconer Dr., Unit 3, Mississauga Ontario (the “**Real Property**”), acquired for, or used in relation to a business carried on by DMI (collectively, the “**Property**”). A copy of the Appointment Order is attached hereto as **Appendix “A”**.
2. Prior to its appointment as Receiver, KPMG filed a report dated July 31, 2023 (the “**Pre-Filing Report**”) to provide information to the Court in connection with the Applicant’s application for the Appointment Order.
3. Prior to the Receivership Date, on July 28, 2023, DMI made an assignment in bankruptcy (the “**Bankruptcy Proceedings**”) and KPMG was appointed as trustee in bankruptcy (in such capacity, the “**Bankruptcy Trustee**”) of DMI by the official receiver. The Bankruptcy Trustee’s appointment was affirmed by DMI’s creditors at the first meeting of creditors held on August 17, 2023.
4. Electronic copies of the Pre-Filing Report and other Court materials and documents in connection with these proceedings (the “**Receivership Proceedings**”) and the Bankruptcy Proceedings are available on KPMG’s website at <https://kpmg.com/ca/DMI> (the “**Website**”).

II. PURPOSE OF REPORT

5. The purpose of this first report of the Receiver (the “**First Report**”) is to provide this Honourable Court with information pertaining to:
 - (a) the Receiver’s activities since the Receivership Date;
 - (b) the sale process conducted by the Receiver, with the assistance of Avison Young (as defined herein), in respect of the Real Property (the “**Sale Process**”);
 - (c) the proposed transaction pursuant to which, if approved by the Court, North Medafix Corporation (the “**Purchaser**”) would acquire the Real Property (the “**Proposed Transaction**”) as set out in the agreement of purchase and sale dated December 22, 2023 (the “**Sale Agreement**”);

- (d) the Receiver’s request for an approval and vesting order (the “**AVO**”), among other things:
 - i. approving the Sale Agreement and the transaction contemplated therein, and authorizing and directing the Receiver to take such additional steps and execute such additional documents as necessary to complete the Proposed Transaction; and
 - ii. sealing the Confidential Appendices (as defined herein) to this First Report; and
- (e) the Receiver’s conclusions and recommendations.

III. TERMS OF REFERENCE

- 6. In preparing this First Report, the Receiver has been provided with, or has relied upon certain unaudited, draft, and/or internal financial information, DMI’s records, financial information, and information from other third-party sources (collectively, the “**Information**”). In accordance with industry practice, except as otherwise described in this First Report, the Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, 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 (“**CAS**”) pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly the Receiver expresses no opinion or other form of assurance in respect of the Information.
- 7. The Receiver has prepared this First Report in connection with the motion to be heard on April 24, 2024. This First Report should not be relied on for other purposes.
- 8. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

IV. BACKGROUND

- 9. DMI was a global marketer and distributor of physical commodities, including agricultural goods such as chickpeas, lentils, soybeans and other beans, engineered goods, and industrial chemicals. Its customers included importers and distributors in Pakistan, India, Ethiopia, Turkey, and the United Arab Emirates.
- 10. DMI’s primary assets are (a) the Real Property; and (b) accounts receivable in the amount of approximately \$47.7 million.
- 11. Detailed information with respect to DMI’s corporate structure, business, operations, financial position, and causes of insolvency is set out extensively in the Pre-Filing Report, and in the Affidavit

of Brian Pettit sworn on July 28, 2023, both previously filed with the Court, and has not been included herein to avoid unnecessary duplication. The Pre-Filing Report and the Affidavit of Brian Pettit are available on the Website.

V. ACTIVITIES OF THE RECEIVER

12. The activities of the Receiver since the Appointment Date have primarily included:
- (a) attending the Real Property to inspect the condition of and secure the premises, take possession of DMI's physical books and records, and take inventory of physical assets within the premises;
 - (b) confirming DMI's corporate bank accounts and notifying each of DMI's banks to freeze the respective accounts and to remit any account balances to the Receiver;
 - (c) opening bank accounts in the Receiver's name;
 - (d) liaising with DMI's insurance broker in respect of DMI's property insurance policy, reviewing DMI's existing insurance coverage, and adding the Receiver as the named insured and loss payee on the policy;
 - (e) securing an annual extension of DMI's property insurance policy to January 8, 2025;
 - (f) retaining DMI's former principal to assist the Receiver with the collection of the DMI's outstanding accounts receivable;
 - (g) corresponding with DMI's customers in respect of the outstanding accounts receivable balances;
 - (h) liaising with Export Development Canada ("EDC") in respect of DMI's accounts receivable insurance policy, reviewing DMI's accounts receivable insurance coverage and submitting and discussing claims against the policy with EDC;
 - (i) preparing the Broker RFP (as defined herein), soliciting proposals from commercial real estate brokers and ultimately engaging Avison Young Commercial Real Estate Services, LP, Brokerage ("**Avison Young**") as the listing broker to assist the Receiver with the marketing and sale of the Real Property;
 - (j) procuring a Phase I environmental report in respect of the Real Property;
 - (k) evaluating offers received from prospective buyers, selecting a buyer, and negotiating and entering into the Sale Agreement with the Purchaser;
 - (l) redirecting mail to the office of the Receiver, as appropriate;

- (m) returning a motor vehicle leased by DMI to BMW Financial Services;
 - (n) liaising with Canada Revenue Agency (“**CRA**”) to open new Harmonized Sales Tax (“**HST**”) accounts in the name of the Receiver;
 - (o) communicating with CRA in respect of a source deductions audit;
 - (p) retaining Thornton Grout Finnegan LLP as counsel to the Receiver in respect of these Receivership Proceedings (the “**Receiver’s Counsel**”);
 - (q) retaining Blake, Cassels and Graydon LLP as the Receiver’s independent counsel;
 - (r) establishing the Website and posting copies of all Court and other statutory materials to the Website in electronic format;
 - (s) establishing an email address for the Receiver at dmi@kpmg.ca such that creditors and other stakeholders of DMI can make inquiries of the Receiver as they pertain to these Receivership Proceedings;
 - (t) responding to calls and inquiries from creditors, suppliers, and other parties regarding these Receivership Proceedings;
 - (u) mailing, on August 10, 2023, the Notice and Statement of the Receiver to the creditors of DMI, pursuant to subsections 245(1) and 246(1) of the BIA, and filing the Notice and Statement of the Receiver with the Office of the Superintendent of Bankruptcy (“**OSB**”);
 - (v) preparing and filing with the OSB, on February 9, 2024, the First Interim Report of the Receiver, pursuant to subsection 246(2) of the BIA;
 - (w) liaising with the Receiver’s Counsel in respect of various aspects of these Receivership Proceedings;
 - (x) liaising with the Applicant in respect of various aspects of these Receivership Proceedings; and
 - (y) preparing this First Report and reviewing related motion materials.
13. Certain of the activities listed above were performed by the Bankruptcy Trustee, prior to the Receivership Date.

VI. SALE PROCESS

Broker RFP

14. The Receiver distributed a request for proposal (the “**Broker RFP**”) to six (6) listing brokers (the “**Solicited Brokers**”), requesting that they submit to the Receiver a proposal to market and sell the Real Property. The Solicited Brokers comprised listing brokers which, in the Receiver’s view, were likely to have the sufficient market knowledge and expertise in the asset class and the Mississauga market to appropriately market the Real Property.
15. The Broker RFP specifically requested that the Solicited Brokers include in their proposals, among other things, information pertaining to:
 - (a) general commentary on the current market for properties of a similar nature, and located in close proximity to the Real Property;
 - (b) expected sale price, including commentary on any recently sold comparable properties;
 - (a) expected time period to sell the Real Property;
 - (b) profile of potential purchasers;
 - (c) proposed marketing strategy, including views on pricing;
 - (d) proposed broker fee structure;
 - (e) duration of listing and holdover terms; and
 - (f) proposed sales team and relevant experience.
16. The Broker RFP requested that all proposals be delivered to the Receiver by no later than September 15, 2023 (the “**Proposal Submission Deadline**”). On or before the Proposal Submission Deadline, the Receiver received proposals from all six (6) of the Solicited Brokers (the “**Proposals**”).
17. Following a thorough review of the Proposals received and subsequent discussions with three (3) of the Solicited Brokers that were shortlisted by the Receiver, the Receiver selected Avison Young as the Receiver’s exclusive listing agent in respect of the Real Property.

Marketing of the Real Property

18. The Real Property was listed on Multiple Listing Service on October 3, 2023, and a marketing process was undertaken by Avison Young.

19. A total of 11 parties expressed interest in purchasing the Real Property, and two (2) formal offers were received. A summary of the key terms of the two (2) formal offers is attached hereto as **Confidential Appendix “A”**.

VII. PROPOSED TRANSACTION AND SALE AGREEMENT

20. Following negotiations, the Receiver entered into the Sale Agreement with the Purchaser. The Sale Agreement sets out the terms of the Proposed Transaction, whereby the Purchaser will acquire the Real Property from the Receiver. A copy of the Sale Agreement, redacted for certain commercially sensitive terms, is attached hereto as **Appendix “B”**. A copy of the unredacted Sale Agreement is attached hereto as **Confidential Appendix “B”** (and together with Confidential Appendix “A”, the “**Confidential Appendices**”).
21. The key terms of the Proposed Transaction are summarized below (all capitalized terms in this paragraph of the First Report not otherwise defined in this First Report are as defined in the Sale Agreement):
- (a) Purchase Price: redacted given commercial sensitivity. The amount of the Purchase Price is included in the unredacted Sale Agreement, attached hereto as Confidential Appendix “B”;
 - (b) Property: suite No. 3 located at 10 Falconer Drive in the City of Mississauga;
 - (c) Purchased Assets: DMI’s right, title, and interest in the Real Property. The Purchased Assets are to be purchased on an ‘as is, where is’ basis, and transferred free and clear of encumbrances other than the Permitted Encumbrances;
 - (d) Deposit: redacted given commercial sensitivity. The amount of the Deposit is included in the unredacted Sale Agreement, attached hereto as Confidential Appendix “B”;
 - (e) Buyer Conditional Period: conditional for a period of sixty (60) calendar days. Conditions include the following:
 - i. The Purchaser being satisfied with the review of the condominium status certificate for the Property;
 - ii. The Purchaser attaining financing for the purchase of the Property to their satisfaction at their sole and unfettered discretion; and
 - iii. The Purchaser being satisfied with the results of a building inspection report that shall be completed at the Purchaser’s expense.

- (f) Taxes: the Purchaser shall be responsible for payment of all outstanding realty taxes owing or payable on the Real Property on and from the Completion Date, and payment of all taxes eligible on the sale and transfer of the Real Property and chattels and fixtures, including without limitation, HST as applicable, retail sales tax as applicable and Land Transfer Tax;
 - (g) Completion Date: no later than thirty (30) calendar days following the AVO being granted.
22. The Purchaser requested an extension of the Buyer Conditional Period to finalize financing of the Proposed Transaction which was granted by the Receiver. The Purchaser ultimately waived all conditions to the Sale Agreement on March 12, 2024.

VIII. REQUEST FOR APPROVAL AND VESTING ORDER

Request for Approval of Sale Agreement and Proposed Transaction

23. The Receiver is recommending that this Honourable Court approve the Sale Agreement and the Proposed Transaction for the following reasons:
- (a) the Sale Process included a broad canvassing of the market for potential purchasers of the Real Property over a period of approximately three (3) months, and resulted in 11 parties expressing interest in purchasing the Real Property, and two (2) formal offers being submitted;
 - (b) the Proposed Transaction is the result of extensive negotiations of the terms of the Sale Agreement, and represents the highest and best offer for the Real Property;
 - (c) the Proposed Transaction contemplates the sale of the Real Property on an ‘as is, where is’ basis and through which the Real Property will be transferred to the Purchaser free and clear (with certain limited exceptions);
 - (d) the Purchaser’s and the Receiver’s closing conditions are limited and customary in the circumstances, and the Receiver is not currently aware of any information to suggest that such conditions will not be met; and
 - (e) prior to entering into the Sale Agreement, the Receiver consulted with the Applicant, and the Applicant is supportive of the Proposed Transaction.

Request for Sealing

24. The Receiver is of the opinion that the disclosure of the information contained in the Confidential Appendices at this time poses a serious risk to the objective of maximizing recoveries in the Receivership Proceedings, including because, if the Proposed Transaction does not close, disclosure of the economic terms of the offers received in the Sale Process and the unredacted Sale Agreement may impair efforts to remarket the Real Property. As such, the Receiver respectfully requests that the Court seal the Confidential Appendices until the closing of the Proposed Transaction or further order of the Court.

IX. RECEIVER’S CONCLUSIONS AND RECOMMENDATIONS

25. Based on the foregoing, the Receiver respectfully requests that the Court grant the relief requested herein.

All of which is respectfully submitted this 4th day of April, 2024.

**KPMG Inc.,
in its capacity as Receiver of
DMI Exim Limited
and not in its personal or corporate capacity**

Per:



Anamika Gadia
Senior Vice-President



George Bourikas
Vice President

APPENDIX “A”



Court File No. CV-23-00703534-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3,
as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c. C43, as amended**

THE HONOURABLE) TUESDAY, THE 1ST
)
JUSTICE PENNY) DAY OF AUGUST, 2023

B E T W E E N:

HSBC BANK CANADA

Applicant

- and -

DMI EXIM LIMITED

Respondent

ORDER
(appointing Receiver)

THIS APPLICATION made by the Applicant for an Order: (a) 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 (“**CJA**”), appointing KPMG Inc. as receiver and manager (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of DMI Exim Limited (the “**Debtor**”) including, but not limited to, the Debtor’s lands and premises municipally known as 10 Falconer Dr., Unit 3, Mississauga,

Province of Ontario and more specifically described in Schedule “A” hereto (the “**Real Property**”), acquired for, or used in relation to a business carried on by the Debtor (collectively, the “**Property**”); and (b) abridging the time for service of this Notice of Application and the materials filed in support of the application, authorizing service *via* electronic mail, and dispensing with further service thereof, was heard this day by videoconference in Toronto, Ontario, in accordance with the Guidelines to Determine Mode of Proceeding in Civil Proceedings, effective April 19, 2023.

ON READING the Affidavit of Brian Pettit sworn July 28, 2023, the Pre-Filing Report of the Receiver dated July 31, 2023, the Consent of KPMG Inc. to act as Receiver, and on hearing the submissions of counsel for the Applicant and those other parties listed on the counsel slip, no one else appearing although duly served as it appears from the Affidavit of Service of Roxana G. Manea sworn July 31, 2023, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record herein is hereby abridged and validated such 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, KPMG Inc. is hereby appointed Receiver, without security, of all of the Debtor’s Property, including, but not limited to, the Real Property described in Schedule “A” hereto, acquired for or used in relation to the business carried on by the Debtor, including all proceeds thereof.

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 make claims pursuant to any policy of insurance issued in favour of the Debtor, initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000 provided that the aggregate consideration for all such transactions does not exceed \$500,000 and

(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the *Ontario Mortgages Act*, as the case may be, shall not be required;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to continue to act as trustee in bankruptcy of the Debtor, take possession and control of the assets of such bankrupt for the purposes of this Receivership and to pay the costs of such a bankruptcy from the proceeds of the Receivership;

- (q) to enter into agreements with the 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.

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.

RECEIVER'S LEGAL COUNSEL

4. **THIS COURT ORDERS** that the Receiver may retain legal counsel 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 legal counsel may include Thornton Grout Finnigan LLP, the lawyers for the Applicant herein, in respect of any matter where there is no conflict of interest. The Receiver shall, however, retain independent legal counsel in respect of any legal advice or services where a conflict exists or may arise.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

5. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing,

collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver’s request.

6. **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.

7. **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.

8. **THIS COURT ORDERS** that 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

9. **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

10. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with

leave of this Court and any and all Proceedings currently under way against or in respect of any or all of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, including, without limitation, licenses and permits, 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 are not lawfully entitled to carry on, (ii) exempt the Receiver or any or all of 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

12. **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

13. **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

14. **THIS COURT ORDERS** that all amounts standing to the credit of the Debtor in any account as at the date of this Order, together with 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**"). The Receiver may, without any further Order, make such interim distributions to the Applicant as the Receiver deems appropriate, up to the amount secured by its security and subject to the payment in full of any priority payables, with any surplus thereafter, net of any disbursements provided for herein, held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

15. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on behalf of the Debtor, 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

16. **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

17. **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

18. **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

19. **THIS COURT ORDERS** that the Receiver and its counsel shall be paid their reasonable fees and disbursements, in each case at its standard rates and charges, unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and their counsel shall be entitled to and is 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.

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

21. **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, and those of its counsel, incurred at the standard rates and charges of the Receiver, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

22. **THIS COURT ORDERS** that the Receiver be at liberty, and it is hereby empowered to borrow from the Applicant in respect of its costs and disbursements from time to time, and for its costs and disbursements in its capacity as trustee in bankruptcy for the Debtor, for the purpose of

funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The amounts of such borrowings shall be secured by the Applicant's security over the assets of the Debtor.

SERVICE AND NOTICE

23. **THIS COURT ORDERS** that the Guide Concerning Commercial List E-Service (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 <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the 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 <https://kpmg.com/ca/dmi>.

24. **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 Debtor's records 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

25. **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.

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

27. **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.

28. **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.

29. **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.

30. **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.

REGISTRATION ON TITLE

31. **THIS COURT ORDERS AND DIRECTS** that, as soon as practicable, the Land Registry Office for the Land Titles Division of Peel County (No. 43) accept this Order for registration on title to the Real Property described in Schedule "A" hereto.

32. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. on the date of this Order and is enforceable without need for entry and filing on the date hereof.



SCHEDULE “A”

Description of Real Property

PIN19287-0005 (LT): UNIT 5, LEVEL 1, PEEL CONDOMINIUM PLAN NO. 287; PT BLKS G, H & I PL 548, PT 1 43R10656, MORE FULLY DESCRIBED IN SCHEDULE ‘A’ OF DECLARATION LT839260; MISSISSAUGA.

IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c C46, as amended

HSBC BANK CANADA

- and -

DMI EXIM LIMITED

Applicant

Respondent

Court File No. CV-23-00703534-00CL

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

Proceedings commenced at Toronto, Ontario

**ORDER
(appointing Receiver)**

THORNTON GROUT FINNIGAN LLP
TD West Tower, Toronto-Dominion Centre
100 Wellington Street West
Suite 3200
Toronto, ON M5K 1K7

D.J. Miller (LSO #34393P)
Email: djmiller@tgf.ca
Tel: (416) 304-0559

Alexander Soutter (LSO #72403T)
Email: asoutter@tgf.ca
Tel: (416) 304-0595

Lawyers for the Applicant, HSBC Bank Canada

APPENDIX “B”

Agreement of Purchase and Sale Condominium Resale - Commercial

Form 501

for use in the Province of Ontario

This Agreement of Purchase and Sale dated this 22 day of December, 2023

BUYER: North Medafix Corporation, agrees to purchase from
{Full legal names of all Buyers}

SELLER: KPMG Inc., in its capacity as Court-appointed receiver and manager of DMI Exim Limited, the following
{Full legal names of all Sellers}

PROPERTY:
a unit in the condominium property known as Suite No. 3
{Apartment/Townhouse/Suite/Unit}

located at 10 Falconer Drive

in the City of Mississauga

being Peel Condominium Corporation No. 287 Condominium Plan No. 287
{Legal Name of Condominium Corporation}

Unit Number 5 Level No. 1 Building No. 10 together with ownership

or exclusive use of Parking Space(s) , together with ownership or exclusive use of
{Number(s), Level(s)}

Locker(s) 0, together with Seller's proportionate undivided tenancy-in-common interest
{Number(s), Level(s)}

in the common elements appurtenant to the Unit as described in the Declaration and Description including the exclusive right to use such other parts of the common elements appurtenant to the Unit as may be specified in the Declaration and Description: the Unit, the proportionate interest in the common elements appurtenant thereto, and the exclusive use portions of the common elements, being herein called the "Property".

PURCHASE PRICE: [Redacted] Dollars (CDN\$) [Redacted] Dollars
box SIGN 4806W02B-4L2B596

DEPOSIT: Buyer submits per Schedule "A"
{Herewith/Upon Acceptance/as otherwise described in this Agreement}

Dollars (CDN\$)

by negotiable cheque payable to "Deposit Holder" to be held in trust pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. For the purposes of this Agreement, "Upon Acceptance" shall mean that the Buyer is required to deliver the deposit to the Deposit Holder within 24 hours of the acceptance of this Agreement. The parties to this Agreement hereby acknowledge that, unless otherwise provided for in this Agreement, the Deposit Holder shall place the deposit in trust in the Deposit Holder's non-interest bearing Real Estate Trust Account and no interest shall be earned, received or paid on the deposit.

Buyer agrees to pay the balance as more particularly set out in Schedule A attached.

SCHEDULE(S) A attached hereto form(s) part of this Agreement.

1. IRREVOCABILITY: This offer shall be irrevocable by Seller ~~Buyer~~ until 6:00 on 20 ~~December~~ January 20 ~~23~~ 23 after which time, if not accepted, this offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.

2. COMPLETION DATE: This Agreement shall be completed by no later than 6:00 p.m. on the per Schedule A day of 20 Upon completion, vacant possession of the Property shall be given to the Buyer unless otherwise provided for in this Agreement.

INITIALS OF BUYER(S): [Signature]

INITIALS OF SELLER(S): [Signature]

3. NOTICES: The Seller hereby appoints the Listing Brokerage as agent for the Seller for the purpose of giving and receiving notices pursuant to this Agreement. Where a Brokerage (Buyer's Brokerage) has entered into a representation agreement with the Buyer, the Buyer hereby appoints the Buyer's Brokerage as agent for the purpose of giving and receiving notices pursuant to this Agreement. **Where a Brokerage represents both the Seller and the Buyer (multiple representation), the Brokerage shall not be appointed or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices.** Any notice relating hereto or provided for herein shall be in writing. In addition to any provision contained herein and in any Schedule hereto, this offer, any counter-offer, notice of acceptance thereof or any notice to be given or received pursuant to this Agreement or any Schedule hereto (any of them, "Document") shall be deemed given and received when delivered personally or hand delivered to the Address for Service provided in the Acknowledgement below, or where a facsimile number or email address is provided herein, when transmitted electronically to that facsimile number or email address, respectively, in which case, the signature(s) of the party (parties) shall be deemed to be original.

FAX No.: **905-712-2937**
 (For delivery of Documents to Seller)

FAX No.:
 (For delivery of Documents to Buyer)

Email Address: **aidan.malloy@avisonyoung.com**
 (For delivery of Documents to Seller)

Email Address:
 (For delivery of Documents to Buyer)

4. CHATELS INCLUDED:

.....

.....

.....

Unless otherwise stated in this Agreement or any Schedule hereto, Seller agrees to convey all fixtures and chattels included in the Purchase Price free from all liens, encumbrances or claims affecting the said fixtures and chattels.

5. FIXTURES EXCLUDED:

.....

.....

.....

6. RENTAL ITEMS (Including Lease, Lease to Own): The following equipment is rented and **not** included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable:

None

.....

.....

The Buyer agrees to co-operate and execute such documentation as may be required to facilitate such assumption.

7. COMMON EXPENSES: Seller warrants to Buyer that the common expenses presently payable to the Condominium Corporation in respect of the Property are approximately \$..... **636.66** per month, which amount includes the following:

.....

.....

8. PARKING AND LOCKERS: Parking and Lockers are as described above or assigned as follows: None

..... at an additional cost of:

9. HST: If the sale of the property (Real Property as described above) is subject to Harmonized Sales Tax (HST), then such tax shall be in addition to the Purchase Price. The Seller will not collect HST if the Buyer provides to the Seller a warranty that the Buyer is registered under the Excise Tax Act ("ETA"), together with a copy of the Buyer's ETA registration, a warranty that the Buyer shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Seller in respect of any HST payable. The foregoing warranties shall not merge but shall survive the completion of the transaction. If the sale of the property is not subject to HST, Seller agrees to certify on or before closing, that the transaction is not subject to HST. Any HST on chattels, If applicable, is not included in the Purchase Price.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

10. TITLE SEARCH: Buyer shall be allowed until 6:00 p.m. on the day of, 20..... (Requisition Date) to examine the title to the Property at Buyer's own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy Buyer that there are no outstanding work orders or deficiency notices affecting the Property, and that its present use (.....)


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may be lawfully continued. If within that time any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire (Title Insurance) in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Brokerage and Co-operating Brokerage shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the Property. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders and deficiency notices affecting the Property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.

11. TITLE: Buyer agrees to accept title to the Property subject to all rights and easements registered against title for the supply and installation of telecommunication services, electricity, gas, sewers, water, television cable facilities and other related services; ~~provided that title to the Property is otherwise good and free from all encumbrances except (a)~~ as herein expressly provided; ~~(b)~~ any registered restrictions, conditions or covenants that run with the land provided such have been complied with; ~~(c)~~ the provisions of the Condominium Act and its Regulations and the terms, conditions and provisions of the Declaration, Description and By-laws, Occupancy Standards By-laws, including the Common Element Rules and other Rules and Regulations; and ~~(d)~~ any existing municipal agreements, zoning by-laws and/or regulations and utilities or service contracts.


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12. CLOSING ARRANGEMENTS: Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Ontario. Unless otherwise agreed to by the lawyers, such exchange of Requisite Deliveries shall occur by the delivery of the Requisite Deliveries of each party to the office of the lawyer for the other party or such other location agreeable to both lawyers.


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13. STATUS CERTIFICATE AND MANAGEMENT OF CONDOMINIUM: Seller represents and warrants to Buyer that there are no special assessments contemplated by the Condominium Corporation, and there are no legal actions pending by or against or contemplated by the Condominium Corporation. The Seller consents to a request by the Buyer or his authorized representative for a Status Certificate from the Condominium Corporation. Buyer acknowledges that the Condominium Corporation may have entered into a Management Agreement for the management of the condominium property.

14. DOCUMENTS AND DISCHARGE: Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the Property except such as are in the possession or control of Seller. ~~Seller agrees to deliver to Buyer, if it is possible without incurring any costs in so doing, copies of all current condominium documentation of the Condominium Corporation, including the Declaration, Description, By-laws, Common Element Rules and Regulations and the most recent financial statements of the Condominium Corporation. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust And Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.~~


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15. MEETINGS: Seller represents and warrants to Buyer that at the time of the acceptance of this Offer he has not received a notice convening a special or general meeting of the Condominium Corporation respecting; (a) the termination of the government of the condominium property; (b) any substantial alteration in or substantial addition to the common elements or the renovation thereof; OR (c) any substantial change in the assets or liabilities of the Condominium Corporation; and Seller covenants that if he receives any such notice prior to the date of completion he shall forthwith notify Buyer in writing and Buyer may thereupon at his option declare this Agreement to be null and void and all monies paid by buyer shall be refunded without interest or deduction.


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16. INSPECTION: ~~Buyer acknowledges having had the opportunity to inspect the Property and understands that upon acceptance of this offer there shall be a binding agreement of purchase and sale between Buyer and Seller.~~


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INITIALS OF BUYER(S):


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INITIALS OF SELLER(S):


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~~17. APPROVAL OF THE AGREEMENT: In the event that consent to this sale is required to be given by the Condominium Corporation or the Board of Directors, the Seller will apply forthwith for the requisite consent, and if such consent is refused, then this Agreement shall be null and void and the deposit monies paid hereunder shall be refunded without interest or other penalty to the Buyer.~~

18. INSURANCE: The Unit and all other things being purchased shall be and remain at the risk of the Seller until completion. In the event of substantial damage to the Property Buyer may at his option either permit the proceeds of insurance to be used for repair of such damage in accordance with the provisions of the Insurance Trust Agreement, or terminate this Agreement and all deposit monies paid by Buyer hereunder shall be refunded without interest or deduction. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.

19. DOCUMENT PREPARATION: The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer.

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~~20. RESIDENCY: (a) Subject to (b) below, the Seller represents and warrants that the Seller is not and on completion will not be a non-resident under the non-residency provisions of the Income Tax Act which representation and warranty shall survive and not merge upon the completion of this transaction and the Seller shall deliver to the Buyer a statutory declaration that Seller is not then a non-resident of Canada;~~

~~(b) provided that if the Seller is a non-resident under the non-residency provisions of the Income Tax Act, the Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate.~~

21. ADJUSTMENTS: Common Expenses; realty taxes, including local improvement rates; mortgage interest; rentals; unmetered public or private utilities and fuel where billed to the Unit and not the Condominium Corporation; are to be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to the Buyer. There shall be no adjustment for the Seller's share of any assets or liabilities of the Condominium Corporation including any reserve or contingency fund to which Seller may have contributed prior to the date of completion.

22. PROPERTY ASSESSMENT: The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Brokerage, Broker or Salesperson, for any changes in property tax as a result of a re-assessment of the Property, save and except any property taxes that accrued prior to the completion of this transaction.

23. TIME LIMITS: Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.

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24. TENDER: Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money shall be tendered with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Lynx high value payment system as set out and prescribed by the Canadian Payments Act (R.S.C., 1985, c. C-21), as amended from time to time.

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~~25. FAMILY LAW ACT: Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O. 1990 unless the spouse of the Seller has executed the consent hereinafter provided.~~

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~~26. UFFI: Seller represents and warrants to Buyer that during the time Seller has owned the Property, Seller has not caused any building on the Property to be insulated with insulation containing urea formaldehyde, and that to the best of Seller's knowledge no building on the Property contains or has ever contained insulation that contains urea formaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.~~

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27. LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE: The parties acknowledge that any information provided by the Brokerage is not legal, tax or environmental advice, and that it has been recommended that the parties obtain independent professional advice prior to signing this document.

28. CONSUMER REPORTS: The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.

29. AGREEMENT IN WRITING: If there is conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purposes of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.

30. ELECTRONIC SIGNATURES: The parties hereto consent and agree to the use of electronic signatures pursuant to the Electronic Commerce Act, 2000, S.O. 2000, c17 as amended from time to time with respect to this Agreement and any other documents respecting this transaction.

31. TIME AND DATE: Any reference to a time and date in this Agreement shall mean the time and date where the Property is located.

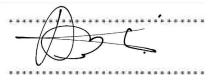
INITIALS OF BUYER(S):

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INITIALS OF SELLER(S):

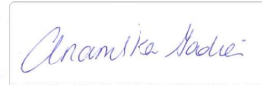
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32. SUCCESSORS AND ASSIGNS: The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.
 SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

.....
 (Witness) 
 (Buyer/Authorized Signing Officer) (Seal) **Dec 22, 2023** (Date)
 (Witness)
 (Buyer/Authorized Signing Officer) (Seal) (Date)

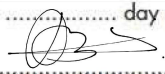
I, the Undersigned Seller, agree to the above offer. I hereby irrevocably instruct my lawyer to pay directly to the brokerage(s) with whom I have agreed to pay commission, the unpaid balance of the commission together with applicable Harmonized Sales Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the brokerage(s) to my lawyer.

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

.....
 (Witness) 
 (Seller/Authorized Signing Officer) (Seal) **Jan 4, 2024** (Date)
 (Witness)
 (Seller/Authorized Signing Officer) (Seal) (Date)

SPOUSAL CONSENT: The undersigned spouse of the Seller hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O.1990, and hereby agrees to execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

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

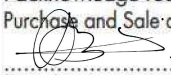
CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at this **Jan 5, 2024** day of 20.....
 (a.m./p.m.) 

(Signature of Seller or Buyer)
 boxSIGN 4KQWKW28-4L2LR596

INFORMATION ON BROKERAGE(S)	
Listing Brokerage Avison Young Commercial Real Estate Services, LP.	(Tel.No.)
Ted Davis	(Salesperson/Broker/Broker of Record Name)
Co-op/Buyer Brokerage	(Tel.No.)
.....	(Salesperson/Broker/Broker of Record Name)

Property Manager: (Name) (Address) (Tel. No., Fax. No.)

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.	I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.
..... (Seller) (Date)	 Jan 5, 2024 (Date)
..... (Seller) (Date) (Buyer) (Date)
Address for Service	Address for Service
..... (Tel. No.) (Tel. No.)
Seller's Lawyer	Buyer's Lawyer
Address	Address
Email	Email
..... (Tel. No.) (Fax. No.) (Tel. No.) (Fax. No.)

FOR OFFICE USE ONLY	COMMISSION TRUST AGREEMENT
To: Co-operating Brokerage shown on the foregoing Agreement of Purchase and Sale;	In consideration for the Co-operating Brokerage procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS® Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS® Rules and shall be subject to and governed by the MLS® Rules pertaining to Commission Trust.
DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale.	Acknowledged by:
..... (Authorized to bind the Listing Brokerage) (Authorized to bind the Co-operating Brokerage)

Schedule "A"

1. CONFLICT

In the event of any conflict or inconsistency between any provision of this Schedule "A" and any provision of this Agreement of Purchase and Sale not contained in Schedule "A", the provision of Schedule "A" shall govern and prevail.

2. CAPACITY OF RECEIVER

KPMG Inc., in its capacity as Court-appointed receiver and manager (the "Seller" or "Receiver") of DMI Exim Limited (the "Debtor"), 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.

3. APPROVAL AND VESTING ORDER OF SALE AGREEMENT

This Agreement is conditional upon the Seller obtaining an order (the "Vesting Order") of the Ontario Superior Court of Justice (Commercial List) (the "Court") that approves of this Agreement and vesting in the Buyer title to the Property free and clear of any encumbrances, save and except standard permitted encumbrances and those agreed upon between the Buyer and the Seller (collectively, "Permitted Encumbrances"). The Vesting Order shall be substantially in the form of the model approval and vesting order approved by the "Ontario Commercial List Users Committee". The Seller will bring a motion before the Court for the Vesting Order within 21 calendar days of the date that the Buyer advises, in writing, that all other conditions to this Agreement have been satisfied, subject to the Court's availability for such a motion and provided that the Buyer and the Seller will act reasonably in extending the 21 calendar day period. If the Court does not grant the Vesting Order, the Agreement will be null and void and the Deposit shall be returned to the Buyer in full without deduction.

4. COMPLETION DATE

This transaction shall be completed no later than thirty (30) calendar days following the receipt of the Vesting Order (the "Completion Date"). In the event that the Completion Date is on a Saturday, Sunday, or statutory holiday in the province of Ontario the Completion Date shall be deemed to be the following business day.

5. DEPOSIT

Within three (3) business days of acceptance of this agreement by both parties (the "Acceptance"), Buyer shall submit a deposit of [REDACTED] by certified cheque or bank draft payable to Avison Young Commercial Real Estate Services, LP., In Trust to be credited towards the Purchase Price on completion (the "First Deposit"). The Deposit will be entirely refundable within five (5) business days in the event the Buyer terminates the contract during the Due Diligence Period. The Buyer shall provide a further deposit of [REDACTED] (the "Second Deposit") to Avison Young Commercial Real Estate Services, LP. by certified cheque or bank draft within three (3) days following waiver of all the Buyer's conditions as defined in Section 18 in this agreement to be credited towards the Purchase Price on completion.

6. BALANCE

The Buyer agrees to pay to the Seller on the Completion Date the balance of the purchase price by certified cheque or bank draft, subject to the usual adjustments.

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7. ASSIGNMENT

This Agreement may not be assigned by the Receiver or the Buyer without the written consent of the other, which consent may not be arbitrarily withheld, but provided that: (i) any such assignee enters into a written agreement with the Receiver to be bound by the provisions of this Agreement in all respects and to the same extent as the Buyer is bound, (ii) such assignment occurs prior to the issuance of the Vesting Order, and (iii) the Buyer shall not be released from its obligations under the Agreement and will remain jointly and severally liable with the assignee for all of their obligations under the Agreement up to and including the Completion Date.

8. RECEIVER'S REPRESENTATIONS AND WARRANTIES

The Receiver represents and warrants to the Buyer that, as at the date hereof and as of the Completion Date, subject to the Vesting Order being issued,

- (a) the Receiver has the power, authority and right to enter into and deliver this Agreement and to carry out its obligations hereunder; and
- (b) this Agreement constitutes a valid and legally binding obligation of the Receiver, enforceable against the Receiver in accordance with its terms.

The Receiver makes no representation whatsoever in respect of the Property, including but not limited to its value or its uses. Notwithstanding anything in the Agreement, the Receiver makes no representations whatsoever except as set out in this section 8 to this Schedule "A" to the Agreement (Receiver's Representations and Warranties) and section 7 of the Agreement (Common Expenses).

9. BUYER'S REPRESENTATIONS AND WARRANTIES

The Buyer represents and warrants to the Receiver that:

- (a) the Buyer is a corporation duly incorporated, organized and existing under the laws of the Province of Ontario;
- (b) the Buyer 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 Buyer, enforceable against the Buyer in accordance with its terms;
- (d) the Buyer 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 Buyer, or Applicable Laws relating to the Buyer;
- (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 Completion Date;
- (f) the Buyer has available, and on the Completion Date will have, sufficient funding to enable the Buyer to consummate the purchase of the Purchased Assets on the terms set forth herein and otherwise to perform all of the Buyer's obligations under this Agreement;
- (g) the Buyer is registered under Part IX of the Excise Tax Act (Canada) with registration number _____; and
- (h) the Buyer is not a non resident of Canada within the meaning of section 116 of the Tax Act.

10. "AS IS, WHERE IS"



The image shows two electronic signatures. The first signature is on the left, with a boxSIGN logo and the reference number 4KQWVW2-4L2L8F96. The second signature is on the right, with a boxSIGN logo and the reference number 1KVV7EYF-4L3L8KX.

(i) The Buyer acknowledges and agrees that it is purchasing the Property on an “as is, where is” basis and on the basis that the Buyer 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 on the Completion Date in their then current state, condition, location, and amounts, subject to all Permitted Encumbrances.

(ii) Any documents, materials and information (collectively, “Information”) provided by or on behalf of the Receiver to the Buyer in relation to the Property or this Agreement have been provided to the Buyer solely to assist the Buyer 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 Buyer as to the accuracy and completeness of any such Information or the achievability of any valuations, estimates or projections. The Buyer 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 Information. The Buyer further acknowledges that the use of the Information may not be possible without the Buyer obtaining reliance or other assurances from the author of such Information directly and further that the interest of the Debtor in the Information may be subject to copyright or other property rights which may preclude their use by the Buyer in whole or in part.

11. TAXES

The Buyer shall be responsible for payment of all outstanding realty taxes owing or payable on the property on and from the Completion Date, and payment of all taxes eligible on the sale and transfer of the property and any chattels and fixtures, including without limitation, HST as applicable, retail sales tax as applicable and Land Transfer Tax. The Buyer shall indemnify and save harmless the Seller from all claims incurred, suffered or sustained as a result of a failure by the Buyer to any taxes payable by the Buyer and/or to file any returns, certificates, filings, elections, notices or other documents required to be filed by the Buyer with any federal, provincial or other taxing authorities in connection with the conveyance or transfer of the Property.

The Buyer agrees to remit to the Seller within ten (10) days of receipt or credit of all tax rebates or credit adjustments of any kind applicable to the Property up to the Completion Date and same shall remain the property of the Seller to be held in trust by the Buyer. If requested, the Buyer agrees to enter into and deliver to the Seller a tax rebate undertaking to this effect on closing.

12. CLOSING DOCUMENTS OF THE SELLER

On completion, the Seller shall deliver the following to the Buyer (in addition to all usual closing documents) which shall be in form and content, satisfactory to the Buyer, acting reasonably:

- a) a statement of adjustments, which is to be delivered at least five (5) business days prior to the Completion Date;
- b) an undertaking to readjust; and
- c) all keys and entry devices with respect to the Property and the combination of any locks or vaults.

13. CLOSING DELIVERIES OF THE BUYER

The Buyer will on or before the Completion Date deliver to the Seller:



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- a) the balance of the Purchase Price in accordance with the statement of adjustments by a certified cheque or bank draft payable to the Seller, or as the Seller may in writing direct;
- b) an undertaking to adjust; and
- c) a written direction regarding title, if applicable.

14. COUNTERPARTS AND DELIVERY

This Agreement may signed electronically and/or in counterparts and may be delivered by e-mail transmission, and all counterparts to this Agreement will be deemed to be one and the same legally binding document.

15. ADJUSTMENTS

Adjustments shall be made as of the Completion Date with respect to taxes, utilities, fuel/gas, water, interest on the deposit and other similar items. Fire and other insurance shall not be transferred or adjusted. The Completion Date shall be for the Buyer's account both as to revenue and expense.

16. CURRENCY

All reference to currency in this Agreement shall be deemed to be reference to Canadian dollars.

17. INTERPRETATION AND DISPUTES

This Agreement will be governed by the laws of the Province of Ontario and those federal laws of Canada applicable therein. Any dispute in respect of this Agreement shall be determined by the Court and the parties submit to the jurisdiction of the Court for that purpose.

18. BUYER CONDITIONAL PERIOD

This Agreement shall be conditional for a period of sixty (60) calendar days following mutual acceptance of this offer (the "Buyer's Conditional Period") upon the Buyer satisfying themselves with the following conditions:

- i. The Buyer being satisfied with the review of the condominium status certificate for the Property;
- ii. The Buyer attaining financing for the purchase of the Property to their satisfaction at their sole and unfettered discretion; and
- iii. The Buyer being satisfied with the results of a building inspection report that shall be completed at their Buyer's expense.

The Buyer shall provide written confirmation of the satisfaction or waiver of the above conditions to the Seller prior to the expiration of the Buyer's Conditional Period, failing which this offer shall become null and void and the deposit shall be returned to the Buyer in full without deduction.

19. MAINTAIN THE CONDITION OF THE PROPERTY

The Buyer is purchasing the Property in an "As is" condition. The Seller agrees to make best commercial efforts to maintain the condition of the property in the same manner as is has to the date of this Agreement until the Completion Date contained herein. This Seller shall ensure that best commercial efforts within their control are made to maintain the HVAC and plumbing systems



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boxSIGN 5K0W7R7P-4E1B596

BUYER: North Medafix Corporation

SELLER: KPMG Inc., in its capacity as Court-appointed receiver and manager of DMI Exim Limited

REAL PROPERTY: 10 Falconer Drive, Mississauga, ON

In accordance with the terms and conditions of the Agreement of Purchase and Sale - Commercial dated the22..... day of..... December

20²³....., regarding the above property, I/We hereby waive the condition(s) which read(s) as follows:

18. Buyer Conditional Period

This Agreement shall be conditional until March 12, 2024 (the "Buyer's Conditional Date") upon the Buyer satisfying themselves with the following:

- i. The Buyer being satisfied with the review of the condominium status certificate for the Property;
- ii. The Buyer attaining financing for the purchase of the Property to their satisfaction at their sole and unfettered discretion; and
- iii. The Buyer being satisfied with the results of a building inspection report that shall be completed at their Buyer's expense.

The Buyer shall provide written confirmation of the satisfaction or waiver of the above conditions to the Seller prior to the Buyer's Conditional Date failing which this offer shall become null and void and the deposit shall be returned to the Buyer in full without deduction.

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

For the purposes of this Waiver, "Buyer" includes purchaser, and "Seller" includes vendor.

DATED at..... MISSISSAUGA, Ontario, at 2:00 pm this..... 12 day of MARCH 20 24
(a.m./p.m.)

SIGNED, SEALED AND DELIVERED in the presence of:

IN WITNESS whereof I have hereunto set my hand and seal:

.....
(Witness)

.....
(Buyer/Seller/Authorized Signing Officer)

.....
(Seal) (Date) March 12, 2024

.....
(Witness)

.....
(Buyer/Seller/Authorized Signing Officer)

.....
(Seal) (Date)

Receipt acknowledged at this day of Mar 13, 2024 20..... by:

Print Name:..... Signature: Anamika Nadia

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CONFIDENTIAL APPENDIX “A”
Summary of key terms of formal offers

CONFIDENTIAL APPENDIX “B”
Sale Agreement (unredacted)

TAB 3

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

THE HONOURABLE) WEDNESDAY, THE 24TH
)
JUSTICE CONWAY) DAY OF APRIL, 2024

**IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985,
c. B-3, as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c. C43,
as amended**

B E T W E E N:

HSBC BANK CANADA

Applicant

- and -

DMI EXIM LIMITED

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by KPMG Inc. in its capacity as Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all of the undertaking, property and assets of DMI Exim Limited (the “**Debtor**”), including, but not limited to, the real property described in Schedule “A” hereto (the “**Real Property**”), for an Order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale dated December 22, 2023, as subsequently amended (as amended, the “**Sale Agreement**”) between the Receiver and North Medafix Corporation (the “**Purchaser**”), appended to the First Report of the Receiver dated April 5, 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 by way of videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver and such other parties listed on the Counsel Slip, no one else appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of Linda Wynne

sworn April __, 2024, filed:

SERVICE

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

APPROVAL AND VESTING

2 THIS COURT ORDERS 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 that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule “B” 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 on “as is, where is” basis, including the Real Property described on Schedule “A” 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 Penny dated August 1, 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 the Land Titles Division of Peel (LRO #43) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject Real Property identified in Schedule “A” hereto, 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; and
- (b) the Debtor's bankruptcy;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on the Debtor's trustee in bankruptcy 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.

SEALING

8 THIS COURT ORDERS that Confidential Appendices A to B of the Report, being (i) a summary of the offers received in the process leading to sale of Real Property; and (ii) an unredacted copy of the Sale Agreement, are hereby sealed until execution and delivery of the Receiver's Certificate.

GENERAL

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.

10. THIS COURT ORDERS that this Order is effective from today's date and is enforceable without further need for entry and filing.

Schedule "A" – Purchased Assets

Real Property

PIN19287-0005(LT): UNIT 5, LEVEL 1, PEEL CONDOMINIUM PLAN NO. 287; PT BLKS G, H & I PL 548, PT 1 43R10656, MORE FULLY DESCRIBED IN SCHEDULE 'A' OF DECLARATION LT839260; MISSISSAUGA,

and municipally known as Unit 3, 10 Falconer Drive, Mississauga, Ontario.

Schedule “B” – Form of Receiver’s Certificate

Court File No. CV-23-00703534-00CL

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

B E T W E E N:

HSBC BANK CANADA

Applicant

- and -

DMI EXIM LIMITED

Respondent

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Penny of the Ontario Superior Court of Justice (the “**Court**”) dated August 1, 2023, KPMG Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of DMI Exim Limited (the “**Debtor**”).

B. Pursuant to an Order of the Court dated April 1, 2024, the Court approved the agreement of purchase and sale dated December 22, 2023, as subsequently amended (as amended, the “**Sale Agreement**”) between the Receiver and North Medafix Corporation (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in 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].

**KPMG Inc., in its capacity as Receiver of the
undertaking, property and assets of DMI
Exim Limited, and not in its personal capacity**

Per: _____

Name:

Title:

Schedule “C” – Claims to be deleted and expunged from title to the Real Property

PIN19287-0005 (LT)

Instrument No.	Date	Instrument Type	Parties From	Parties To
PR3761442	2021/01/08	Transfer	2430729 Ontario Inc.	DMI Exim Limited
PR3829822	2021/05/07	Charge	DMI Exim Limited	HSBC Bank Canada
PR3829823	2021/05/07	Notice Of Assignment Of Rents-General	DMI Exim Limited	HSBC Bank Canada
PR4232510	2023/08/02	Application To Register Court Order	Ontario Superior Court of Justice (Commercial List)	KPMG Inc.

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

Specific:

Instrument No.	Date	Instrument Type	Parties From	Parties To
RO621268	1982/10/08	Certificate		
LT635075	1986/04/22	Notice		
LT839260	1988/01/11	Declaration Condo		Falcon Court Centre Inc.
LT850338	1988/02/17	BYLAW No. 1		
LT850339	1988/02/17	BYLAW No. 2		
LT850340	1988/02/17	BYLAW No. 3		
LT1565480	1995/05/26	BYLAW No. 4		
LT2057426	2000/03/27	Notice	Her Majesty The Queen In Right Of The Department Of Transport Canada	
PR852235	2005/05/18	Application (General)	Peel Condominium Corporation No. 287	

General:

Any of the following encumbrances constitute as Permitted Encumbrances:

- 1. Minor Encroachments:** Minor encroachments from the Real Property over neighbouring lands and/or permitted under agreements with neighbouring landowners and any fences or concrete curbs and minor encroachments over the Real Property from neighbouring land and/or permitted under agreements with neighbouring landowners and any fences and concrete curbs.
- 2. Crown Grant:** Any subsisting restrictions, exceptions, reservations, limitation, provisos and conditions (including, with limitation, royalties, reservation of mines, mineral rights and timber rights, access to navigable waters and similar rights) expressed in any original grants from the Crown of the lands comprising the Real Property and any statutory limitations, exceptions, reservations and qualifications.
- 3. Restrictions, Zoning, etc.:** Zoning, land use and building restrictions, by-laws, regulations and ordinances of any Governmental Authority, including municipal by-laws and regulations, airport zoning regulations, restrictive covenants and other land use limitations in favour of or imposed or reserved by any Governmental Authority.
- 4. Work Order:** Any and all Work Orders issued by any Governmental Authority.

- 5.** **Easements:** Any unregistered or registered easements required for the supply of domestic utility services to the Real Property.
- 6.** **Survey matters:** Encroachments, deficiencies or other matters disclosed by any plan of survey in respect of the Real Property or any part thereof.
- 7.** **Taxes/Utilities:** Encumbrances or prior claims for Real Property taxes (which term includes charges, rates and assessments) or charges or levies for electricity, power, gas, water and other services and utilities in connection with the Real Property that have accrued but are not yet due and owing or, if due and owing, are adjusted for on Closing.
- 8.** **Restrictive Covenants:** Restrictive covenants, private deed restrictions, rights-of-way, facility cost sharing agreements, servicing agreements, crane swing/tie back agreements, reciprocal use agreements or other similar land use control agreements or rights in land (including, without limitation, restrictions, rights-of-way and servitudes for sewers, drains, gas and oil pipelines, gas and water mains, electric light and power and telephone or telegraph or cable television conduits, poles, wires and cables) granted to other persons or property, or reserved by other persons or the benefit of other property.
- 9.** **Applicable Laws:** The provisions of all Applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning at the Real Property.
- 10.** **Land Titles Act:** The exceptions and qualifications contained in Section 44 of *the Land Titles Act* (Ontario), save and except paragraph 5 thereof relating to the *Family Law Act*, paragraph 11 thereof respecting the *Planning Act* (Ontario) and escheats/forfeiture to the Crown.
- 11.** **Registered Agreements:** Registered agreements with any Governmental Authorities or public utilities, including subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements.

HSBC BANK CANADA

and

Applicant

DMI EXIM LIMITED

Respondent

Court File No. CV-23-00703534-00CL

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

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

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HSBC BANK CANADA

Applicant and

DMI EXIM LIMITED

Respondent

Court File No. CV-23-00703534-00CL

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

Proceedings commenced at Toronto

**MOTION RECORD
Returnable April 24, 2024**

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