

Court of Appeal File No. COA-24-CV-0702
Superior Court File No. CV-21-00664778-00CL

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicant

- and -

MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD CORPORATION

Respondents

APPEAL PURSUANT TO S. 193 OF THE BANKRUPTCY AND INSOLVENCY ACT

**COMPENDIUM OF THE RESPONDENT IN APPEAL
KSV RESTRUCTURING INC., IN ITS CAPACITY AS COURT-APPOINTED
RECEIVER AND MANAGER OF MAHAL VENTURE CAPITAL INC.
AND GOLDEN MILES FOOD CORPORATION**

December 17, 2024

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COURT OF APPEAL FOR ONTARIO

B E T W E E N

SKYMARK FINANCE CORPORATION

Applicant

- and -

MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD CORPORATION

Respondents

COMPENDIUM OF THE RESPONDENT IN APPEAL

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ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-21-00664778-00CL
CV-22-00692309-00CL

DATE: June 4, 2024

NO. ON LIST: 1 &2

TITLE OF PROCEEDING: SKYMARK FINANCE CORPORATION v. MAHAL VENTURE
CAPITAL INC. et al

AND

PRICEWATERHOUSECOOPERS INC. IN ITS CAPACITY AS COURT-APPOINTED RECEIVER
AND MANAGER OF BRIDGING FINANCE INC. ET AL v. SKYMARK FINANCE CORPORATION
et al

BEFORE: JUSTICE STEELE

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ENDORSEMENT OF JUSTICE STEELE:

Overview

- [1] This motion arises following a sale by a receiver of certain assets in respect of which an approval and vesting order was granted. Several months following the closing of the transaction, the municipality issued omit tax bills in respect of taxation years prior to the sale.
- [2] The issue before the Court is who, as between the vendor and the purchaser, is liable for the payment of the tax. It is a matter of interpretation of the agreement between the parties and the approval and vesting order granted by the Court.
- [3] KSV Restructuring Inc. (the “Receiver”), the receiver of the assets of Mahal Venture Capital Inc. (“Mahal VC”) and Golden Miles Food Corporation (“Golden Miles”), brings the motion seeking an order that the Receiver and Mahal VC are not liable to pay 12175622 Canada Ltd. (the “Purchaser”) or the City of Brantford (the “City”) on account of the Omit Tax Claims. Alvarez & Marsal, the receiver for Skymark Finance Corporation, supports the position of the Receiver.
- [4] MNP Ltd. (the “Purchaser’s Receiver”), the receiver of the Purchaser, takes the position that the Receiver is liable for the Omit Tax Claims. Santokh Mahal supports the position of the Purchaser’s Receiver.
- [5] Mr. Mahal was the principal behind Mahal VC and Golden Miles and was also the principal behind the Purchaser.
- [6] For the reasons set out below, I have determined that the Purchaser’s Receiver is liable for the Omit Tax Claims.

- [7] The Receiver was appointed over the property of Mahal VC and Golden Miles on October 1, 2021.
- [8] On November 22, 2021, the Court approved a sale process for the Receiver to sell the property of Mahal VC and Golden Miles.
- [9] On or about October 27, 2021, the Receiver notified the City that it required a statement of property tax arrears in respect of the real property located at 155 Adams Boulevard, Brantford (the “Real Property”).
- [10] On or about October 28, 2021, the City provided a statement of account for the Real Property showing minimal outstanding taxes. The City advised the Receiver that “this property is still not properly assessed” and that the City had submitted a request to MPAC in the spring [2021]. The City further noted that “[t]his will result in additional taxes being added to the property and omitted tax notices being issued.”
- [11] On November 15, 2021, the Receiver filed an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* on behalf of the debtor companies pursuant to paragraph 3(r) of the receivership Order. KSV was appointed as the Trustee of the debtor companies.
- [12] In January 2022 the Receiver followed up with the City regarding the MPAC assessment and inquired as to whether MPAC had a timeline for the completion of the assessment. In addition, the Receiver asked whether the City could estimate the approximate assessment value range for the Real Property. The City replied that MPAC had responded to the City’s inquiry and had requested building permit information, which the City provided to MPAC. The City followed up with MPAC on January 18, 2022 to get an update and timeline for the valuation of the Real Property.
- [13] On or about February 7, 2022, MPAC notified the City that there was a freeze on inspections (due to COVID restrictions) until the end of February.
- [14] On March 18, 2022, the Purchaser and the Receiver entered into the agreement of purchase and sale pursuant to which the Purchaser agreed to buy substantially all of the assets and property of Mahal VC and Golden Miles, including the Real Property (the “Transaction”).
- [15] Farm Credit Canada (“FCC”) provided financing to the Purchaser for the Transaction.
- [16] On April 11, 2022, the Court granted an approval and vesting order with respect to the Transaction.
- [17] The Transaction closed on May 18, 2022.

- [18] At the time of closing, an undertaking to readjust was executed by the parties, which provided for a 45-day readjustment period (expiring on July 4, 2022). The Receiver undertook to re-adjust all items on the statement of adjustments during such period. This undertaking included municipal property tax.
- [19] In connection with the closing of the Transaction, the Receiver obtained tax certificates for the Real Property from the City, which disclosed that \$167,560 was due and owing in respect of property taxes, water arrears, interest and penalties as of the anticipated closing date.
- [20] On or about May 25, 2022, the Receiver paid the City the outstanding taxes on the Real Property of \$167,402.
- [21] On or about October 28, 2022, MPAC reassessed the taxes (\$1,091,423) based on the value of the building on the Real Property.
- [22] On November 24, 2022, the City issued Omit Tax Bills to the Purchaser in the total amount of \$1,091,423 in respect of the taxation years 2020, 2021 and 2022.
- [23] The Purchaser provided the Receiver with the Omit Tax Bills on February 24, 2023.
- [24] On March 5, 2023, the Purchaser appealed the tax reassessment, which appeal was subsequently withdrawn.
- [25] In August 2023 the Receiver obtained authorization from the Court to reserve \$1,500,000 from the sale proceeds pending the Court's determination of the Omit Tax Claims issue.

Analysis

- [26] As noted above, the only issue for the Court on this motion is who, as between the Receiver and the Purchaser's Receiver, is responsible to pay the Omit Tax Claims.
- [27] The Receiver takes the position that under both the asset purchase agreement and the approval and vesting order, the liabilities in respect of the Omit Tax Claims belong to the Purchaser/Purchaser's Receiver.
- [28] The Purchaser's Receiver takes the opposite position.

Summary

- [29] Although the Purchaser's Receiver places some emphasis on the fact that the Receiver was aware that there was an MPAC reassessment, in my view this matter turns on the terms of the relevant documents. The Receiver may have known that there was an MPAC

assessment, but the Receiver did not know the timing or the likely quantum of the 5
reassessment, if any. In addition, because the principal of the Purchaser was the same as
the principal of the debtor companies, Mr. Mahal would have had knowledge regarding the
changes made to the land and the potential for a tax reassessment. Further, the tax
assessment information provided on the Closing indicated that it was subject to
reassessment.

- [30] As discussed in further detail below, it is my view that the relevant documentation supports the Receiver's position that the Purchaser's Receiver is liable for the Omit Tax Claims. The Asset Purchase Agreement ("APA") and Approval and Vesting Order ("AVO") provide that the Purchaser is responsible for the "Permitted Encumbrances," which include encumbrances for taxes that relate to or secure Liabilities that are not yet due or are not in arrears. The APA also provides that the Purchaser assumes only the "Assumed Liabilities," which are liabilities related to the purchased assets that arise on or after the Closing Date. As noted above, the Receiver provided an undertaking to readjust "all items on the Statement of Adjustments" within 45 days from the closing date of the Transaction. Accordingly, had there been a tax reassessment within the 45-day period, it would have been covered by the undertaking.
- [31] The Purchaser's Receiver's position is that under the *Municipal Act*, reassessed taxes are deemed to have been assessed as at January 1 of the year in which the reassessment is made. However, this does not mean the taxes were outstanding liabilities on the Closing Date. The liability in respect of the Omit Tax Claims could not have arisen until the Omit Tax Bills were issued on November 25, 2022. The Omit Tax Bills themselves, issued on November 2022, refer to the amount past due as \$0 and set out the future instalment payments for the amounts due under those bills.
- [32] It is important for a purchaser buying assets out of a bankruptcy to be able to rely on the Court's approval and vesting order. That does not change in the instant case. The AVO issued by the Court reflected the terms on permitted encumbrances that were present in the contractual deal of the parties, and, in this case, the contractually permitted encumbrances would include the liability in question.

Asset Purchase Agreement and Approval and Vesting Order

- [33] I now address the relevant provisions of the APA and the AVO in greater detail. The Receiver submits that the Omit Tax Claims were "Assumed Liabilities," which were assumed by the Purchaser under the asset purchase agreement. In addition, the Receiver submits that the Omit Tax Claims were "Permitted Encumbrances" that remained with the property on the sale pursuant to the terms of the APA and the AVO.
- [34] Section 2.2 of the APA provides that at closing the Purchaser agrees to assume only the "Assumed Liabilities":

2.2 At the Closing Time, on and subject to the terms and conditions of this ⁶ Agreement, the Purchaser shall assume and agree to pay when due and perform and discharge in accordance with their terms, the Assumed Liabilities. Notwithstanding any other provision of this Agreement, the Purchaser shall not assume any Liabilities other than the Assumed Liabilities, except as required under Applicable Law. [emphasis added]

- [35] “Assumed Liabilities” is defined in the APA to include: “all Liabilities relating to the Purchased Assets or Related to the Business arising on or after the Closing Date.”
- [36] The Omit Tax Claims relate to the Purchased Assets because they are tax liabilities that were assessed on the Real Property that was purchased.
- [37] The parties disagree on whether the Omit Tax Claims are liabilities “arising on or after the Closing Date [May 18, 2022].”
- [38] The Receiver submits that because the Omit Tax Claims were made in November 2022, more than six months after closing, they arose after the Closing Date even though they are in respect of a pre-closing period tax liability.
- [39] The Purchaser’s Receiver submits that the liability for the Omit Tax Claims arose before the closing of the transaction. The Purchaser’s Receiver states that the fact that the quantum of the liability was not assessed until after the close of the Transaction does not impact when the liability arose.
- [40] The Purchaser’s Receiver points to section 307(3) of the *Municipal Act, 2001*, which provides that taxes assessed under the *Assessment Act* (as was the case here) are deemed to have been imposed and to be due on January 1 of the year to which they relate unless the by-law imposing the tax provides otherwise. The Purchaser’s Receiver submits that under this provision the Omit Tax Claims were due January 1, 2020, January 1, 2021 and January 1, 2022. I am not persuaded by this argument because the contracting parties specifically addressed the division of liabilities between them. The *Municipal Act* contemplates that assessed taxes may be recovered from the taxpayer originally assessed for them and from any subsequent owner of the assessed land: s. 349, *Municipal Act, 2001*.
- [41] I am of the view that the Omit Tax Claims are “Assumed Liabilities.” The liability for the Omit Tax Claims did not arise until the bills were issued about 6 months after the Transaction closed. In the APA, the parties contractually set out who was to be responsible for what, and specifically carved out certain liabilities that the purchaser would assume on closing. The parties also contemplated a 45-day adjustment period following closing. The Omit Tax Claims are a liability related to the purchased assets that clearly arose after the closing date. As noted above, the bills themselves in respect of the Omit

Tax Claims, which were issued months after the 45-day adjustment period, refer to the amount past due as \$0 and set out the payment schedule for future instalments.

- [42] I am also of the view that the Omit Tax Claims (and any encumbrance that secures them) were not claims that were vested out of the Real Property under the APA or the AVO (discussed below).
- [43] Section 2.1 of the APA provides that the vendor will sell to the purchaser its interest in the purchased assets, free of all encumbrances, other than “Permitted Encumbrances:”
- 2.1 At the Closing Time, on and subject to the terms and conditions of this Agreement, the Sale Procedure and the Approval and Vesting Order, the Vendor shall sell to the Purchaser, and the Purchaser shall purchase from the Vendor, all of the Debtors’ and the Vendor’s right, title and interest, if any, in and to the Purchased Assets, which shall be free and clear of all Encumbrances other than Permitted Encumbrances, to the extent and as provided for in the Approval and Vesting Order.
- [44] “Permitted Encumbrances” is defined in the APA to include: “Encumbrances related to Taxes and utilities arising by operation of law (statutory or otherwise) which relate to or secure Liabilities that in each case are not yet due or are not in arrears or, if due or in arrears, the validity of which is being contested.”
- [45] The Receiver’s position is that the Omit Tax Claims, and any corresponding encumbrances, were not yet due or were not in arrears as of the closing date of the Transaction. The Receiver notes that the Omit Tax Claims were not even made until November 25, 2022, more than six months after the closing of the Transaction.
- [46] The terms of the approval and vesting order are consistent with the APA. Section 4 of the AVO provides that the purchased assets will be delivered and vest in the Purchaser free and clear of any security interests, other than the permitted encumbrances listed on Schedule “C” to the Order, which includes:
- (a) Encumbrances to Taxes and utilities arising by operation of law (statutory or otherwise) which relate to or secure Liabilities that in each case are not yet due or are not in arrears or, if due and in arrears, the validity of which is being contested.
- [47] The Purchaser’s Receiver points to the Court of Appeal’s decision in *Credit Union Central of Ontario Limited v. Heritage Property Holdings Inc.*, 2008 ONCA 167, 99 C.B.R. (6th) 273 (“*Heritage Property*”). The Purchaser’s Receiver submits that *Heritage Property* precludes the Court’s acceptance of the Receiver’s position that the Omit Tax Claims are the Purchaser’s obligation.

- [48] The Court of Appeal in *Heritage Property* considered a similar issue; however, the key documents in that case were different. In *Heritage Property* the motion judge had determined that the AVO “d[id] not grant title to the purchaser free and clear of the contingent potential tax liability to be determined by a reassessment”: *Credit Union Central of Ontario Limited v. Heritage Property Holdings Inc.*, 36 C.B.R. (5th) 121 (Ont. S.C.) (“*Heritage Property (ONSC)*”), at para 24 [emphasis removed]. The Court of Appeal allowed the appeal and found that the Receiver was responsible for the increased realty taxes up to the closing date. The Court of Appeal in *Heritage Property*, at para. 27, stated that the increased realty taxes were “a future claim for realty taxes that existed at the time of closing but remained to be quantified.” Under the terms of the AVO, the Court of Appeal determined that the purchaser took the property free and clear of the increased realty taxes.
- [49] The Receiver submits that *Heritage Property* is clearly distinguishable upon its facts. I agree.
- [50] In *Heritage Property*, the AVO considered by the Court of Appeal had similar language vesting the purchased property in the buyer free and clear of all encumbrances, other than permitted encumbrances. Where that case differs is the Schedule “C” permitted encumbrances. In *Heritage Property*, the “[permitted] encumbrances listed relate to subdivision control by-laws and Hamilton Airport zoning regulations”: *Heritage Property*, at para 15. This is very different from the permitted encumbrances in Schedule “C” in the instant case. As noted above, the permitted encumbrances in the instant case specifically refer to encumbrances to taxes arising by operation of law that relate to or secure liabilities that are not yet due.
- [51] Further, the language vesting the property in the purchaser in *Heritage Property* is broader than the instant case. In *Heritage Property*, the Court order provided that the purchaser was vested in the property free and clear of “any and all estate, right, title, interest, hypothecs, [...] taxes, [...] whether such claims came into existence prior to, subsequent to, or as a result of any previous order of this Court, contractually, by operation of law or otherwise [...]”: *Heritage Property*, at para 14 [emphasis added]. The vesting language in the order in the instant case does not include, among other things, the underlined language from the vesting order in *Heritage Property*.¹

¹ Paragraph 4 of the AVO provided: 4. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule “A” hereto (the “Receiver’s Certificate”), all of the Receiver’s and the Companies’ right, title and interest in and to the Purchased Assets described in the APA 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 McEwen dated October 1, 2021; (ii) all charges, security interests or claims evidenced by registrations pursuant to the Personal Property Security Act (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule “B” hereto (all of which are collectively referred to as the “Encumbrances”, which terms shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule “C”) and, for greater certainty, this Court orders that all of the Encumbrances affecting or

[52] All the parties agree that vesting orders are important, and purchasers need to be able to rely upon them. However, they disagree as to whether the terms of the vesting order in the instant case, and, in particular, the carve out for permitted encumbrances, included the Omit Tax Claims.

[53] In my view, the permitted encumbrances, which were permitted to remain on the transferred property, include the Omit Tax Claims. The Omit Tax Bills were issued months after the transaction closed, and months after the 45-day adjustment period provided for in the undertaking. The contracting parties turned their minds to what the permitted encumbrances would be in the APA and then replicated that language in the AVO. I am of the view that the tax liability was not yet “due” at the time of closing. As noted above, this is supported by the Omit Tax Bills themselves, which when issued in November 2022 referred to the amount past due as \$0 and set out the future schedule for when instalment payments were to be due.

Disposition

[54] The Purchaser’s Receiver is responsible for the Omit Tax Bills.

A handwritten signature in blue ink, appearing to be 'J. Lee', is located on the right side of the page.

Date of Release: June 18, 2024

TAB 2



**Sixth Report to Court of
KSV Restructuring Inc.
as Receiver and Manager of
Mahal Venture Capital Inc. and
Golden Miles Food Corporation**

March 26, 2024

And

**Third Report to Court of
KSV Restructuring Inc.
as Licensed Insolvency Trustee of
Mahal Venture Capital Inc. and
Golden Miles Food Corporation**

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COURT FILE NO. CV-21-00664778-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

SKYMARK FINANCE CORPORATION

APPLICANT

- AND -

MAHAL VENTURE CAPITAL INC. AND
GOLDEN MILES FOOD CORPORATION

RESPONDENTS

SIXTH REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER

AND

THIRD REPORT TO COURT OF
KSV RESTRUCTURING INC.
AS LICENSED INSOLVENCY TRUSTEE OF
MAHAL VENTURE CAPITAL INC. AND
GOLDEN MILES FOOD CORPORATION

MARCH 26, 2024

1.0 Introduction

1. This report (the "Report") is filed by KSV Restructuring Inc. ("KSV") in its capacity as receiver and manager ("Receiver") of the assets, undertakings and properties of Mahal Venture Capital Inc. ("Mahal VC") and Golden Miles Food Corporation ("Golden Miles", and together with Mahal VC, the "Companies") owned or used in connection with the flour mill (the "Flour Mill") located on the property municipally known as 155 Adams Blvd., Brantford, Ontario (the "Real Property" and together with the Flour Mill, the "Property"), and in its capacity as licensed insolvency trustee of the Companies (the "Trustee").
2. KSV was appointed Receiver of the Companies pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on October 1, 2021 (the "Receivership Order"). The resulting receivership proceedings are referred to herein as the "Receivership Proceedings".

3. On November 15, 2021, the Receiver filed an assignment in bankruptcy pursuant to the *Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3*, as amended (the “BIA”) on behalf of the Companies pursuant to Paragraph 3(r) of the Receivership Order (with each bankruptcy being the “Mahal VC Bankruptcy” and “Golden Miles Bankruptcy”, and together being the “Bankruptcies”). KSV was appointed Trustee of the Companies by the Office of the Superintendent of Bankruptcy (Canada).
4. The principal purpose of the Receivership Proceedings was to allow the Receiver to take possession, preserve, market and sell the Property to maximize value for the Companies’ creditors.
5. On April 11, 2022, the Court granted an order in the Receivership Proceedings approving the sale of substantially all of the Property to 12175622 Canada Inc. (the “Purchaser”) pursuant to an agreement of purchase and sale dated March 18, 2022, as amended (the “APA”).
6. The Purchaser is owned and controlled by Santokh Mahal (“Santokh”), the owner and sole officer and director of Golden Miles, and the father of Jesse Mahal (“Jesse”, and together with Santokh, the “Mahals”), the owner and sole officer and director of Mahal VC.
7. The sale transaction contemplated by the APA (the “Transaction”) closed on May 18, 2022. The aggregate net proceeds received were \$18.47 million (the “Sale Proceeds”). Of the Sale Proceeds, \$16 million was allocated to the real property (the “Real Property”) owned by Mahal VC (the “Real Property Proceeds”) and \$2.47 million was allocated to the personal property (the “Personal Property”) owned by Golden Miles (the “Personal Property Proceeds”).
8. The Receiver filed a motion on August 15, 2023, seeking, among other things, an Order authorizing and directing the Receiver to make certain distributions from the Real Property Proceeds and other recoveries associated with Mahal VC (the “Mahal VC Proceeds”) and the Personal Property Proceeds, as applicable, to Vicano Construction Limited (“Vicano”), Skymark Finance Corporation (“Skymark”), KLN Holdings Inc. (“KLN”) and Santokh, and maintain certain holdbacks (the “First Interim Distribution Motion”). In connection with the First Interim Distribution Motion, the Receiver filed its Fifth Report to the Court dated August 15, 2023 (the “Fifth Report”) and the Receiver’s supplement to the Fifth Report dated August 22, 2023 (the “Fifth Report Supplement”). Copies of the Fifth Report and the Fifth Report Supplement, both without appendices, are included as Appendices “A” and “B”, respectively.
9. The Court issued its decision dated August 23, 2023 in respect of the First Interim Distribution Motion (the “First Interim Distribution Order”), which, among other things, authorized the Receiver to:
 - a) distribute from the Personal Property Proceeds, subject to minor modifications to account for accruals of interest and expenses as reasonably determined by the Receiver: (i) \$314,755 to Santokh, subject to set-off referred to in 9(b) below; and (ii) \$247,000 to Skymark;

- b) set off the amount of \$95,000 (the “Set-Off Amount”) from the distribution to Santokh referenced in 9(a) above, resulting in a net distribution to Santokh of \$219,755, and from the Set-Off Amount: (i) applying \$75,000 against the costs of the Receiver and the Receiver’s counsel, Blake, Cassels and Graydon LLP (“Blakes”) incurred in these proceedings; and (ii) distributing \$20,000 to Skymark, in each case in full satisfaction of Santokh’s obligations in respect of the cost award made pursuant to an Endorsement of Justice McEwen dated May 10, 2023 in these Receivership Proceedings;
 - c) distribute from the Mahal VC Proceeds, subject to minor modifications to account for accruals of interest and expenses as reasonably determined by the Receiver: (i) \$1,659,413 to Vicano; (ii) \$5,097,556 to Skymark; (iii) \$1,399,340 to KLN; (iv) in addition to the distribution set out in subparagraph (iii), up to \$1,047,826 to KLN, with such amount and payment of distribution being subject to further Order of the Court (the “Disputed Transfer”); and
 - d) maintain the following holdbacks from the Mahal VC Proceeds pending further Order of the Court: (i) \$600,000 (the “Mahal VC Cost Reserve”); (ii) \$3,650,000 (the “Orr Holdback”); and (iii) \$1,500,000 (the “Omit Tax Reserve”).
10. A copy of the First Interim Distribution Order is attached hereto as Appendix “C”.

1.1 Purposes of this Report

- 1. The purposes of this Report are to:
 - a) provide an update on the Receivership Proceedings;
 - b) summarize the Receiver’s interim statement of receipts and disbursements for the period ending March 21, 2024 (the “R&D”);
 - c) summarize the Receiver’s position regarding the Disputed Transfer, Omit Tax Claims, Orr Plaintiffs Dispute, Vicano Disputed Amount and the Mahal VC Cost Reserve (each as defined herein);
 - d) provide an update on the Outstanding Litigation (as defined below);
 - e) summarize the Receiver’s proposed second interim distribution from the Mahal VC Proceeds to certain of the Companies’ secured creditors (the “Second Interim Distribution”); and
 - f) request that the Court issue an Order (the “Distribution and Discharge Order”):
 - i. authorizing and directing the Receiver to make the Second Interim Distribution;
 - ii. approving the R&D;
 - iii. approving the fees of the Receiver and Blakes for the period of August 1, 2023 to February 29, 2024 plus an accrual of \$200,000 (plus disbursements and HST) until the Completion Certificate is filed (as defined below) (the “Fee Period”);
 - iv. approving this Report and the Receiver’s activities described herein;

- v. releasing the Receiver and its counsel from claims arising prior to the date of the Distribution and Discharge Order; and
- vi. discharging the Receiver and releasing the Receiver and its counsel from claims arising after the date of the order, effective upon the filing of the Completion Certificate (defined below).

1.2 Currency

1. All amounts in this Report are expressed in Canadian Dollars, unless otherwise noted.

1.3 Restrictions

1. In preparing this Report, the Receiver has relied upon certain of the Companies' unaudited financial statements, limited books and records obtained from the Mahals, and discussions with the Mahals and a former advisor to the Companies.
2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.

2.0 Executive Summary

1. Substantially all of the Companies' assets have been sold, which resulted in gross proceeds of approximately \$18.9 million (excluding sales taxes and Receiver's borrowings). The First Interim Distribution Order authorized the Receiver to distribute the proceeds of the Transaction, subject to certain holdbacks and reserves, each as summarized in paragraph 1.0(9), above.
2. The Receiver currently holds approximately \$6.97 million after accrued costs, all of which is allocated to Mahal VC (being the remaining Mahal VC Proceeds).
3. All distributions of Personal Property Proceeds to secured creditors of Golden Miles have been completed in accordance with the First Interim Distribution Order, and the remaining \$1,277,182 of Personal Property Proceeds is being held by the Trustee, subject to unsecured creditor distributions to be made in the Golden Miles Bankruptcy proceedings. No relief in respect of these remaining Personal Property Proceeds is being sought by the Receiver or the Trustee at this time.
4. The Receiver seeks the following relief from the Court to address the remaining Mahal VC Proceeds:
 - a) **Disputed Transfer.** The Receiver seeks an order authorizing the Receiver to distribute the \$1,047,826 Disputed Transfer (defined above), which was held back from the interim distribution made to KLN pending the resolution of a dispute between KLN and the Skymark Receiver, which dispute has now been resolved.

- b) **Omit Tax Claims:** The Receiver seeks an order: (i) that the Receiver is not liable to pay the Omit Tax Claims; and (ii) authorizing the Receiver to distribute the Omit Tax Reserve to Skymark and KLN, in accordance with their relative entitlements.
 - c) **Orr Holdback:** The Receiver seeks an order authorizing the Receiver to distribute the Orr Holdback to Skymark and the Orr Plaintiffs (as defined below) in accordance with the terms of a confidential settlement agreement between the parties that was approved by this Court on February 22, 2024.
 - d) **Vicano Disputed Amount.** The Receiver seeks an order authorizing it to distribute up to \$71,096 to Vicano, Skymark or KLN, with the prior written consent of each party, subject to the resolution of an ongoing dispute with Vicano about such amount.
 - e) **Mahal VC Cost Reserve:** The Receiver seeks an order authorizing it to distribute \$260,709 of the remaining Mahal VC Cost Reserve to Skymark and KLN in accordance with their relative entitlements.
5. In addition, the Receiver seeks Court approval of the R&D, this Report, the Receiver's activities as set out in this Report, its fees and disbursements and the fees and disbursements of its counsel, as outlined in the Fee Affidavits (as defined below).

3.0 Background

1. Detailed information regarding the Companies, their stakeholders, the Transaction, the First Interim Distribution Motion and these proceedings more generally is included in the prior reports of the Receiver and Trustee, including the Fifth Report, which is attached hereto as Appendix "A", without appendices. All reports and other materials filed with the Court in these proceedings can be accessed on the Receiver's website at: <https://www.ksvadvisory.com/experience/case/mahal-venture-capital-inc.>

3.1 Secured Creditors

1. As of the date of the Receivership Order, the Companies were indebted to Skymark in the amount of approximately \$29.2 million¹. The Skymark debt relates to various loans to Mahal VC in connection with mortgages granted by Mahal VC on the Real Property (the "Mahal Loans") and to Golden Miles in connection with financing for specific equipment (the "GM Loans", and together with the Mahal Loans, the "Loans"). The Receiver understands that the primary purpose of the Loans was to construct the Flour Mill on the Real Property and to acquire certain of the equipment to be used in it.
2. On March 6, 2023, Alvarez & Marsal Canada Inc. was appointed as receiver (the "Skymark Receiver") over Skymark and Merk Investments Ltd. ("Merk") pursuant to an order of Mr. Justice Penny, sought by Skymark's secured creditor, Bridging Finance Inc. (acting by its court-appointed receiver, PricewaterhouseCoopers Inc.) (the "Skymark Receivership Proceedings"). The Receiver has been in discussions with the Skymark Receiver and its counsel since its appointment, as the primary secured creditor of the Companies.

¹ This Skymark facility consisted of approximately \$19.7 million owing by Mahal VC and approximately \$9.5 million owing by Golden Miles.

3. In addition to Skymark, certain other creditors had registered secured interests in either the Personal Property or the Real Property. All secured creditors registered against the Personal Property Proceeds have been paid in full. Taking into account the amounts of the valid secured claims against the Mahal VC Proceeds, and the amount of the remaining Mahal VC Proceeds, the only remaining creditors with valid secured claims against the Mahal VC Proceeds who are expected to receive a distribution are Skymark, KLN and, potentially, Vicano.

4.0 Receipts and Disbursements

1. Attached as Appendix “D” is the R&D, which reflects that there is approximately \$6,972,886 in the Receiver’s estate account after accrued costs, all of which is allocated to Mahal VC.
2. The proceeds allocated to Golden Miles that were subject to the interest of secured creditors have been distributed, and the unencumbered proceeds are now held by the Trustee of Golden Miles’ Bankruptcy estate.

5.0 Status of Mahal VC Proceeds Matters

5.1 Disputed Transfer

1. The Receiver currently holds \$1,047,826 in connection with the Disputed Transfer between KLN and Skymark. The Disputed Transfer was summarized in Section 3 of the Fifth Report Supplement.
2. Based on the relative priorities of all stakeholders with a claim against Mahal VC, the amount withheld on account of the Disputed Transfer is either payable to KLN or the Skymark Receiver. It is a binary issue: no other creditor or stakeholder has a claim to the funds, in the Receiver’s view.
3. On March 15, 2024, the Receiver was advised by counsel to the Skymark Receiver and counsel to KLN that the issues underlying the Disputed Transfer had been resolved consensually, and that the Skymark Receiver expected to bring a motion in the Skymark receivership proceedings seeking Court approval of the settlement agreement².
4. The Receiver understands that the Skymark Receiver and KLN have agreed that each of them will receive 50% of the \$1,047,826 held back on account of the Disputed Transfer. The Receiver is accordingly seeking an Order, subject to this Court approving the KLN settlement in the Skymark receivership proceedings, authorizing it to distribute \$523,913 to each of Skymark and KLN.
5. The Receiver has consulted with counsel to the Skymark Receiver and KLN, and has advised them that all subsequent distributions to KLN shall be calculated in accordance with the same principle as underlies the KLN settlement, as discussed below in connection with the proposed distributions.

² The Receiver understands that the Skymark Receiver intends to bring a motion for approval of the KLN settlement in the Skymark receivership proceedings at the same time as the Receiver’s motion seeking the Distribution and Discharge Order.

5.2 Omit Tax Claims

1. The Receiver currently holds the Omit Tax Reserve, being \$1,500,000 of the Mahal VC Proceeds. The Receiver held this back pursuant to the First Interim Distribution Order.
2. The following summarizes the Omit Tax Claims and Omit Tax Reserve, which is also set out in the Fifth Report:
 - a) On February 24, 2023, counsel to the Purchaser in the Transaction notified the Receiver that the City of Brantford was seeking property tax in arrears on the Real Property and provided the Receiver with three “omit” tax bills for 2020, 2021 and 2022, totalling \$1,091,423 (such tax claims being the “Omit Tax Claims”). Copies of the Purchaser’s letter and the three omit tax bills are attached hereto as Appendix “E”.
 - b) The Purchaser has taken the position that the Mahal VC estate (ie: the Receiver) is liable for the Omit Tax Claims.
 - c) The Receiver does not agree that the Mahal VC estate, the Receiver or the Trustee are liable for the Omit Tax Claims, for the following reasons:
 - i. the Receiver understands that the omit tax bills were issued by the Municipal Property Assessment Corporation because of a reassessment related to the Flour Mill that was built on the Real Property, and not historically taxed;
 - ii. on the closing of the Transaction on May 18, 2022, the Receiver: (i) paid all known outstanding municipal property taxes up to the date of the closing, in the amount of \$167,402; and (ii) gave the Purchaser an undertaking to re-adjust any amounts in the statement of adjustments for up to 45 days (ie: July 4, 2022);³
 - iii. pursuant to the APA, the Purchaser assumed “all Liabilities relating to the Purchased Assets or Related to the Business arising on or after the Closing Date”;⁴
 - iv. the omit tax bills were issued on November 25, 2022, over 6 months after the Transaction closed and over 4 months after the Receiver’s undertaking to adjust for municipal property taxes expired;
 - v. the Approval and Vesting Order dated April 11, 2022, which approved the Transaction (the “AVO”),⁵ provides that the following are not vested out of the purchased property (emphasis added): “Encumbrances related to Taxes and utilities arising by operation of law (statutory or otherwise) which relate to or secure Liabilities that in each case are not yet due or are not in arrears or, if due or in arrears, the validity of which is being contested”;

³ A copy of the Receiver’s undertaking to adjust is attached hereto as Appendix “F”.

⁴ A copy of the APA is attached hereto as Appendix “G”.

⁵ A copy of the AVO is attached hereto as Appendix “H”.

- vi. the Omit Tax Claims had not been made as of the date of the AVO being issued, let alone becoming due or in arrears; and
 - vii. taking the foregoing points (i) through (vi) together, the Receiver has concluded that: a) the Omit Tax Claims fall outside of the Receiver's obligation to readjust; b) the Omit Tax Claims are an assumed liability of the Purchaser under the APA; and c) the Omit Tax Claims were not vested out of the purchased property and therefore do not attach to the proceeds of the Transaction.
- d) The Receiver held back \$1,500,000 of the Mahal VC Proceeds, representing the Omit Tax Claims totaling \$1,091,423, plus an estimate for interest (which accrues monthly at 1.25%) accrued thereon until the eventual resolution date. The First Interim Distribution Order authorized the Receiver to take this holdback.
3. The Receiver contacted the Purchaser's counsel, Dickinson Wright LLP ("Dickinson Wright"), by email on September 25, 2023, and suggested that if the Purchaser believed that such amounts were the Receiver's liability, Dickinson Wright bring a motion before the Court for an order directing the Receiver to pay the Omit Tax Claims. The Receiver reiterated its position in its email correspondence to Dickinson Wright dated October 18, 2023. As of the date of this Report, no motion has been scheduled by the Purchaser to address the Omit Tax Claims and the Receiver has since been advised by Dickinson Wright by email correspondence dated December 19, 2023 that it no longer represents Santokh (which the Receiver understood to include, by extension, the Purchaser, which is owned and controlled by Santokh).
4. The Receiver is now seeking an order that the Receiver is not liable to pay the Omit Tax Claims and authorizing it to make a distribution of the Omit Tax Reserve to Mahal VC creditors in accordance with their relative entitlements.
5. The Receiver notes that the analysis and conclusions set out in section 5.2(2) above were included in the Fifth Report, and that the Purchaser has therefore been on notice of the Receiver's position regarding the Omit Tax Claims, and its rationale for such position, since at least August 15, 2023 (the date of the Fifth Report). The Receiver's counsel also notified counsel to the Purchaser, and the principal of the Purchaser (Santokh), by email on March 8 and 19, 2024 that the relief in respect of the Omit Tax Claims would be sought on April 5, 2024.

5.3 Orr Plaintiffs Dispute

1. The Receiver currently holds the Orr Holdback, being \$3,650,000 of the Mahal VC Proceeds that were held back from distribution by the Receiver pursuant to the First Interim Distribution Order pending further Order of the Court. Such further Order was intended to address the trust claim made by certain third parties against Skymark and related entities (the "Orr Plaintiff Dispute").

2. The following summarizes the Orr Plaintiff Dispute, which is also discussed in greater detail in Section 8.0 of the Fifth Report:
 - a) On November 7, 2022, the Receiver and Blakes received a letter from counsel to 198 Co. and 7539088 Canada Inc. (“753 Co.”), corporations under the common control of Michael Orr (198 Co. and 753 Co. referred to together as the “Orr Plaintiffs”), which advised that 198 Co. advanced principal amounts to Skymark and Merk. The Orr Plaintiffs claimed that these amounts were used by Skymark and Merk to fund mortgage loans, including loans made to Mahal VC and secured by a mortgage in favour of Merk (defined as the “Merk Charge” in the Fifth Report).
 - b) 198 Co. claimed: a) a \$3,000,000 interest in the Merk Charge; b) that the Merk Charge ranked in priority to other charges in favour of Skymark; and c) that no distributions ought to be made to any creditors prior to the Orr Plaintiffs’ entitlement and priority being determined by the Court.
 - c) The Receiver determined that since the Orr Plaintiffs’ claims were not against the Companies directly, but rather trust claims against the Mahal VC Proceeds, resolution of the claims was not appropriately dealt with by the Receiver. The Receiver therefore proposed to establish the Orr Holdback to hold back a portion of any distributions to Skymark (or Merk) from the Mahal VC Proceeds, pending final resolution of the Orr Plaintiff Dispute.
 - d) The Orr Plaintiffs and the Skymark Receiver consented to the Receiver holding back \$3,650,000 from distributions to Skymark, which includes \$3,000,000 of principal in respect of which a trust is claimed, plus an estimate for interest that has accrued and will continue to accrue until the resolution of the Orr Plaintiffs’ claims.⁶ The First Interim Distribution Order provided for the Orr Holdback to be taken.
3. The Receiver has been advised by counsel to the Skymark Receiver and the Orr Plaintiffs that a formal settlement has been agreed to, and that such settlement was approved by an Order of Justice Steele dated February 22, 2024. The terms of the settlement are confidential and are subject to a sealing order by Justice Steele. The Receiver is not privy to the terms of the settlement.
4. The Orr Holdback was taken from the Skymark interim distribution and is therefore payable to the Skymark Receiver, or as the Skymark Receiver directs. The Receiver is willing to make distributions as directed by the Skymark Receiver and Orr Plaintiffs in accordance with the terms of their settlement agreement (about which the Receiver takes no position), up to the full amount of the Orr Holdback.

⁶ The Receiver held back this amount from the Skymark interim distribution (as opposed to taking it ratably from the interim distributions to all creditors) because only Skymark and Merk are defendants in the Orr Plaintiffs’ action, and such a limited holdback would not prejudice the Orr Plaintiffs.

5. As contemplated in the Fifth Report, the Receiver held the Orr Holdback in an interest-bearing account. Since the First Interim Distribution on August 23, 2023, the Orr Holdback has accrued approximately \$121,095 of interest (the "Holdback Interest"). As (a) the Orr Holdback was taken exclusively out of the Skymark First Interim Distribution amount, subject to it being allocated between the Orr Plaintiffs and Skymark, and (b) the Orr Plaintiff settlement specifically allocates the full amount of the \$3,650,000 Orr Holdback between the Orr Plaintiffs and Skymark (and no more), the Receiver considers Skymark to be entitled to all of the Holdback Interest, as if the Orr Holdback had been paid to Skymark on August 23, 2023.
6. The Receiver therefore now seeks an Order of this Court authorizing it to make distributions to the Skymark Receiver and/or the Orr Plaintiffs, in such amounts as the Skymark Receiver and the Orr Plaintiffs may direct, up to the full amount of the Orr Holdback, and a distribution of the Holdback Interest to the Skymark Receiver.

5.4 Vicano Lien Claim Disputed Amount

1. As discussed in Section 2.0 of the Fifth Report Supplement, there is a dispute between the Receiver and Vicano regarding the quantum of Vicano's total claim. The Receiver recommended a reduction of Vicano's claim in the amounts of: a) \$620,405, on account of duplicate or incorrect invoices, overbilled amounts, invoices related to deficiency rectification and invoices in connection with improvements performed on real property other than the Flour Mill; and b) \$90,554, on account of certain missing third-party invoices. Vicano objects to these reductions.
2. As discussed in Section 6.4 of the Fifth Report, the Receiver determined that Vicano has a priority claim against the Mahal VC Proceeds for 10% of its total claim, representing the statutory holdback that Mahal VC was required to take in respect of Vicano's construction contract.
3. As part of the first interim distribution, Vicano was paid \$1,659,413, representing 10% of the amount of its total claim that is not disputed. The disputed amount for distribution purposes, being at most \$71,096 (the "Vicano Disputed Amount"), or 10% of the total disputed amount of \$710,959, remains unresolved.
4. The Vicano Disputed Amount is payable to either: a) Vicano, if the Vicano Disputed Amount is properly owing in priority to Vicano; or b) to Skymark and KLN, in accordance with their relative priorities under the "2017 Skymark Charge" (as defined and discussed in the Fifth Report).
5. The Receiver will continue to work with Vicano to resolve this dispute. In order to avoid the Receiver having to come back to Court to seek a distribution order for a relatively small amount, the Receiver is seeking the Court's authorization to make a distribution up to the aggregate of \$71,096 to one or more of Vicano, Skymark and/or KLN with the prior written consent of the Skymark Receiver, KLN and Vicano.
6. If the order sought is granted, it will enable the Receiver to make a distribution of the Vicano Disputed Amount, without reattendance at Court, upon the satisfactory resolution of the Receiver's dispute with Vicano.

5.5 Mahal VC Cost Reserve

1. The Receiver currently holds the Mahal VC Cost Reserve, which was originally in the amount of \$600,000, as a reserve for the professional costs to resolve the matters described in subsections 5.1 to 5.4 of this Report and to complete the administration of the Receivership Proceedings.
2. As of the date of this Report, the Receiver continues to hold \$460,709 of the Mahal VC Cost Reserve.
3. If the Court grants the Orders requested by the Receiver in respect of the Omit Tax Reserve and the Orr Plaintiff Dispute, two material open issues in these proceedings will be resolved, and a portion of the Mahal VC Cost Reserve can be distributed to Mahal VC creditors in accordance with their respective priorities.
4. The Receiver is of the view that the Mahal VC Cost Reserve can be reduced to \$200,000 to fund the Remaining Activities (defined below) in these proceedings.
5. The Receiver therefore seeks an Order authorizing it to distribute up to \$260,709 of the Mahal VC Cost Reserve to creditors, as set out in Section 6 below.

6.0 Second Interim Distribution of Mahal VC Proceeds & Final Distribution

1. As discussed above, and as set out in the R&D, the Receiver is holding approximately \$8,229,681 of Mahal VC Proceeds, which includes the \$1,047,826 held back on account of the Disputed Transfer, the Orr Holdback, the Omit Tax Holdback and the Mahal VC Cost Reserve.
2. The Receiver's analysis of the claims of Mahal VC creditors and their respective priorities is set out in detail in Section 7 and Section 10 of the Fifth Report. This analysis substantially supports the Receiver's proposed distributions in this Report, which are set out below.

Distribution of \$1,047,826 Heldback on Account of Disputed Transfer

3. As discussed above, the Receiver has been advised that the Skymark Receiver and KLN have reached a settlement in respect of the Disputed Transfer, resulting in each party receiving 50% of the \$1,047,826 held back from KLN's first interim distribution.
4. Accordingly, provided the settlement of the KLN dispute is approved by the Court in the Skymark receivership proceedings, the Receiver proposes to make a distribution of the \$1,047,826 holdback as follows:

Creditor/Payee	Amount of Second Interim Distribution
Skymark	\$523,913
KLN	\$523,913

Distribution of Orr Holdback

5. As discussed above and in Section 10 of the Fifth Report, the \$3,650,000 Orr Holdback has been determined by the Receiver to be payable to Skymark, subject to the claims of the Orr Plaintiffs. The Skymark Receiver and the Orr Plaintiffs have settled their intercreditor dispute, including with respect to the Orr Holdback.
6. The terms of such settlement are confidential, but the Receiver has been advised that it provides for the distribution to Skymark and 1989474 Ontario Inc. (one of the Orr Plaintiffs) of the full Orr Holdback. On the basis of the consent of the Skymark Receiver and the Orr Plaintiffs to the distribution of the Orr Holdback, the Receiver proposes to make a distribution of the Orr Holdback and the Holdback Interest as follows:

Creditor/Payee	Amount of Second Interim Distribution
Skymark	Up to \$3,650,000, in such amount as is agreed by the Skymark Receiver and the Orr Plaintiffs
1989474 Ontario Inc.	Up to \$3,650,000, in such amount as is agreed by the Skymark Receiver and the Orr Plaintiffs
Skymark	\$121,095, being the Holdback Interest

7. The Receiver will credit the distribution of the Orr Holdback against Skymark's debt claim secured by the "2017 Skymark Charge" (as defined and discussed in the Fifth Report), because the Orr Holdback was taken out of Skymark's first interim distribution.
8. Skymark's debt secured by the 2017 Skymark Charge was calculated by the Receiver to be \$16,577,004 as of August 23, 2023. That amount (\$16,577,004), less Skymark's first interim distribution (\$5,097,556) and less the Orr Holdback (\$3,650,000), results in Skymark's claim secured by the 2017 Skymark Charge being \$7,829,448 (as of August 23, 2023).

Distribution of Omit Tax Reserve

9. Provided the Court grants the Order requested by the Receiver that the Omit Tax Claims are solely the liability of the Purchaser, the Omit Tax Reserve should be distributed to Skymark and KLN, on account of their respective 78.14% and 21.86%⁷ interests in the 2017 Skymark Charge, which 2017 Skymark Charge is a priority encumbrance over the Omit Tax Reserve funds.

⁷ In consultation with counsel to the Skymark Receiver and KLN, the Receiver proposes to make a distribution on account of the disputed 9.36% of KLN's registered 21.86% interest in the 2017 Skymark Charge to KLN and Skymark on a 50/50 basis. This is consistent with the settlement reached by the Skymark Receiver and KLN in respect of the Disputed Transfer.

10. Should the requested Order with respect to the Omit Tax Claims be made, the Receiver proposes to make distribution of the Omit Tax Reserve in the amount of \$1,500,000 to Skymark and KLN as follows:

Creditor	Amount of Second Interim Distribution	
Skymark	\$1,242,300	\$1,172,100 on account of the 2017 Skymark Charge, being 78.14% of the \$1,500,000 Omit Tax Reserve
		\$70,200 on account of the 2017 Skymark Charge, being half of KLN's disputed 9.36% of the \$1,500,000 Omit Tax Reserve
KLN	\$257,700	\$187,500 on account of the 2017 Skymark Charge, being KLN's undisputed 12.5% of the \$1,500,000 Omit Tax Reserve
		\$70,200 on account of the 2017 Skymark Charge, being half of KLN's disputed 9.36% of the \$1,500,000 Omit Tax Reserve

11. If the Court should decline to grant the order requested by the Receiver that the Omit Tax Claims are solely the liability of the Purchaser, the Receiver will either: a) continue to hold the Omit Tax Reserve until the Omit Tax Claims are finally adjudicated; or b) distribute the Omit Tax Reserve in accordance with such Order as the Court determines in respect of liability for the Omit Tax Claims.

Distribution of a Portion of the Mahal VC Cost Reserve

12. As discussed in Section 5.5, if the Court grants the Orders requested by the Receiver in respect of the Omit Tax Claims and the Orr Plaintiff Dispute, the Receiver recommends that the \$600,000 Mahal VC Cost Reserve (the balance of which is presently \$460,709) be reduced to \$200,000, leaving \$260,709 in amounts to be distributed to Skymark and KLN on account of their respective 78.14% and 21.86%⁷ interests in the 2017 Skymark Charge, which 2017 Skymark Charge has priority to the Mahal VC Cost Reserve funds.
13. Should the requested Order regarding the Omit Tax Claims and Orr Plaintiff Dispute be made, the Receiver proposes to make distributions of \$260,709 of the Mahal VC Cost Reserve, plus any surplus in the remaining \$200,000 Mahal VC Cost Reserve, to Skymark and KLN as follows:

Creditor	Amount of Second Interim Distribution	
Skymark	\$215,919	\$203,718 on account of the 2017 Skymark Charge, being 78.14% of the distributed Mahal VC Cost Reserve
		\$12,201 on account of the 2017 Skymark Charge, being half of KLN's disputed 9.36% of the distributed Mahal VC Cost Reserve

KLN	\$44,790	\$32,589 on account of the 2017 Skymark Charge, being KLN's undisputed 12.5% of the distributed Mahal VC Cost Reserve
		\$12,201 on account of the 2017 Skymark Charge, being half of KLN's disputed 9.36% of the distributed Mahal VC Cost Reserve

14. If the Order regarding the Omit Tax Claims and Orr Plaintiff Dispute is not made, the Receiver will continue to hold the Mahal VC Cost Reserve, to be applied against the future costs of the Receiver and its counsel.

Distribution of Vicano Disputed Amount

15. As discussed above, the entitlement to the \$71,096 Vicano Disputed Amount remains unresolved. These funds are either payable to Vicano, or Skymark and KLN (or some combination of the three).
16. In order to avoid having to seek a subsequent distribution order solely for this purpose, the Receiver is seeking the Court's authorization to make a distribution of the Vicano Disputed Amount, subject to the prior written consent of Vicano, the Skymark Receiver and KLN, in the following amounts (not to exceed \$71,096 in the aggregate):

Creditor	Amount of Second Interim Distribution	
Vicano	Up to \$71,096	
Skymark	Up to \$58,881.50	Up to \$55,554 on account of the 2017 Skymark Charge, being 78.14% of the total Vicano Disputed Amount
		Up to \$3,327.50 on account of the 2017 Skymark Charge, being half of KLN's disputed 9.36% of the total Vicano Disputed Amount
KLN	Up to \$12,214.50	Up to \$8,887 on account of the 2017 Skymark Charge, being 12.5% of the total Vicano Disputed Amount
		Up to \$3,327.50 on account of the 2017 Skymark Charge, being half of KLN's disputed 9.36% of the total Vicano Disputed Amount

Final Distribution

17. If the Distribution and Discharge Order is granted in the form sought by the Receiver, the second interim distributions above will total \$6,650,725 (the "Aggregate Second Interim Distribution"). As discussed above, the Receiver is currently holding \$6,972,886 of Mahal VC Proceeds. After deducting the amount of the Aggregate Second Interim Distribution, the Receiver will be left with \$322,161 plus accrued interest (the "Residual Funds").

18. The Receiver proposes to use the Residual Funds to pay the costs of the Second Interim Distribution Motion and the Remaining Activities (defined below), which are estimated not to exceed \$200,000 (plus disbursements and HST), and is seeking the Court's authorization to distribute the remainder to Skymark and KLN (the "Final Distribution"), in accordance with their priorities immediately prior to giving notice of the Receiver's intention to serve the Completion Certificate (defined below).

7.0 Status of Outstanding Litigation

7.1 Background

1. No relief is being sought from the Court in respect of the numerous litigation matters involving the Companies; however, the Receiver and the Trustee (together, the "Court Officer") are providing an update on their views on such litigation, for the benefit of stakeholders.
2. The Court Officer is aware of the following outstanding actions to which the Companies are a party (collectively, the "Outstanding Litigation"):
 - a) *Vicano Construction Limited v. Golden Miles Food Corporation, Mahal Venture Capital Inc., Skymark Finance Corporation and KLN Holdings Inc.*, Court File No. CV-19-113 (the "Vicano Action");
 - b) *Golden Miles v. Vicano Construction Limited, Lanhack Consultants Inc., Peter Vicano aka Peter Joseph Vicano, Peter J. Vicano and David Hacking*, Court File No. CV-19-121 (the "Vicano Counterclaim", together with the Vicano Action, the "Consolidated Vicano Action")⁸;
 - c) *Golden Miles v. The Corporation of the City of Brantford, Michael Neves, and Andrew McMahon*, Court File No. CV-21-86 (the "Brantford Action");
 - d) *Golden Miles Food Corporation v. Talib et al*, Court File No. CV-18-0000-5169-0000 (the "Talib Action");
 - e) *Amex Bank of Canada v. Mahal et al*, Court File No. CV-19-0014-2165-0000 (the "Amex Action");
 - f) *Ford Credit Canada Company v. Mahal Venture Capital Inc.*, Court File No. CV-19-0002-8227-0000 (the "Ford Action");
 - g) *Canadafresh Corporation et. al. v. Bridging Finance Inc. et al*, Court File No. CV-19-0063-1456-0000 (the "Canadafresh Action");
 - h) *Garage Living Inc. v. Golden Miles Food Corporation et al*, Court File No. CV-20-0064-2848-0000 ("Garage Living Action");

⁸ The Vicano Action and the Vicano Counterclaim have been procedurally consolidated by the Brantford Superior Court of Justice, and are referred to together as the "Consolidated Vicano Action".

- i) *Mahal et al v. Skymark Finance Corporation et al*, Court File No. CV-21-0003-0348-0000 (“Skymark Action 1”);
 - j) *Mahal et al v. Skymark Holdings Limited et al*, Court File No. CV-21-0000-1817-0000 (“Skymark Action 2”);
 - k) *Skymark Finance Corporation v. Mahal Venture Capital Inc. et al*, Court File No. CV-21-0066-4778-00CL (“Skymark Action 3”);
 - l) *Skymark Finance Corporation v. Mahal et al*; Court File No. CV-22-0067-5228-0000 (“Skymark Action 4”, and together with the Skymark Action 1, Skymark Action 2, and Skymark Action 3, the “Skymark Actions”); and
 - m) *Vivian Group Inc. v. Mahal Venture Capital Inc.*; Court File No. CV-18-00001205-000 (together with the Mahal VC counterclaim and third-party claim in connection thereto, the “Vivian Action”)
3. The Court Officer provided a summary in Section 11 of the Fifth Report with respect to the Outstanding Litigation, and more specifically, in connection with: i) the Consolidated Vicano Action; (ii) the Brantford Action; and (iii) the Vivian Action. That summary is not repeated herein, however, Sections 7.2, 7.3 and Appendix “I” of this Report provide an update on the Outstanding Litigation, and the rationale for the Court Officer’s decision not to proceed with any of the Outstanding Litigation.

7.2 Consolidated Vicano Action, Brantford Action and Vivian Action

1. In October 2023, the Court Officer retained Glaholt LLP (“Glaholt”), as independent construction counsel, to review the pleadings and merits of the Consolidated Vicano Action. Based on Glaholt’s analysis, the Court Officer concluded that it would not be prudent or cost-effective for the Court Officer to pursue the Consolidated Vicano Action.
2. The Court Officer consulted with the Skymark Receiver and counsel to KLN (being the two largest secured creditors of Mahal VC) in October 2023 regarding the Consolidated Vicano Action, Brantford Action, and Vivian Action, and advised of its decision not to proceed with any of them.
3. The Trustee also held a meeting on December 11, 2023 with the inspectors in the Golden Miles Bankruptcy. The inspectors made a resolution directing the Trustee not to pursue the Consolidated Vicano Action and the Brantford Action (Golden Miles is not a party to the Vicano Action).
4. No inspectors’ meeting was held in the Mahal VC estate regarding the three actions as: a) one of the two inspectors in the Mahal VC estate is also an inspector of the Golden Miles estate, and the other inspector is counsel to KLN; b) the primary Mahal VC secured creditors (being the Skymark Receiver and KLN) were consulted about the Court Officer’s decision not to proceed with the Consolidated Vicano Action, Brantford Action, and Vivian Action; and c) the Trustee is not required by the BIA to obtain inspector approval to discontinue litigation.

5. On December 18, 2023, the Court Officer notified counsel to the co-defendants that the Court Officer had decided not to pursue the Consolidated Vicano Action, Brantford Action, and Vivian Action. The Court Officer additionally sent Dickinson Wright a letter advising that it was not proceeding with this litigation and requested that the Court Officer be kept apprised by Santokh if he intended to bring a motion under Section 38 of the BIA (a "Section 38 Motion") seeking an assignment of the Trustee's right, title and interest in any of this litigation (the "December 18 Letter"). A copy of the December 18 Letter is provided as Appendix "J".
6. In response to the December 18 Letter, Dickinson Wright advised that it no longer represented Santokh and to correspond with Santokh directly in relation to this matter. The Court Officer corresponded with Santokh on December 19, 2023 and requested that Santokh advise if he intended to bring a Section 38 Motion. Santokh did not respond. The Court Officer's counsel was subsequently contacted by two different lawyers indicating that they were working with Santokh to proceed with the Section 38 Motion. Both lawyers, and Santokh personally, will be provided by email with this Report contemporaneously with the service list.
7. Based on the foregoing correspondence, the Court Officer understands that Santokh may bring a Section 38 Motion in respect of one or more of the Consolidated Vicano Action, Brantford Action, and Vivian Action, the timing of which has not been confirmed.
8. If the Court grants the Orders recommended by the Receiver in respect of the Omit Tax Reserve and the Orr Plaintiff Dispute, the two most material open issues in the Receivership Proceedings will be resolved. The remaining issue to be dealt with in the Golden Miles Bankruptcy will be the determination of unsecured claims and distributions to unsecured creditors.
9. Accordingly, provided the Distribution and Discharge Order is granted in the form sought by the Receiver, Santokh will have until the date that the Trustee brings a motion seeking the Trustee's discharge to bring his Section 38 Motion. Once the Trustee has been discharged and the Mahal VC and Golden Miles bankruptcy proceedings have been concluded, the time for bringing a Section 38 Motion will have passed. The Trustee will give Santokh notice of its intention to seek its discharge in the Mahal VC and Golden Miles bankruptcy proceedings.

7.3 Remaining Outstanding Litigation

1. Other litigation involving the Companies is summarized in Appendix "I". As set out in the summary, the Court Officer does not intend to pursue any of the claims.

8.0 Receiver's Activities

1. The Receiver's activities since the date of the Fifth Report are summarized in this Report and have also included, among other things, the following:
 - a) preparing the Fifth Report Supplement;
 - b) corresponding with the Skymark Receiver and its counsel regarding all aspects of the receivership, including providing periodic status updates;
 - c) working with Glaholt regarding its review of the Consolidated Vicano Action and providing documentation to Glaholt to facilitate the review;
 - d) corresponding with parties to the Outstanding Litigation regarding the Court Officer's intentions with respect to same;
 - e) corresponding with Santokh and his counsel regarding the proposed Section 38 Motion;
 - f) corresponding with Bennett Jones regarding the trust claim asserted by the Orr Plaintiffs;
 - g) preparing periodic statements of receipts and disbursements, including the R&D;
 - h) responding to creditor inquiries; and
 - i) preparing this Report.

9.0 Professional Fees

1. The fees of the Receiver during the Fee Period (from August 1, 2023 to February 29, 2024) total \$28,682.50, excluding disbursements and HST. Blakes' fees for the Fee Period total \$105,708.00, excluding disbursements and HST. Fee affidavits and accompanying invoices in respect of the fees and disbursements of the Receiver and Blakes for these periods are attached as Appendices "K" and "L", respectively, to this Report (the "Fee Affidavits").
2. The average hourly rate for the Receiver and Blakes for the referenced billing period was \$545 and \$799.61, respectively.
3. The Receiver believes that the fee accrual, being \$200,000 (plus disbursements and HST) of the Mahal VC Cost Reserve that is proposed to continue to be held, is sufficient and necessary to cover its fees and the fees of Blakes to the completion of these proceedings. Without the fee accrual, there will be no assets from which to cover these fees and costs.
4. The Receiver is of the view that Blakes' hourly rates are consistent with the rates charged by other law firms practicing in the area of insolvency in the Toronto market, and that its fees are reasonable and appropriate in the circumstances.

10.0 Remaining Matters and Discharge

1. Provided that the Distribution and Discharge Order is granted in the form requested by the Receiver, and given that the Receiver has elected not to pursue the Consolidated Vicano Action, the Brantford Action, the Vivian Action or any of the other litigation discussed above, there are no remaining assets to realize in the Mahal VC or Golden Miles estates. The only remaining tasks to be completed before the Receiver is discharged (the “Remaining Activities”) are:
 - a. Making the Second Interim Distribution;
 - b. Undertaking certain administrative matters related to the wind-up of these Receivership Proceedings;
 - c. Preparing the final report of the Receiver pursuant to section 246(3) of the BIA;
 - d. Making the Final Distribution; and
 - e. Filing the certificate of completion substantially in the form attached as a schedule to the Distribution and Discharge Order sought by the Receiver (the “Completion Certificate”).
2. The Receiver is of the view that it is appropriate at this time to seek an Order discharging the Receiver, subject to the Receiver filing the Completion Certificate.
3. The Receiver is further of the view that the releases sought for the Receiver and its counsel (collectively, the “Releases”) are reasonable and appropriate in the circumstances, and consistent with releases that have been granted in connection with the discharge of court appointed receivers in comparable proceedings. In this regard, the Receiver notes:
 - a. Only the Receiver and its counsel are the beneficiaries of the Releases – no other parties are proposed to be released, whether such parties have participated in these proceedings, or are third parties;
 - b. The Releases effective upon the date of the granting of the Distribution and Discharge Order are retrospective, and limited to claims arising prior to the granting of that order;
 - c. The Releases that will become effective after the granting of the Distribution and Discharge Order are time limited to the period between the date of the granting of the Distribution and Discharge Order and the date of the filing of the Completion Certificate, and are subject to the service list being given (i) notice of such effectiveness, and (ii) an opportunity to object; and
 - d. The Releases do not release any claim or liability arising out of any gross negligence or willful misconduct on the part of the released parties.

11.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court grant the Distribution and Discharge Order.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
MAHAL VENTURE CAPITAL INC. AND GOLDEN MILES FOOD CORPORATION AND AS
LICENSED INSOLVENCY TRUSTEE OF GOLDEN MILES FOOD CORPORATION
AND MAHAL VENTURE CAPITAL INC.
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

TAB 3

Appendix “E”



199 BAY STREET, SUITE 2200
P.O. BOX 447, COMMERCE COURT POSTAL STATION
TORONTO, ON CANADA M5L 1G4
TELEPHONE: 416-777-0101
FACSIMILE: 844-670-6009
<http://www.dickinsonwright.com>

LISA S. CORNE
LCorne@dickinsonwright.com
416-646-4608

February 24, 2023

VIA E-MAIL

Chris Burr
Blake, Cassels & Graydon LLP
199 Bay Street, Suite 4000
Commerce Court West
Toronto ON M5L 1A9

Dear Chris:

**Re: 12175622 Canada Ltd. ("121") / Receivership of Golden Miles Food Corporation and Mahal Venture Capital Asset Purchase Agreement
Client Matter No.: 99274-1**

Our client has received the attached Omit Tax Bills with respect to the real property located at 155 Adams Blvd, Brantford, relating to the years 2020, 2021, and 2022.

As the transaction pursuant to the Asset Purchase Agreement dated March 18, 2022 between 121 and the receiver and trustee closed on May 18, 2022, your client is responsible for the payment of the taxes owing for 2020 and 2021, as well as an amount representing 137 days of the tax bill for 2022, in respect of the period prior to-closing.

Please confirm that payment will be made by your client and provide us with a receipt.

Thank you.

Best regards,

DICKINSON WRIGHT LLP

A handwritten signature in cursive script, appearing to read 'Lisa S. Corne'.

Lisa S. Corne

LSC/jss
Encl.

cc: David Preger
Ryan Cooper



Omit Tax Bill

2022 Omit 7 (21 Tax)
 Billing Date
November 24, 2022

Mail to: P.O. Box 515, Brantford, ON N3T 6L6
 Courier to: 58 Dalhousie St, Brantford, ON N3T 2J2
 Tel: (519) 759-4150, tax.info@brantford.ca

Roll Number 2906-030-007-07200-0000				ACCOUNT NUMBER 00167800		
Assessed Owner(s) / Mailing Address 12175622 CANADA LTD 155 ADAMS BLVD BRANTFORD ON N3S 7V8				Mortgage Co. & Ref. #		
				Assessed Property 155 ADAMS BLVD BRANTFORD CON 3 PT LOTS 38 AND 39 RP 2R6545 PARTS 1 AND 2 RP 2R4747 PART 1 RP 2R1332 PARTS 1 TO 3		
				Effective Date: Jan 1, 2021		
Assessment		Municipal			Education	
Tax Class	Value	CITY OF BRANTFORD LEVIES:	Tax Rate	Amount	Tax Rate	Amount
IX N	12,698,000	M - MUNICIPAL	0.01859171	\$236,077.53	0.00880000	\$111,742.40
Sub Totals		Municipal Levy			Education Levy	\$111,742.40
					\$236,077.53	
Special Charges/Credits		CVA Phase-In Adjustment		Summary		
				Tax Levy Subtotal Municipal & Education \$347,819.93		
				Special Charges/Credits \$0.00		
				CVA Phase-In Adjustment N/A		
				2021 Tax Cap Adjustment N/A		
				2022 Omit 7 (21 Tax) Taxes \$347,819.93		
				Less Interim Billing \$0.00		
				Past Due/Credit (As at Nov 24, 2022)** \$0.00		
				Total Amount Due \$347,819.93		
Total \$0.00				1st INSTALMENT Due	2nd INSTALMENT Due	
				\$173,910.93 Jan 6, 2023	\$173,909.00 Feb 17, 2023	

Late penalty is 1.25% on the day of default, plus 1.25% monthly until taxes are paid. **Any Past Due shown includes penalty to: Nov 30, 2022

Mail to: P.O. Box 515, Brantford, ON N3T 6L6
 Courier to: 58 Dalhousie St, Brantford, ON N3T 2J2
 Tel: (519) 759-4150, tax.info@brantford.ca

Please retain bill for Income Tax purposes.

2022 OMIT 7 (21 TAX) TAX BILL

ACCOUNT NUMBER 00167800	MORTGAGE CO. & Ref. #:
PROPERTY ROLL NUMBER 2906-030-007-07200-0000	PROPERTY ADDRESS 155 ADAMS BLVD
ASSESSED OWNER(S) 12175622 CANADA LTD	
DUE DATE Feb 17, 2023	AMOUNT DUE \$173,909.00

PLEASE MAKE CHEQUE PAYABLE TO THE CITY OF BRANTFORD

00001678000 000173909000



96

2nd INSTALMENT

REMITTANCE PORTION

Please Return this stub with your Payment. DO NOT STAPLE.
 If a receipt is required, return bill without detaching stub and include a self-addressed stamped envelope

AMOUNT PAID, IF DIFFERENT

Mail to: P.O. Box 515, Brantford, ON N3T 6L6
 Courier to: 58 Dalhousie St, Brantford, ON N3T 2J2
 Tel: (519) 759-4150, tax.info@brantford.ca

Please retain bill for Income Tax purposes.

2022 OMIT 7 (21 TAX) TAX BILL

ACCOUNT NUMBER 00167800	MORTGAGE CO. & Ref. #:
PROPERTY ROLL NUMBER 2906-030-007-07200-0000	PROPERTY ADDRESS 155 ADAMS BLVD
ASSESSED OWNER(S)	

1st INSTALMENT

REMITTANCE PORTION

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Mail to: P.O. Box 515, Brantford, ON N3T 6L6
 Courier to: 58 Dalhousie St, Brantford, ON N3T 2J2
 Tel: (519) 759-4150, tax.info@brantford.ca

Omit Tax Bill

2022 Omit 7 (22 Tax)
 Billing Date
 November 23, 2022

Roll Number 2906-030-007-07200-0000				ACCOUNT NUMBER 00167800			
Assessed Owner(s) / Mailing Address 12175622 CANADA LTD 155 ADAMS BLVD BRANTFORD ON N3S 7V8				Mortgage Co. & Ref. #			
				Assessed Property 155 ADAMS BLVD BRANTFORD CON 3 PT LOTS 38 AND 39 RP 2R6545 PARTS 1 AND 2 RP 2R4747 PART 1 RP 2R1332 PARTS 1 TO 3			
				Effective Date: Jan 1, 2022			
Assessment		Municipal			Education		
Tax Class	Value	CITY OF BRANTFORD LEVIES:	Tax Rate	Amount	Tax Rate	Amount	
IX N	12,698,000	M - MUNICIPAL	0.01895924	\$240,744.43	0.00880000	\$111,742.40	
Sub Totals		Municipal Levy			\$240,744.43	Education Levy	
						\$111,742.40	
Special Charges/Credits		CVA Phase-In Adjustment			Summary		
					Tax Levy Subtotal Municipal & Education \$352,486.83		
					Special Charges/Credits \$0.00		
					CVA Phase-In Adjustment N/A		
					2022 Tax Cap Adjustment N/A		
					2022 Omit 7 (22 Tax) Taxes \$352,486.83		
					Less Interim Billing \$0.00		
					Past Due/Credit (As at Nov 24, 2022) ** \$0.00		
					Total Amount Due \$352,486.83		
Total					1st INSTALMENT Due	2nd INSTALMENT Due	
\$0.00					\$176,243.83 Jan 6, 2023	\$176,243.00 Feb 17, 2023	

Late penalty is 1.25% on the day of default, plus 1.25% monthly until taxes are paid. **Any Past Due shown includes penalty to: Nov 30, 2022

Mail to: P.O. Box 515, Brantford, ON N3T 6L6
 Courier to: 58 Dalhousie St, Brantford, ON N3T 2J2
 Tel: (519) 759-4150, tax.info@brantford.ca

Please retain bill for Income Tax purposes.

2022 OMIT 7 (22 TAX) TAX BILL

ACCOUNT NUMBER 00167800	MORTGAGE CO. & Ref. #:
PROPERTY ROLL NUMBER 2906-030-007-07200-0000	PROPERTY ADDRESS 155 ADAMS BLVD
ASSESSED OWNER(S) 12175622 CANADA LTD	
DUE DATE Feb 17, 2023	AMOUNT DUE \$176,243.00

2nd INSTALMENT

REMITTANCE PORTION

Please Return this stub with your Payment. DO NOT STAPLE.
 If a receipt is required, return bill without detaching stub and include a self-addressed stamped envelope

AMOUNT PAID, IF DIFFERENT

PLEASE MAKE CHEQUE PAYABLE TO THE CITY OF BRANTFORD

00001678000 000176243003



96

Mail to: P.O. Box 515, Brantford, ON N3T 6L6
 Courier to: 58 Dalhousie St, Brantford, ON N3T 2J2
 Tel: (519) 759-4150, tax.info@brantford.ca

Please retain bill for Income Tax purposes.

2022 OMIT 7 (22 TAX) TAX BILL

ACCOUNT NUMBER 00167800	MORTGAGE CO. & Ref. #:
PROPERTY ROLL NUMBER 2906-030-007-07200-0000	PROPERTY ADDRESS 155 ADAMS BLVD
ASSESSED OWNER(S)	

1st INSTALMENT

REMITTANCE PORTION

Please Return this stub with your Payment. DO NOT STAPLE.
 If a receipt is required, return bill without detaching stub and include a self-



Omit Tax Bill

2022 Omit 7 (20 Tax)
Billing Date November 26 2022

Mail to: P.O. Box 515, Brantford, ON N3T 6L6
 Courier to: 58 Dalhousie St, Brantford, ON N3T 2J2
 Tel: (519) 759-4150, tax.info@brantford.ca

Roll Number 2906-030-007-07200-0000				ACCOUNT NUMBER 00167800			
Assessed Owner(s) / Mailing Address 12175622 CANADA LTD 155 ADAMS BLVD BRANTFORD ON N3S 7V8				Mortgage Co. & Ref. #			
				Assessed Property 155 ADAMS BLVD BRANTFORD CON 3 PT LOTS 38 AND 39 RP 2R6545 PARTS 1 AND 2 RP 2R4747 PART 1 RP 2R1332 PARTS 1 TO 3			
				Effective Date: Jan 1, 2020			
Assessment		Municipal			Education		
Tax Class	Value	CITY of BRANTFORD LEVIES:	Tax Rate	Amount	Tax Rate	Amount	
IX N	12,698,000	M - MUNICIPAL	0.01830140	\$232,391.18	0.01250000	\$158,725.00	
Sub Totals		Municipal Levy			\$232,391.18	Education Levy	
						\$158,725.00	
Special Charges/Credits		CVA Phase-In Adjustment			Summary		
					Tax Levy Subtotal Municipal & Education \$391,116.18		
					Special Charges/Credits \$0.00		
					CVA Phase-In Adjustment N/A		
					2020 Tax Cap Adjustment N/A		
					2022 Omit 7 (20 Tax) Taxes \$391,116.18		
					Less Interim Billing \$0.00		
					Past Due/Credit (As at Nov 24, 2022)** \$0.00		
					Total Amount Due \$391,116.18		
Total					1st INSTALMENT Due	2nd INSTALMENT Due	
\$0.00					\$195,558.18 Jan 6, 2023	\$195,558.00 Feb 17, 2023	
Late penalty is 1.25% on the day of default, plus 1.25% monthly until taxes are paid. **Any Past Due shown includes penalty to: Nov 30, 2022							

Mail to: P.O. Box 515, Brantford, ON N3T 6L6
 Courier to: 58 Dalhousie St, Brantford, ON N3T 2J2
 Tel: (519) 759-4150, tax.info@brantford.ca

Please retain bill for Income Tax purposes.

2022 OMIT 7 (20 TAX) TAX BILL

ACCOUNT NUMBER 00167800	MORTGAGE CO. & Ref. #:
PROPERTY ROLL NUMBER 2906-030-007-07200-0000	PROPERTY ADDRESS 155 ADAMS BLVD
ASSESSED OWNER(S) 12175622 CANADA LTD	
DUE DATE Feb 17, 2023	AMOUNT DUE \$195,558.00

PLEASE MAKE CHEQUE PAYABLE TO THE CITY OF BRANTFORD

00001678000 000195558006



96

2nd INSTALMENT

REMITTANCE PORTION

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 If a receipt is required, return bill without detaching stub and include a self-addressed stamped envelope

AMOUNT PAID, IF DIFFERENT

Mail to: P.O. Box 515, Brantford, ON N3T 6L6
 Courier to: 58 Dalhousie St, Brantford, ON N3T 2J2
 Tel: (519) 759-4150, tax.info@brantford.ca

Please retain bill for Income Tax purposes.

2022 OMIT 7 (20 TAX) TAX BILL

ACCOUNT NUMBER 00167800	MORTGAGE CO. & Ref. #:
PROPERTY ROLL NUMBER 2906-030-007-07200-0000	PROPERTY ADDRESS 155 ADAMS BLVD
ASSESSED OWNER(S)	

1st INSTALMENT

REMITTANCE PORTION

Please Return this stub with your Payment. DO NOT STAPLE.
 If a receipt is required, return bill without detaching stub and include a self-

TAB 4

Appendix “G”

EXECUTION VERSION

**KSV RESTRUCTURING INC., in its capacities as Court-appointed receiver and manager,
and trustee in bankruptcy of MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD
CORPORATION, and not in its personal or corporate capacity**

- and -

12175622 CANADA LTD.

ASSET PURCHASE AGREEMENT

DATED AS OF March 18, 2022

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement dated as of March 18, 2022 is made by and between:

KSV RESTRUCTURING INC. (“KSV”), in its capacities as Court-appointed receiver and manager and trustee in bankruptcy of MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD CORPORATION, and not in its personal or corporate capacity

(collectively, the “**Vendor**”)

- and -

12175622 Canada Ltd.

(the “**Purchaser**”)

RECITALS:

- A. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated October 1, 2021 (as may be amended from time to time, the “**Appointment Order**”), KSV was appointed as receiver and manager (the “**Receiver**”) of all assets, undertakings and properties of Golden Miles Food Corporation (“**Golden Miles**”) and Mahal Venture Capital Inc. (“**Mahal VC**”, together with Golden Miles, the “**Debtors**”) owned or used in connection with the flour mill located on the property municipally known as 155 Adams Blvd, Brantford, Ontario (the “**Mill**”), including all proceeds thereof, pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) and the *Courts of Justice Act* (Ontario) in proceedings bearing Court File No. CV-17-11710-00CL (the “**Receivership Proceedings**”).
- B. On November 15, 2021, the Receiver filed assignments in bankruptcy on behalf of the Debtors under the BIA (collectively, the “**Bankruptcy Proceedings**”), and was appointed as trustee in bankruptcy of the Debtors (in such capacity, the “**Trustee**”).
- C. The Debtors are “related persons”, as that term is defined in the BIA. Mahal VC owns the land and improvements comprising the Mill, which is substantially constructed but not yet operational. Golden Miles has purchased and is storing or has installed certain milling equipment at the Mill. For the purposes of this Agreement, Mahal VC’s ownership and maintenance of the Mill, and Golden Miles anticipated flour milling business intended to take place at the Mill are referred to collectively as “the **Business**”.
- D. On November 22, 2021, the Court approved a sale process (the “**Sale Procedure**”), pursuant to which the Receiver is authorized to market and sell all of the Property (as defined in the Appointment Order), which comprises the Debtors’ real and personal property located at the Mill and used or intended to be used in connection with the Business.
- E. The Vendor desires to sell, transfer and assign to the Purchaser, and the Purchaser desires to acquire and assume from the Vendor, all of the right, title and interest of the Vendor and the Debtors, if any, in and to the Purchased

Assets, on the terms and subject to the conditions contained in this Agreement.

- F. The transaction contemplated by this Agreement is subject to the approval of the Court and will be consummated only pursuant to the Approval and Vesting Order to be entered by the Court.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each Party, the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions. In this Agreement, in addition to the terms defined in the preamble and recitals, the following terms have the following meanings:

“Action” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, order, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity and by or before a Governmental Authority.

“Affiliate” means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to **“control”** another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise; and the term **“controlled”** shall have a similar meaning.

“Agreement” means this Asset Purchase Agreement, including the preamble and the Recitals, and all the Schedules attached hereto, as they may be amended, restated or supplemented from time to time in accordance with the terms hereof.

“Applicable Law” means, with respect to any Person, property, transaction, event or other matter, (i) any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, Order or other requirement having the force of law, (ii) any policy, practice, protocol, standard or guideline of any Governmental Authority which, although not necessarily having the force of law, is regarded by such Governmental Authority as requiring compliance as if it had the force of law (collectively, in the foregoing clauses (i) and (ii), **“Law”**), in each case relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation.

“Approval and Vesting Order” means an order of the Court issued in the Receivership Proceedings and the Bankruptcy Proceedings approving the transactions contemplated by this Agreement and vesting in the Purchaser all of the Vendor’s and the Debtors’ right, title and interest, if any, in and to the Purchased Assets free and clear of all Encumbrances (explicitly including the Deleted Encumbrances as a schedule to the order, but not including the Permitted Encumbrances), in form and content acceptable to the Parties, each acting reasonably.

“Assigned Contracts” means, collectively, the Critical Contracts, the Personal Property Leases and the other Contracts listed on Schedule “A”.

“Assignment and Assumption Agreement” means an assignment and assumption agreement, in form and substance satisfactory to the Parties, acting reasonably, evidencing the assignment to the Purchaser of the Vendor’s and the Debtors’ rights, benefits and interests in, to and under the Assigned Contracts and the assumption by the Purchaser of all of the Assumed Liabilities under or in respect of the Assigned Contracts, and the Permitted Encumbrances.

“Assignment Order” means an order of the Court in form and substance satisfactory to the Parties, each acting reasonably, assigning to the Purchaser the Vendor’s and the Debtors’ right, benefit and interest in and to any of the Critical Contracts for which any necessary consent to assign has not been obtained, in form and content acceptable to the Parties, acting reasonably.

“Assumed Liabilities” means the following Liabilities of each of the Debtors:

- (a) all Liabilities under the Assigned Contracts and Permits and Licences (in each case to the extent such Assigned Contract or Permit and Licence is effectively assigned to the Purchaser);
- (b) all Liabilities relating to the Purchased Assets or Related to the Business arising on or after the Closing Date;
- (c) all Liabilities on account of the trade accounts, payables and other current accounts payable, in each case incurred or accrued by any of the Debtors on or after the Closing Date in the ordinary course of business and Related to the Business; and
- (d) all Environmental Claims and all Environmental Liabilities.

“Books and Records” means the books, records, files, papers, books of account and other financial data of the Debtors which are solely Related to the Business or related to the Purchased Assets, including drawings, engineering information, manuals and Data, sales and advertising materials, sales and purchase correspondence, trade association files, research and development records, lists of present and former customers and suppliers, marketing lists and marketing consent records, personnel, employment and other records, and all records, Data and information stored electronically, digitally or on computer-related or any other media.

“Business Day” means any day except Saturday, Sunday or any day on which banks are generally not open for business in the City of Toronto, Ontario.

“Cash Purchase Price” has the meaning set out in Section 3.1(1).

“Cash Reserve” has the meaning set out in Section 3.3.

“Casualty” has the meaning set out in Section 6.3.

“Closing” means the completion of the purchase and sale of the Vendor’s and the Debtors’ right, title and interest in and to the Purchased Assets and the assignment and

assumption of the Assumed Liabilities by the Purchaser in accordance with the provisions of this Agreement.

“Closing Date” means the date on which Closing occurs, which date shall be the Target Closing Date or such other date as may be agreed to in writing by the Parties.

“Closing Time” means the time of day on the Closing Date when Closing occurs.

“Conditions Certificate” has the meaning set out in Section 8.3.

“Contracts” means all pending and executory contracts, agreements, leases, understandings and arrangements (whether oral or written) to which either of the Vendor or the Debtors are a party or by which any of the Vendor or the Debtors or any of the Purchased Assets are bound or under which the Vendor or the Debtors have rights, including any Personal Property Leases.

“Critical Contracts” means those Contracts that are, in the opinion of the Purchaser, acting reasonably, necessary and critical to the operation of the Business and the Purchased Assets as a going concern after the Closing Date as listed and specified as “Critical Contracts” on Schedule “A”.

“Cure Costs” means (i) with respect to any Assigned Contract for which a required consent to assignment has not been obtained and is to be assigned to the Purchaser in accordance with the terms of the Assignment Order, the amounts, if any, required to be paid to remedy all of the Debtors’ monetary defaults existing as at the Closing Date under the applicable Critical Contract (or such other amounts as may be agreed by the Purchaser and the counterparty to the Critical Contract), and (ii) with respect to any Assigned Contract to be assigned on consent, where consent is required, the amount, if any, required to be paid to a counterparty to secure its consent to the assignment of the applicable Assigned Contract by any of the Debtors to the Purchaser (which amount shall be set out on the form of contractual consent agreed to by the Purchaser and the counterparty to such Assigned Contract).

“Damages” means any loss, cost, Liability, claim, interest, fine, penalty, assessment, Taxes, damages available at Law or in equity (including incidental, consequential, special, aggravated, exemplary or punitive damages unless paid to a third party), expense (including consultant’s and expert’s fees and expenses and reasonable costs, fees and expenses of legal counsel on a full indemnity basis, without reduction for tariff rates or similar reductions and reasonable costs, fees and expenses of investigation, defence or settlement) or diminution in value.

“Data” means any information or data collected or received by, processed by, or output from software (including reports, analytics, and alerts), and any other information or data Related to the Business, including information and data contained in any databases.

“Deposit” has the meaning set forth in Section 3.2(1).

“Deleted Encumbrances” means the Encumbrances listed in Schedule “E” hereof.

“Encumbrances” means all claims, Liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, liens, security interests, floating charges,

mortgages, pledges, assignments, conditional sales, warrants, adverse claims, charges, hypothecs, trusts, deemed trusts (statutory or otherwise), judgments, writs of seizure or execution, notices of sale, contractual rights (including purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual rights), encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise.

“Environmental Claim” means any Action, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom whether incurred or arising before or after Closing by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of any enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources Damages, property Damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (i) the presence, Environmental Release of, or exposure to, any Hazardous Materials; or (ii) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

“Environmental Law” means any Applicable Law or binding agreement with any Governmental Authority: (i) relating to pollution (or the investigation or cleanup thereof), the management or protection of natural resources, endangered or threatened species, human health or safety, or the protection or quality of the environment (including ambient air, soil, surface water or groundwater, or subsurface strata); or (ii) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Materials.

“Environmental Liabilities” means all past, present and future obligations and Liabilities of whatsoever nature or kind arising from or relating to, directly or indirectly to any Environmental Claim applicable to or otherwise involving the Purchased Assets or any past, present or future non-compliance with, violation of or Liability under any Environmental Law or any Environmental Permit applicable to or otherwise involving the Purchased Assets, whenever occurring or arising.

“Environmental Permit” means any Permit and Licence, letter, clearance, consent, waiver, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Environmental Law.

“Environmental Release” includes any actual or potential release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the environment (including ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

“Excluded Assets” means (i) all Excluded Tax Refunds, and (ii) the Excluded Claims.

“Excluded Claims” means each Debtor’s right, title and interest, if any, in any Legal Proceedings to which either Debtor is a party.

“Excluded Tax Refund” means any and all of either Debtor’s right, title and interest to receive any refund of, and/or credit in respect of, Taxes paid by a Debtor (including

Taxes paid by a Debtor by the Receiver or the Trustee) in respect of a period beginning on or after October 1, 2021.

“Final Order” means, at the relevant time or date, an order of the Court that has not been vacated, stayed, amended, reversed or modified, as to which no appeal or application for leave to appeal therefrom has been filed, or if any appeal(s) or application(s) for leave to appeal therefrom have been filed, any (and all) such appeal(s) or application(s) have been dismissed, quashed, determined, withdrawn or disposed of.

“General Conveyance” means a general conveyance and assumption of Liabilities, in form and substance satisfactory to the Parties, acting reasonably, evidencing the conveyance to the Purchaser of the Vendor’s and the Debtors’ right, title and interest in and to the Purchased Assets and the assumption by the Purchaser of the Assumed Liabilities.

“Governmental Authority” means:

- (a) any domestic or foreign government, whether national, federal, provincial, state, territorial, municipal or local (whether administrative, legislative, executive or otherwise), and includes for the avoidance of doubt the City of Brantford;
- (b) any agency, authority, ministry, department, regulatory body, court, central bank, bureau, board or other instrumentality having legislative, judicial, taxing, regulatory, prosecutorial or administrative powers or functions of, or pertaining to, government;
- (c) any court, tribunal, commission, individual, arbitrator, arbitration panel or other body having adjudicative, regulatory, judicial, quasi-judicial, administrative or similar functions; and
- (d) any other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange, securities commission or professional association.

“GST/HST” means all goods and services tax and harmonized sales tax imposed under Part IX of the *Excise Tax Act* (Canada).

“Hardware” has the meaning set forth in Section 6.7.

“Hazardous Materials” means: (i) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral, gas, odour, heat, sound, vibration, radiation or combination of them that may impair the natural environment, injure or damage property or animal life or harm or impair the health of any individual and includes any contaminant, waste or substance or material defined, prohibited, regulated or reportable pursuant to any Applicable Law relating to the environment, pollution or human health and safety, in each case, whether naturally occurring or manmade; and (ii) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation and polychlorinated biphenyls.

“Intellectual Property” means all intellectual property and industrial property, throughout the world, whether or not registerable, patentable or otherwise formally protectable, and whether or not registered, patented, otherwise formally protected or the subject of a pending application for registration, patent or any other formal protection, including all (i) trade-marks, corporate names and business names, (ii) inventions, (iii) works and subject matter in which copyright, neighbouring rights or moral rights subsist, (iv) industrial designs, patents, (v) know-how, trade secrets, proprietary information, confidential information and information of a sensitive nature that have value to the Business or relate to business opportunities for the Business, in whatever form communicated, maintained or stored, (vi) telephone numbers and facsimile numbers, (vii) registered domain names, and (viii) social media usernames and other internet identities and all account information relating thereto.

“Interim Period” means the period from the date that this Agreement is entered into by the Parties to the Closing Time.

“ITA” means the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supplement), and the regulations thereto.

“Law” has the meaning set out in the definition of **“Applicable Law”**.

“Legal Proceeding” means any litigation, Action, application, demand, suit, investigation, hearing, claim, complaint, deemed complaint, grievance, civil, administrative, regulatory or criminal, arbitration proceeding or other similar proceeding, before or by any court or other tribunal or Governmental Authority and includes any appeal or review thereof and any application for leave for appeal or review.

“Liability” means, with respect to any Person, any liability, debt, dues, guarantee, surety, indemnity obligation, or other obligation of such Person of any kind, character or description, whether legal, beneficial or equitable, known or unknown, present or future, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due or accruing due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

“Material Casualty” means a Casualty in respect of all or substantially all of the Purchased Assets.

“Order” means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

“Outside Date” means April 29, 2022 or such later date as the Parties may mutually agree.

“Owned Real Property” means the real property listed and specified as “Owned Real Property” on Schedule “B”.

“Party” means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and **“Parties”** means more than one of them.

“Permits and Licences” means any and all licences, permits, approvals, authorizations, certificates, directives, orders, variances, registrations, rights, privileges, concessions, granted, conferred or otherwise created by any Governmental Authority and held by or on behalf of any of the Debtors or other evidence of authority Related to the Business issued to, granted to, conferred upon, or otherwise created for, any of the Debtors which relate to the ownership, maintenance, operation of the Business or the Purchased Assets, including without limitation the permits and licences set out in Schedule “C”.

“Permitted Encumbrances” means, collectively:

- (a) Encumbrances related to Taxes and utilities arising by operation of law (statutory or otherwise) which relate to or secure Liabilities that in each case are not yet due or are not in arrears or, if due or in arrears, the validity of which is being contested;
- (b) only with respect to the Owned Real Property, construction, mechanics’, carriers’, workers’, repairers’, storers’ or other similar Encumbrances (inchoate or otherwise) if individually or in the aggregate: (i) they are not material; (ii) they arose or were incurred in the ordinary course of business; (iii) they have not been filed, recorded or registered in accordance with Applicable Law; (iv) notice of them has not been given to the Debtors or the Vendor; and (v) the indebtedness secured by them is not in arrears;
- (c) title defects or irregularities, unregistered easements or rights of way, and other unregistered restrictions or discrepancies affecting the use of real property;
- (d) registered restrictive covenants, leases and notices of lease, easements, covenants, rights of way and other restrictions, including without limitation: (i) registered easements on real property for the supply of utilities or telephone services and for drainage, storm or sanitary sewers, public utilities lines, telephone lines, cable television lines or other services, and (ii) registered easements or rights-of-way for the passage, ingress and egress of Persons and vehicles over parts of the Owned Real Property;
- (e) registered agreements with municipalities or public utilities;
- (f) facility cost sharing, servicing, parking, reciprocal and other similar agreements with neighbouring landowners and/or any Governmental Authority in respect of the Owned Real Property;
- (g) any encroachments by any structure located on the Owned Real Property onto any adjoining lands and any encroachment by any structure located on adjoining lands onto the Owned Real Property;
- (h) in respect of the Owned Real Property, the provisions of any Applicable Law, including by-laws, regulations, airport zoning regulations, ordinances and similar instruments relating to development and zoning, and any reservations, exceptions, limitations, provisos and conditions contained in the original Crown grant or patent;
- (i) in respect of the Owned Real Property, any Work Orders; and

- (j) the notice of lease registered as instrument number A473982 against title to the Owned Real Property under PIN 32281-0177 in favour of The TDL Group Corp. (the “**TDL Notice**”), provided that the Vendor shall use commercially reasonable efforts to obtain the consent of The TDL Group Corp. to the discharge of the TDL Notice on or prior to the Closing Date (whether pursuant to the Approval and Vesting Order or otherwise);

provided that, notwithstanding anything in the foregoing to the contrary, Permitted Encumbrances shall not include any of the instruments or registrations listed in Schedule “E” hereof, nor any registrations made against either Debtor under the *Personal Property Security Act* (Ontario) to the extent such registrations attach to the Purchased Assets.

“**Person**” is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority, and the executors, administrators or other legal representatives of an individual in such capacity.

“**Personal Information**” means information about an identifiable individual as defined in Privacy Law.

“**Personal Property**” means any and all vehicles, machinery, equipment, parts, chattels, inventory of spare parts, parts and supplies, furniture and any other tangible personal and movable property in which any of the Vendor or the Debtors have a beneficial right, title or interest (whether owned or leased), in all cases to the extent qualifying as Property, wherever situate (including those in possession of suppliers, customers and other third parties).

“**Personal Property Leases**” means a personal or movable property lease, chattel lease, equipment lease, financing lease, conditional or instalment sales contract and other similar agreement relating to Personal Property to which any of the Vendor or the Debtors are a party or under which they have rights to use Personal Property as listed and specified as “Personal Property Leases” on Schedule “A”.

“**Privacy Law**” means the *Personal Information Protection and Electronic Documents Act* (Canada), the *Personal Information Protection Act* (Ontario) and any Applicable Law of any other Province or territory of Canada.

“**Property**” has the meaning given to it in the Appointment Order.

“**Purchase Price**” has the meaning set out in Section 3.1.

“**Purchased Assets**” means, collectively, those assets of each of the Vendor or the Debtors as set out in Schedule “D”.

“**Purchased Tax Refunds**” means any and all of either Debtor’s right, title and interest to receive any refund of, and/or credit in respect of, Taxes paid by a Debtor (including Taxes paid by a Debtor by the Receiver or the Trustee) in respect of a period ending on or before September 30, 2021, to the extent transferrable by the Vendor.

“**Purchaser**” has the meaning set out in the preamble hereto and includes any successor or permitted assignee thereof in accordance with Section 10.17.

“Receivables” means, in respect of a Person all accounts receivable, bills receivable, trade accounts, holdbacks, retention, book debts and insurance claims due or accruing due to such Person, together with any unpaid interest accrued on such items and any security or collateral for such items, including recoverable deposits.

“Refund” has the meaning set out in Section 3.2(2).

“Related to the Business” means primarily (i) used in, (ii) arising from or (iii) otherwise related to the Business or any part thereof.

“Replacement Permit and Licence” means a new permit, licence, authorization, approval or other similar item providing substantially equivalent rights to the Purchaser as a Debtor is entitled to as of the Closing Date pursuant to the applicable Permit and Licence.

“Representative” when used with respect to a Person means each director, officer, employee, consultant, subcontractor, financial adviser, legal counsel, accountant and other agent, adviser or representative of that Person.

“Target Closing Date” means the first Business Day following the date on which the Approval and Vesting Order becomes a Final Order.

“Taxes” means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, *ad valorem* taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, licence taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes (including land transfer taxes and registration fees), withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, government pension plan premiums and contributions, social security premiums, workers’ compensation premiums, employment/unemployment insurance or compensation premiums and contributions, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority and any instalments in respect thereof of another taxpayer or entity, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties, and whether disputed or not, and **“Tax”** means any one of such Taxes.

“Tax Returns” means all returns, reports, declarations, elections, notices, filings, information returns, statements and forms in respect of Taxes that are filed or required to be filed with any applicable Governmental Authority, including all amendments, schedules, attachments or supplements thereto and whether in tangible or electronic form.

“Title Direction” means a written direction from the Purchaser calling for and directing title to the Owned Real Property to be transferred to the Purchaser or one or more designees.

“Transaction Personal Information” means any Personal Information (i) in the possession, custody or control of the Vendor at the Closing Time, including Personal Information about suppliers, customers, directors, officers or shareholders that is

disclosed to the Purchaser or any Representative of the Purchaser prior to the Closing Time by the Vendor or its Representatives, or (ii) collected by the Purchaser or any Representative of the Purchaser prior to the Closing Time from the Vendor or its Representatives, in either case in connection with the transactions contemplated by this Agreement.

“Transfer Taxes” means all applicable Taxes, including any applicable land transfer taxes and/or GST/HST, payable upon or in connection with the transactions contemplated by this Agreement and any filing, registration, recording or transfer fees payable in connection with the instruments of transfer provided for in this Agreement.

“Work Orders” or **“Work Order”** means any work order, deficiency notice, order to comply, inspector’s order, notice of non-compliance or similar written directive, including, without limitation, any outstanding, open, pending or active building permits and/or permit applications or the like, in each case issued by a Governmental Authority having jurisdiction with respect to the Owned Real Property or any part thereof pursuant to Applicable Law.

1.2 Actions on Non-Business Days. If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

1.3 Currency and Payment Obligations. Except as otherwise expressly provided in this Agreement: (i) all dollar amounts referred to in this Agreement are stated in the lawful currency of Canada; and (ii) any payment contemplated by this Agreement shall be made by wire transfer of immediately available funds to an account of the Vendor specified by the Vendor, by cash, by certified cheque or by any other method that provides immediately available funds as agreed to between the Parties.

1.4 Calculation of Time. In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. Eastern time on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 5:00 p.m. Eastern time on the next succeeding Business Day.

1.5 Tender. Any tender of documents or money hereunder may be made upon the Parties or their respective counsel.

1.6 Additional Rules of Interpretation.

(1) *Gender and Number.* In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.

(2) *Headings and Table of Contents.* The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.

(3) *Section References.* Unless the context requires otherwise, references in this Agreement to Articles, Sections or Schedules are to Articles or Sections of this Agreement, and Schedules to this Agreement.

(4) *Words of Inclusion.* Wherever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation” and the words following “include”, “includes” or “including” shall not be considered to set forth an exhaustive list.

(5) *References to this Agreement.* The words “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions shall be construed as referring to this Agreement in its entirety and not to any particular Section or portion of it.

(6) *Statute References.* Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.

(7) *Document References.* All references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, includes all schedules attached thereto.

1.7 Schedules. The following are the Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

SCHEDULES

<u>Schedule “A”</u>	Assigned Contracts
<u>Schedule “B”</u>	Owned Real Property
<u>Schedule “C”</u>	Permits & Licences
<u>Schedule “D”</u>	Purchased Assets
<u>Schedule “E”</u>	Deleted Encumbrances

Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Schedules and the interpretation provisions set out in this Agreement apply to the Schedules. Unless the context otherwise requires, or a contrary intention appears, references in the Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

ARTICLE 2 PURCHASE OF ASSETS AND ASSUMPTION OF LIABILITIES

2.1 Purchase and Sale of Purchased Assets. At the Closing Time, on and subject to the terms and conditions of this Agreement, the Sale Procedure and the Approval and Vesting Order, the Vendor shall sell to the Purchaser, and the Purchaser shall purchase from the Vendor, all of the Debtors’ and the Vendor’s right, title and interest, if any, in and to the

Purchased Assets, which shall be free and clear of all Encumbrances other than Permitted Encumbrances, to the extent and as provided for in the Approval and Vesting Order.

2.2 Assumption of Assumed Liabilities. At the Closing Time, on and subject to the terms and conditions of this Agreement, the Purchaser shall assume and agree to pay when due and perform and discharge in accordance with their terms, the Assumed Liabilities. Notwithstanding any other provision of this Agreement, the Purchaser shall not assume any Liabilities hereunder other than the Assumed Liabilities, except as required under Applicable Law.

2.3 Assignment of Contracts.

(1) *Obtaining Consents.* Prior to Closing, at the written request of the Purchaser, the Vendor, with the assistance of the Purchaser, shall use commercially reasonable efforts to obtain all consents required to assign the Assigned Contracts to the Purchaser, but only with respect to Assigned Contracts listed in Schedule "A". The Vendor shall have no obligation to seek consent to assign any Contract that is not explicitly listed in Schedule "A".

(2) *Assignment Order.* To the extent that any Assigned Contract is not assignable without the consent of the counterparty or any other Person and such consent has not been obtained prior to the Closing Date, (i) the Vendor's and the Debtors' rights, benefits and interests in, to and under such Assigned Contract may be conveyed to the Purchaser pursuant to an Assignment Order, (ii) the Vendor will use commercially reasonable efforts to obtain an Assignment Order in respect of such Assigned Contract on or prior to the Closing Date in form and substance acceptable to the Purchaser, acting reasonably, (iii) the Purchaser, at its own expense, will promptly provide to the Vendor all such information within its possession or under its control as the Vendor may reasonably request to obtain the Assignment Order, and (iv) if an Assignment Order is obtained in respect of such Assigned Contract in form and substance acceptable to the Purchaser, acting reasonably, the Purchaser shall accept the assignment of such Assigned Contract on such terms.

(3) *Cure Costs.* Unless the Parties otherwise agree, to the extent that any Cure Costs are payable with respect to any Assigned Contract, the Purchaser shall (i) where such Assigned Contract is assigned pursuant to an Assignment Order, pay all such Cure Costs in accordance with the Assignment Order, and (ii) where such Assigned Contract is not assigned pursuant to an Assignment Order, pay all such Cure Costs in the manner set out in the consent of the applicable counterparty or as otherwise may be agreed to by the Purchaser and such counterparty. The Cure Costs as paid by the Purchaser shall be in addition to the Cash Purchase Price for the Purchased Assets.

(4) *Assignment.* At the Closing Time, on and subject to the terms and conditions of this Agreement (including Section 2.3(5) below), the Approval and Vesting Order and the Assignment Order (if applicable), all of the Debtors' rights, benefits and interests in, to and under the Assigned Contracts shall be assigned to the Purchaser, the consideration for which is included in the Purchase Price.

(5) *Where Consent Required.* Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Assigned Contract to the extent such Assigned Contract is not assignable under Applicable Law, or the terms of the applicable Assigned Contract provide that it is not assignable without the consent of another

Person, unless such consent has been obtained or the assignment is subject to an Assignment Order.

(6) *No Adjustment.* For greater certainty, in respect of any Assigned Contract other than the Critical Contracts, if the consent of any Person is required to assign such Contract but such consent is not obtained prior to Closing and such Contract is not assigned pursuant to an Assignment Order, such Contract shall not form part of the Purchased Assets and (i) neither Party shall be considered to be in breach of this Agreement, (ii) the failure to assign or otherwise transfer such Assigned Contract shall not be a condition to Closing, (iii) the Purchase Price shall not be subject to any adjustment, and (iv) the Closing shall not be delayed.

2.4 Transfer and Assignment of Permits and Licences.

(1) *Obtaining Consents.* Prior to Closing, to the extent that a Permit and Licence is assignable or otherwise transferable by the Vendor to the Purchaser, the Vendor, with the assistance of the Purchaser, shall use commercially reasonable efforts to obtain all necessary consents or approvals to assign or otherwise transfer such Permits and Licences, but only with respect to Permits and Licences listed in Schedule "C". The Vendor shall have no obligation to seek consent to assign any Permit and Licence that is not explicitly listed in Schedule "C". The Purchaser (i) shall pay all costs required to be paid to third parties and/or Governmental Authorities in connection with obtaining the assignment or transfer of any Permit and Licence to the Purchaser, or reissuance thereof (which costs shall be in addition to the Purchase Price), and (ii) shall reimburse the Vendor to the extent of any third party costs and/or any costs payable to Governmental Authorities that are incurred by the Vendor in connection with obtaining the assignment or transfer of any Permit and Licence to the Purchaser or obtaining any Replacement Permit and Licence (which costs shall be in addition to the Purchase Price), provided, however, that the Vendor provides evidence of such third party costs and/or Governmental Authority costs satisfactory to the Purchaser, acting reasonably, and such third party costs and/or Governmental Authority costs shall exclude all salaries, fees and costs of any and all consultants, employees, counsel or other Representatives of the Vendor related to such assignment and transfer.

(2) *Transfer and Assignment.* At the Closing Time, on and subject to the terms and conditions of this Agreement and the Approval and Vesting Order, all of the Debtors' rights, benefits and interests in, to and under the Permits and Licences, to the extent assignable, shall be assigned to the Purchaser, the consideration for which is included in the Purchase Price.

(3) *Where Consent Required.* Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign or otherwise transfer any Permit and Licence to the extent such Permit and Licence is not assignable or transferable under Applicable Law or the terms of the applicable Permit and Licence provide that it is not assignable without the consent of another Person, unless such consent has been obtained.

(4) *Post-Closing Assignment.* Notwithstanding anything in this Agreement to the contrary, if the consent or approval of any Person is required to assign or otherwise transfer a Permit and Licence that is listed in Schedule "C", but such consent or approval is not obtained prior to Closing, (i) the Vendor and the Purchaser shall use their commercially reasonable efforts to obtain the necessary consents or approvals to the assignment or transfer of such Permit and Licence to the Purchaser or the Purchaser shall use its commercially reasonable efforts to obtain (with commercially reasonable assistance from the Vendor) a Replacement Permit and Licence thereof, in each case, as soon as practicable following Closing, (ii) neither

Party shall be considered to be in breach of this Agreement, (iii) the failure to assign or otherwise transfer such Permit and Licence or obtain any Replacement Permit and Licence, shall not be a condition to Closing, (iv) the Purchase Price shall not be subject to adjustment, and (v) the Closing shall not be delayed.

(5) *Obtaining Replacement Permits and Licenses.* To the extent that a Permit and Licence is not assignable or otherwise transferrable by the Vendor to the Purchaser, the Purchaser, with the assistance of the Vendor, shall use commercially reasonable efforts to obtain a Replacement Permit and Licence in connection with the purchase and sale of the Purchased Assets. The Purchaser shall pay all costs required in connection with obtaining any Replacement Permit and Licence (which shall be in addition to the Purchase Price).

ARTICLE 3 PURCHASE PRICE & TAXES

3.1 Purchase Price. The consideration payable by the Purchaser to the Vendor for the Vendor's and the Debtors' right, title and interest, if any, in and to the Purchased Assets (the "**Purchase Price**") shall be the aggregate of:

- (1) [REDACTED] (the "**Cash Purchase Price**");
- (2) the Cure Costs; and
- (3) the agreed value of the Assumed Liabilities.

3.2 Satisfaction of Purchase Price. The Purchase Price shall be paid and satisfied as follows:

(1) a deposit in the amount of [REDACTED] (the "**Deposit**") which shall be paid by wire transfer by the Purchaser to the Vendor immediately upon the Vendor's execution of this Agreement and shall be applied against the Cash Purchase Price on Closing. The Purchaser agrees that it waives any accrued interest that may be earned on the Deposit;

(2) the balance of the Cash Purchase Price, after crediting the Deposit in Section 3.2(1), shall be paid by the Purchaser to the Vendor at Closing, by wire transfer, subject to a refund by the Vendor to the Purchaser in an amount equal to the amount, if any, that the Court declares in a Final Order, as the resolution of a motion brought by Santokh Mahal pursuant to a Notice of Motion dated November 21, 2021, is indebtedness owing by Golden Miles to Santokh Mahal that is secured by a security interest in any of Golden Miles' personal property ranking in priority to all other encumbrances on such personal property (other than super-priority charges created by Court order in the Receivership Proceedings) (the "**Refund**");

(3) the Cure Costs, shall be paid or otherwise satisfied by the Purchaser on behalf of the Debtors or the Vendor at Closing in accordance with Section 7.3(3); and

(4) an amount equal to the agreed value of the Assumed Liabilities, shall be satisfied at Closing by the assumption by the Purchaser of the Assumed Liabilities by the execution and delivery of the Assignment and Assumption Agreement.

3.3 Cash Reserve. Pending a Final Order determining the quantum of the Refund, if any, the Vendor shall retain in trust from the proceeds of sale of the Purchased Assets, a cash

reserve in the amount of \$2,500,000, which shall stand as security for the Refund and any costs or interests which may be awarded to Santokh Mahal (collectively, the “**Cash Reserve**”).

3.4 Allocation of Purchase Price. The Vendor and the Purchaser agree to allocate from the Purchase Price: (a) [REDACTED] to the personal property of Golden Miles, and (b) [REDACTED] to the Owned Real Property. The Vendor and the Purchaser further agree to allocate the balance of Purchase Price in a manner to be agreed to by the Parties after Closing, each acting reasonably, and to report the sale and purchase of the Purchased Assets for all federal, provincial and local Tax purposes in a manner consistent with such allocation, which shall include, for greater certainty, an allocation by category of Purchased Assets and among the Debtors. If such allocation is disputed by any Governmental Authority with respect to Taxes, the Party receiving notice of such dispute will promptly notify the other Party and the Parties will use their commercially reasonable efforts to sustain the final allocation. The Parties will share information and cooperate to the extent reasonably necessary to permit the transaction contemplated by this Agreement to be properly, timely and consistently reported. For purposes of calculating any Taxes payable by the Purchaser to the Vendor under Section 3.5, if any, the Vendor and Purchaser shall mutually agree no later than thirty days after the Closing Date regarding the allocation, including an allocation to the relevant categories of Purchased Assets and among the Debtors. If an agreement is not reached by the time the Vendor is required by Applicable Law to remit the applicable Taxes, the Vendor shall have the right, acting reasonably and in good faith, to issue a preliminary allocation based on its own calculations and the Purchaser shall pay such amount to the Vendor for remittance of such Taxes on the basis of such preliminary allocation. If the Parties later agree to a different allocation resulting in any additional or lesser Taxes, the Vendor shall have the right to charge the additional Taxes at that time or shall promptly refund to the Purchaser the excess amount, as the case may be.

3.5 Taxes. In addition to the Purchase Price, the Purchaser shall be liable for and shall, at Closing, pay all applicable Transfer Taxes. The Vendor shall collect GST/HST from the Purchaser in connection with the transactions contemplated by this Agreement, except, that the Vendor shall not collect GST/HST on the Owned Real Property if, on the Closing Date, the Purchaser delivers to the Vendor: (i) a certificate of the Purchaser setting out the registration number of the Purchaser for GST/HST purposes; and (ii) an undertaking by the Purchaser to pay all applicable GST/HST in connection with the acquisition of the Owned Real Property and an indemnity by the Purchaser whereby the Purchaser agrees to indemnify and hold the Vendor harmless from and against any and all Damages that may be suffered or incurred, directly or indirectly, by the Vendor or may become payable by the Vendor arising from or in respect of any failure by the Purchaser to register for the purposes of the GST/HST imposed under the *Excise Tax Act (Canada)* or to perform its obligations under such Act in connection with its acquisition of the Owned Real Property.

3.6 GST/HST Gross Up. All payments required to be made by the Purchaser under this Agreement shall be made by the Purchaser free and clear of, and without deduction for, any Taxes. If the Purchaser is required by Applicable Law to deduct or withhold any amount from the Purchase Price payable hereunder, then the Purchase Price shall be increased by an additional amount such that the amount received by the Vendor after such deduction or withholding (including deduction or withholding from such additional amount) is equal to the amount that the Vendor would have received absent any such deduction or withholding. In the event that any payment or forfeiture under this Agreement is deemed by the *Excise Tax Act (Canada)* to include GST/HST or is deemed by any applicable provincial or territorial legislation

to include a similar value added or multi-staged tax, the amount of such payment or forfeiture shall be increased accordingly.

3.7 Tax Elections.

(1) *Section 22 Tax Election.* If available and requested by the Vendor, the Purchaser and the Vendor shall elect jointly in the prescribed form under section 22 of the *ITA* and the corresponding provisions of any other applicable Tax statute as to the sale of the Receivables and designate in such election an amount equal to the portion of the Purchase Price allocated to the Receivables pursuant to Section 3.4. This election, or these elections, shall be made within the time prescribed for such elections.

(2) *Subsection 20(24) Tax Election.* The Purchaser, and the Vendor shall, if applicable, jointly execute and file an election under subsection 20(24) of the *ITA* in the manner required by subsection 20(25) of the *ITA* and under the equivalent or corresponding provisions of any other applicable provincial or territorial statute, in the prescribed forms and within the time period permitted under the *ITA* and under any other applicable provincial or territorial statute, as to such amount paid by the applicable Debtors to the Purchaser for assuming future obligations. In this regard, the Purchaser and Vendor acknowledge that a portion of the Purchased Assets transferred by the Vendor pursuant to this Agreement and having a value equal to the amount elected under subsection 20(24) of the *ITA* and the equivalent provisions of any applicable provincial or territorial statute, is being transferred by the Vendor as a payment for the assumption of such future obligations by the Purchaser.

(3) *Section 56.4 Tax Election.* At the request of the Vendor and to the extent permitted by the *ITA*, the Parties shall make, and the Vendor shall file, any election or amended election in prescribed form (or such other form as the Purchaser or the Vendor may reasonably request) and within the prescribed time limits pursuant to subsection 56.4(7) of the *ITA* proposed by the Minister of Finance (Canada) as it reads on the date of this Agreement or any amended or successor provision thereto, and any analogous provision of provincial or territorial Tax legislation.

ARTICLE 4 PROCEDURES

4.1 Approval and Vesting Order. The Parties acknowledge and agree that:

(1) *Court Approval.* This Agreement is subject the issuance of the Approval and Vesting Order.

(2) *Motion for Approval and Vesting Order.* Upon the Vendor's execution of this Agreement, and the Vendor's receipt of the Deposit, the Vendor shall file with the Court, as soon as reasonably practicable thereafter, a motion seeking the Court's issuance of the Approval and Vesting Order. The Purchaser shall cooperate with the Vendor in its efforts to obtain the issuance and entry of the Approval and Vesting Order. The Purchaser, at its own expense, will promptly provide to the Vendor all such information within its possession or under its control as the Vendor may reasonably request to obtain the Approval and Vesting Order.

4.2 Title Direction. The Purchaser shall deliver, on or before March 30, 2022 (being the day prior to the day that the Vendor anticipates filing with the Court the motion seeking the Court's issuance of the Approval and Vesting Order), the Title Direction which direction shall

call for and direct title to the Owned Real Property to be transferred to the Purchaser or one or more designees, and the Vendor shall transfer title on Closing in accordance with the Title Direction.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties of the Purchaser. As a material inducement to the Vendor entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Vendor is entering into this Agreement in reliance upon the representations and warranties of the Purchaser set out in this Section 5.1, the Purchaser represents and warrants to the Vendor as follows:

(1) *Incorporation and Corporate Power.* The Purchaser is a corporation incorporated, organized and subsisting under the Laws of the jurisdiction of its incorporation. The Purchaser has the corporate power, authority and capacity to execute and deliver this Agreement and all other agreements and instruments to be executed by it as contemplated herein and to perform its obligations under this Agreement and under all such other agreements and instruments.

(2) *Authorization by Purchaser.* The execution and delivery of this Agreement and all other agreements and instruments to be executed by it as contemplated herein and the completion of the transactions contemplated by this Agreement and all such other agreements and instruments have been duly authorized by all necessary corporate action on the part of the Purchaser.

(3) *Approvals.* No consent, waiver, authorization or approval of any Person and no notice or declaration to or filing or registration with any Governmental Authority is required in connection with the execution and delivery by the Purchaser of this Agreement or all other agreements and instruments to be executed by the Purchaser or the performance by the Purchaser of its obligations hereunder or thereunder.

(4) *Enforceability of Obligations.* This Agreement constitutes a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms. There is no Legal Proceeding in progress, pending against or threatened against or affecting the Purchaser, and there are no grounds on which any such Legal Proceeding might be commenced and there is no Order outstanding against or affecting the Purchaser which, in any such case, affects adversely or might affect adversely the ability of the Purchaser to enter into this Agreement or to perform its obligations hereunder.

(5) *ICA.* The Purchaser is not a “non-Canadian” within the meaning of the *ICA*, or, if the Purchaser is a “non-Canadian”, the Purchaser is a “WTO investor” within the meaning of the *ICA*.

(6) *Excise Tax Act.* The Purchaser is, or upon Closing shall be, registered for GST/HST purposes under Part IX of the *Excise Tax Act* (Canada), and shall provide its registration number to the Vendor at or prior to Closing.

(7) *Commissions.* The Vendor will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated by this Agreement because of any action taken by, or agreement or understanding reached by, the Purchaser.

(8) *Sufficient Funds.* The Purchaser has sufficient financial resources or has arranged sufficient financing for it, on Closing (which financing is not subject to any conditions other than the conditions to Closing set out herein), to pay the Cash Purchase Price, the Cure Costs and the Transfer Taxes payable on Closing and any and all other amounts payable by the Purchaser, if any, pursuant to this Agreement.

5.2 Representations and Warranties of the Vendor. As a material inducement to the Purchaser entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Purchaser is entering into this Agreement in reliance upon the representations and warranties of the Vendor set out in this Section 5.2, the Vendor represents and warrants to the Purchaser as follows:

(1) *Enforceability of Obligations.* Subject to the Approval and Vesting Order having been granted and being a Final Order, this Agreement constitutes a valid and binding obligation of the Vendor, enforceable against the Vendor in accordance with its terms.

(2) *ITA.* Each of the Debtors is not a non-resident of Canada for purposes of the *ITA*.

(3) *Excise Tax Act.* The Debtors are registered for GST/HST purposes under Part IX of the *Excise Tax Act* (Canada) and their GST/HST numbers are:

Golden Miles Food Corporation:	817317464
Mahal Venture Capital Inc.:	83941593

(4) *Commissions.* The Purchaser will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated by this Agreement because of any action taken by, or agreement or understanding reached by, the Vendor.

5.3 As is, Where is. Notwithstanding any other provision of this Agreement, the Purchaser acknowledges, agrees and confirms that:

(1) except for the representations and warranties of the Vendor set forth in Section 5.2, it is entering into this Agreement, acquiring the Purchased Assets and assuming the Assumed Liabilities on an "as is, where is" basis as they exist as of the Closing Time and will accept the Purchased Assets in their state, condition and location (and in respect of the Owned Real Property, subject to any Work Orders that may exist) as of the Closing Time except as expressly set forth in this Agreement and the sale of the Purchased Assets is made without legal warranty and at the risk of the Purchaser;

(2) it has conducted to its satisfaction such independent searches, investigations and inspections of the Purchased Assets, the Business and the Assumed Liabilities as it deemed appropriate, and based solely thereon, has determined to proceed with the transactions contemplated by this Agreement;

(3) except as expressly stated in Section 5.2, neither the Debtors nor the Vendor, nor their Representatives, have made or are making, and the Purchaser is not relying on, any representations, warranties, statements or promises, express or implied, statutory or otherwise, concerning the Purchased Assets, the Vendor's and the Debtors' right, title or interest in or to the Purchased Assets, the Business or the Assumed Liabilities, including with respect to merchantability, physical or financial condition, description, fitness for a particular purpose, suitability for development, title, description, use or zoning, environmental condition, existence of any parts/and/or components, latent defects, quality, quantity or any other thing affecting any of the Purchased Assets or the Assumed Liabilities, or normal operation thereof, or in respect of any other matter or thing whatsoever, including any and all conditions, warranties or representations expressed or implied pursuant to any Applicable Law in any jurisdiction, which the Purchaser confirms do not apply to this Agreement and are hereby waived in their entirety by the Purchaser;

(4) without limiting the generality of the foregoing, no representation, warranty or covenant is given by the Vendor that any of the Purchased Assets are or can be made operational within a specified time frame or will achieve any particular result, level of service, use, production capacity or actual production if made operational;

(5) without limiting the generality of the foregoing, except as expressly stated in Section 5.2, the Vendor has not made any representation or warranty as to any regulatory approvals, licenses, permits, consents or authorizations, including the Permits and Licences, that may be needed to complete the transactions contemplated by this Agreement or to operate or carry on the Business or any portion thereof, and the Purchaser is relying entirely on its own investigation, due diligence and inquiries in connection with such matters;

(6) the Vendor will convey all of the Books and Records of the Debtors that have been provided to it by principals of the Debtors or obtained by it through its investigations, however the Vendor makes no representation or warranty as to the completeness, accuracy or currency of any Books and Records;

(7) all written and oral information obtained from the Vendor or its Representatives, including in any teaser letter, asset listing, confidential information memorandum or other document made available to the Purchaser (including in certain "data rooms", management presentations, site visits and diligence meetings or telephone calls), with respect to the Purchased Assets, the Business, and the Assumed Liabilities has been obtained for the convenience of the Purchaser only, and neither the Vendor or its Representatives have made any representation or warranty, express or implied, statutory or otherwise as to the accuracy or completeness of any such information;

(8) any information regarding or describing the Purchased Assets, the Business or the Assumed Liabilities in this Agreement (including the Schedules hereto), or in any other agreement or instrument contemplated hereby, is for identification purposes only, is not relied upon by the Purchaser, and no representation, warranty or condition, express or implied, has or will be given by the Vendor or its Representatives, or any other Person concerning the completeness or accuracy of such information or descriptions;

(9) except as otherwise expressly provided in this Agreement, the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or claims the Purchaser might have against the Vendor, the Debtors or any of their Representatives pursuant to any warranty, express or implied, legal or conventional, of any kind or type, other than those

representations and warranties of the Vendor expressly set forth in Section 5.2. Such waiver is absolute, unlimited, and includes, but is not limited to, waiver of express warranties, implied warranties, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and claims of every kind and type, including claims regarding defects, whether or not discoverable or latent, product liability claims, or similar claims, and all other claims that may be later created or conceived in strict liability or as strict liability type claims and rights;

(10) none of the representations and warranties of the Vendor contained in this Agreement shall survive Closing and, subject to Section 9.3(2), the Purchaser's sole recourse for any breach of representation or warranty of the Vendor in Section 5.2 shall be for the Purchaser not to complete the transactions as contemplated by this Agreement and the Purchaser shall have no recourse or claim of any kind against the Vendor, or the proceeds of the transactions contemplated by this Agreement following Closing; and

(11) Sections 5.3, 3.2 and 3.3 shall not merge on Closing and are deemed incorporated by reference in all closing documents and deliveries.

ARTICLE 6 COVENANTS

6.1 Access During Interim Period. During the Interim Period, the Vendor shall, subject to any confidentiality, privacy, regulatory or safety restrictions, give, or cause to be given, to the Purchaser and its Representatives reasonable access during normal business hours to the Purchased Assets (where situated), including the Books and Records, to conduct such investigations, inspections, surveys or tests thereof and of the financial and legal condition of the Business and the Purchased Assets as the Purchaser deems reasonably necessary or desirable to further familiarize itself with the Business and the Purchased Assets and plan for the operation of the Business following Closing, provided however that (a) the number of attendances at the Mill by the Purchaser or its representatives shall not exceed 5 attendances, and (b) any test runs or operation of any equipment or machinery that forms the Purchased Assets shall require the prior written consent of the Vendor, which consent may not be unreasonably withheld, and if granted such test runs shall only be conducted pursuant to such safety, supervisory or other conditions as the Vendor may specify. Without limiting the generality of the foregoing, the Purchaser shall be permitted reasonable access during normal business hours to all Books and Records relating to information scheduled or required to be disclosed under this Agreement. Such investigations, inspections, surveys and tests shall be carried out at the Purchaser's sole and exclusive risk and peril, during normal business hours, and the Vendor shall co-operate reasonably in facilitating such investigations, inspections, surveys and tests and shall furnish copies of all such documents and materials relating to such matters as may be reasonably requested by or on behalf of the Purchaser. For the avoidance of doubt, the Parties hereby agree and acknowledge that for health and safety reasons, this Section 6.1 is a fundamental part of this Agreement, and that any access to the Purchased Assets by the Purchaser or its agents or representatives that is not consented to in advance by the Vendor shall constitute a material, uncurable breach of this Agreement, entitling the Vendor to terminate this Agreement pursuant to Section 9.1(4).

6.2 Transaction Personal Information. Each Party shall comply with Privacy Law in the course of collecting, using and disclosing Transaction Personal Information. The Purchaser shall cause its Representatives to observe the terms of this Section 6.2 and to protect and safeguard Transaction Personal Information in their possession in accordance with Privacy

Law. The Purchaser shall collect Transaction Personal Information prior to Closing only for purposes related to the transactions contemplated by this Agreement. The Purchaser shall not, without the consent of the individuals to whom such Personal Information relates or as permitted or required by Applicable Law, use or disclose Transaction Personal Information (i) for purposes other than those for which such Transaction Personal Information was collected by any of the Debtors prior to the Closing and (ii) for a purpose which does not relate directly to the carrying on of the Business or to the carrying out of the purposes for which the transactions contemplated by this Agreement were implemented.

6.3 Risk of Loss. The Purchased Assets shall be at the risk of the Debtors until Closing. If, between the date hereof and Closing, any of the Purchased Assets are destroyed, lost or damaged (each a "**Casualty**"), the Purchaser shall still complete the purchase of the Purchased Assets on an "as is, where is" basis without any adjustment to the Cash Purchase Price payable hereunder and take an assignment from the Vendor of all insurance proceeds payable to the Debtors or Vendor in respect of the Casualty, provided that, in the event of a Material Casualty, the Purchaser shall have the option, in its discretion, to terminate this Agreement. For greater certainty, in no event shall the aggregate total of the insurance proceeds assigned to the Purchaser in accordance with this Section 6.3 and the fair market value of Purchased Assets exceed the Purchase Price.

6.4 Indemnity. The Purchaser hereby indemnifies the Debtors, the Vendor and their respective Representatives, and saves them fully harmless against, and will reimburse or compensate them for, any Damages arising from, in connection with or related in any manner whatsoever to:

- (1) any Transfer Taxes (including penalties and interest) which may be assessed against either of the Debtors or Vendor with respect to the transactions under this Agreement including, without limiting the foregoing, any Taxes which may be assessed in the event that any election made pursuant to Section 3.7 is challenged by the relevant Tax authority as being inapplicable to the transactions under this Agreement, or as a result of the Purchaser's failure to file such elections within the prescribed time;
- (2) the Purchaser's access in accordance with Section 6.1;
- (3) the collection, use or disclosure of Transaction Personal Information by the Purchaser and its Representatives; and
- (4) the Purchaser's failure to pay when due and perform and discharge the Assumed Liabilities in accordance with their terms.

6.5 Environmental Liabilities. The Purchaser acknowledges and agrees that upon Closing, the Purchaser shall become responsible for the payment, performance and discharge of all Environmental Liabilities related to the Purchased Assets including, as applicable, all obligations of any kind whatsoever under Environmental Laws relating to the Purchased Assets.

6.6 Books and Records. The Purchaser shall preserve and keep the Books and Records acquired by it pursuant to this Agreement for a period of six (6) years after Closing, or for any longer periods as may be required by any Laws applicable to such Books and Records. The Purchaser shall make such Books and Records, as well as electronic copies of such Books

and Records (to the extent reasonably feasible), available to the Vendor, and its Representatives and successors, and shall permit any of the foregoing persons to take copies of such Books and Records as they may require.

6.7 Certain Information Technology Assets. With respect to any information technology assets primarily Related to the Business to be acquired by the Purchaser hereunder (such as desktops, laptops, mobile phones, servers and related hardware) (collectively, “**Hardware**”), the Purchaser will co-operate with the Vendor, at the Purchaser’s cost and expense, in causing data contained or stored in such Hardware not relating primarily to the Business, the Purchased Assets or the Assumed Liabilities to be removed from such Hardware in a manner reasonably satisfactory to the Vendor prior to the Closing Date or within a reasonable period of time thereafter, provided that such removal shall be carried out in a manner that does not damage or otherwise interfere with any data contained or stored in such Hardware primarily Related to the Business or the Purchased Assets. Any third party provider selected by the Purchaser and Vendor to provide such services shall be agreed upon by the Purchaser and the Vendor, acting reasonably.

6.8 Regulatory Approvals. The Purchaser, with the assistance of the Vendor shall, as promptly as possible, (i) make, or cause or be made, all filings and submissions, as applicable, required under any Law applicable to such Party or any of its Affiliates; and (ii) use commercially reasonable efforts to obtain, or cause to be obtained, all consents, authorizations, orders and approvals from all Governmental Authorities that may be or become necessary for its execution and delivery of this Agreement and the performance of its obligations pursuant to this Agreement. The Vendor shall cooperate reasonably with the Purchaser and its Affiliates in promptly seeking to obtain all such consents, authorizations, orders, approvals and clearance certificates. The Parties shall not willfully take any action that will have the effect of delaying, impairing or impeding the receipt of any required consents, authorizations, orders and approvals.

6.9 Cooperation and Consultation with Governmental Authorities. All meetings, submissions, filings, and proposals made by or on behalf of either Party before any Governmental Authority or the staff or regulators of any Governmental Authority, in connection with the consummation of the transactions contemplated hereunder (but, for the avoidance of doubt, not including any interactions between the Vendor or the Purchaser with Governmental Authorities in the ordinary course of business, any disclosure which is not permitted by Law or any disclosure containing confidential information) shall be disclosed to the other Party hereunder in advance of any filing, submission or attendance, it being the intent that the Parties will consult and cooperate with one another, and consider in good faith the views of one another, in connection with any such filings, meetings, submissions and proposals. Each Party shall give notice to the other Party with respect to any meeting, submission, discussion, appearance or contact with any Governmental Authority or the staff or regulators of any Governmental Authority, with such notice being sufficient to provide the other Party with the opportunity to attend and participate in such meeting, discussion, appearance or contact (except where such Governmental Authority expressly requests that such Party not attend or participate in such meeting, discussion, appearance or contact). Notwithstanding any requirement under this Section 6.9, a Party shall not be required to provide the other Party with any information required to be provided under this Section 6.9 where the information is confidential and competitively sensitive, in which case the supplying Party shall provide a redacted version to the requesting Party and shall provide the information on a non-redacted basis to the receiving Party’s external counsel, and the receiving Party agrees that it shall neither request nor receive such non-redacted information from its external counsel.

6.10 Waiver of Claim for Costs. Effective upon Closing, the Trustee shall release any and all claims for costs of the motion by Santokh Mahal for a declaration of his interest in, to and under the agreement to purchase a condominium unit in the Aquabella Condominium described as Suite GPHI, 118 Merchant's Wharf, Toronto (the "**Condo Motion**"). The Trustee shall forebear from taking any steps to obtain a costs order against Santokh Mahal in respect of the Condo Motion for so long as this Agreement remains in force and not terminated in accordance with Article 9. For the avoidance of doubt, the Trustee's release of its claim for costs in the Condo Motion shall not be effective if this Agreement does not Close, for any reason.

ARTICLE 7 CLOSING ARRANGEMENTS

7.1 Closing. The Closing will take place virtually, whereby required executed closing deliverables are circulated by electronic mail in pdf and released at such time and pursuant to such protocols and confirmations as the Parties may agree.

7.2 Vendor's Closing Deliveries. At the Closing, the Vendor shall deliver or cause to be delivered to the Purchaser the following:

- (1) a statement of adjustments reflecting customary adjustments for a transaction similar to the transaction contemplated by this Agreement (a "**Statement of Adjustments**");
- (2) an undertaking by the Vendor to readjust all items on the Statement of Adjustments within 45 days from the Closing Date, upon written request by the Purchaser;
- (3) the Purchased Assets, with delivery to occur *in situ* wherever such Purchased Assets are located at the Closing Time;
- (4) a copy of the Approval and Vesting Order, which shall be a Final Order;
- (5) a copy of any Assignment Order, if applicable, in respect of any Critical Contracts for which consents to assignment were required which have not been obtained, which Assignment Order shall be a Final Order;
- (6) the General Conveyance, duly executed by the Vendor ;
- (7) all consents to the assignment of the Assigned Contracts and Permits and Licences, to the extent obtained by the Vendor prior to Closing;
- (8) the Assignment and Assumption Agreement, duly executed by the Vendor;
- (9) a bring-down certificate executed by the Vendor dated as of the Closing Date, in form and substance satisfactory to the Purchaser, acting reasonably, certifying that (i) all of the representations and warranties of the Vendor hereunder remain true and correct in all material respects as of the Closing Date as if made on and as of such date or, if made as of a date specified therein, as of such date, and (ii) all of the terms and conditions set out in this Agreement to be complied with or

performed by the Vendor or prior to Closing have been complied with or performed by the Vendor in all material respects; and

- (10) such other agreements, documents and instruments as may be required and that the Purchaser has reasonably requested on or before the Closing Date to complete the transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably, provided that none of the Vendor's closing deliveries shall contain covenants, representations or warranties which are in addition to or more onerous upon the Vendor than those expressly set out in this Agreement.

7.3 Purchaser's Closing Deliveries. At the Closing, the Purchaser shall deliver or cause to be delivered to the Vendor (or as otherwise indicated below), the following:

- (1) the payment referred to in Section 3.2(2);
- (2) the payment of all Transfer Taxes to the applicable Governmental Authority required to be paid on Closing;
- (3) to the extent payable on Closing, evidence that Cure Costs (if any) in respect of each Assigned Contract have been paid in accordance with (i) the Assignment Order where such Assigned Contract is assigned pursuant to an Assignment Order, and (ii) the consent of the applicable counterparty or as otherwise agreed upon by the Purchaser and such counterparty, where such Assigned Contract is not assigned pursuant to an Assignment Order;
- (4) an undertaking by the Purchaser to readjust all items on the Statement of Adjustments within 45 days from the Closing Date, upon written request by the Vendor;
- (5) the General Conveyance, duly executed by the Purchaser;
- (6) the Assignment and Assumption Agreement, duly executed by the Purchaser;
- (7) a bring-down certificate executed by the Purchaser or a senior officer of the Purchaser, if applicable, dated as of the Closing Date, in form and substance satisfactory to the Vendor, acting reasonably, certifying that (i) all of the representations and warranties of the Purchaser hereunder remain true and correct in all material respects as of the Closing Date as if made on and as of such date or, if made as of a date specified therein, as of such date, and (ii) all of the terms and conditions set out in this Agreement to be complied with or performed by the Purchaser at or prior to Closing have been complied with or performed by the Purchaser in all material respects;
- (8) the Title Direction (which shall have been delivered on or prior to March 30, 2022, pursuant to Section 4.2); and
- (9) such other agreements, documents and instruments as may be required and that the Vendor has reasonably requested on or before the Closing Date to complete the transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably, provided that none of the

Purchaser's closing deliveries shall contain covenants, representations or warranties which are in addition to or more onerous upon the Purchaser than those expressly set out in this Agreement.

ARTICLE 8 CONDITIONS OF CLOSING

8.1 Purchaser's Conditions. The Purchaser shall not be obligated to complete the transactions contemplated by this Agreement unless, at or before the Outside Date, each of the conditions listed below in this Section 8.1 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Purchaser, and may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall only be binding on the Purchaser if made in writing:

- (1) *Court Approval.* The Approval and Vesting Order and, if applicable, the Assignment Order, shall each have been issued and entered by the Court and be a Final Order.
- (2) *Vendor's Deliveries.* The Vendor shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 7.2.
- (3) *No Violation of Orders or Law.* During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any Final Order or Law which has the effect of (i) making any of the transactions contemplated by this Agreement illegal, or (ii) otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by this Agreement.
- (4) *No Breach of Representations and Warranties.* Each of the representations and warranties contained in Section 5.2 shall be materially true and correct (i) as of the Closing Date as if made on and as of such date or (ii) if made as of a date specified therein, as of such date.
- (5) *No Breach of Covenants.* The Vendor shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Vendor on or before the Closing.

8.2 Vendor's Conditions. The Vendor shall not be obligated to complete the transactions contemplated by this Agreement unless, at or before the Closing Time, each of the conditions listed below in this Section 8.2 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Vendor and may be waived by the Vendor in whole or in part, without prejudice to their rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall only be binding on the Vendor if made in writing.

- (1) *Court Approval.* The Approval and Vesting Order and, if applicable, the Assignment Order shall each have been issued and entered by the Court and be a Final Order.

- (2) *Purchaser's Deliverables.* The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing all the documents and payments contemplated in Section 7.3.
- (3) *No Violation of Orders or Law.* During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any Final Order or Law which has the effect of (i) making any of the transactions contemplated by this Agreement illegal, or (ii) otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by this Agreement.
- (4) *No Breach of Representations and Warranties.* Each of the representations and warranties contained in Section 5.1 shall be materially true and correct (i) as of the Closing Date as if made on and as of such date or (ii) if made as of a date specified therein, as of such date.
- (5) *No Breach of Covenants.* The Purchaser shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser, on or before the Closing.

8.3 Vendor's Certificate. When the conditions to Closing set out in Section 8.1, have been satisfied and/or waived by the Purchaser, the Purchaser will deliver to the Vendor written confirmation (i) that such conditions of Closing, as applicable, have been satisfied and/or waived; and (ii) of the amounts of Transfer Taxes required to be paid at Closing (if any is payable) and the Cure Costs payable by the Purchaser on Closing (the "**Conditions Certificate**"). Upon (a) receipt of payment in full of the Cash Purchase Price, Transfer Taxes required to be paid at Closing (if any is payable) and of the Cure Costs payable by the Purchaser on Closing, (b) receipt of the Conditions Certificate and (c) being satisfied that the conditions of Closing set out in Section 8.2 have been satisfied and/or waived by the Vendor the Vendor shall (i) issue forthwith its Certificate to the Purchaser, at which time the Closing will be deemed to have occurred; and (ii) file as soon as practicable a copy of the Vendor's Certificate with the Court (and shall provide a true copy of such filed certificate to the Purchaser). In the case of clauses (i) and (ii), above, the Vendor will be relying exclusively on the basis of the Conditions Certificate and without any obligation whatsoever to verify the satisfaction or waiver of the applicable conditions.

ARTICLE 9 TERMINATION

9.1 Grounds for Termination. This Agreement may be terminated prior to the Closing Time:

- (1) by the mutual written agreement of the Vendor and the Purchaser;
- (2) by written notice from the Purchaser to the Vendor in accordance with Section 6.3;
- (3) by written notice from the Purchaser to the Vendor if there has been a material breach by the Vendor of any representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Purchaser, such breach is not curable and has rendered the satisfaction of any condition in Section 8.1 impossible by the Outside Date, provided that at the time of providing

such notice of termination, the Purchaser is not in breach of any of its obligations under this Agreement;

- (4) by written notice from the Vendor to the Purchaser if there has been a material breach by the Purchaser of any representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Vendor, such breach is not curable and, in the case of a breach other than a breach of Section 6.1 by the Purchaser, such breach has rendered the satisfaction of any condition in Section 8.2 impossible by the Outside Date, provided that at the time of providing such notice of termination, the Vendor is not in breach of any of its obligations under this Agreement; and
- (5) by the Purchaser, on the one hand, or by the Vendor, on the other hand, upon written notice to the other Party if the Closing has not occurred by the Outside Date, provided, however, that the right to terminate this Agreement pursuant to this Section 9.1(5) shall not be available to any Party whose breach hereof has been the principal cause of, or has directly resulted in the Closing not occurring by the Outside Date.

9.2 Effect of Termination. If this Agreement is terminated pursuant to Section 9.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder, except as contemplated in Sections 6.2 (*Transaction Personal Information*), 6.4 (Indemnity), 9.2 (*Effect of Termination*), 9.3 (*Treatment of Deposit*), 10.2 (*Expenses*), 10.3 (*Public Announcements*), 10.4 (*Notices*), 10.7 (*Entire Agreement*), 10.9 (*Amendment*), 10.11 (*Severability*), 10.13 (*Governing Law*), 10.14 (*Dispute Resolution*), 10.15 (*Attornment*), 10.16 (*Successors and Assigns*), 10.17 (*Assignment*), 10.18 (*Vendor's Capacity*) and 10.19 (*Third Party Beneficiaries*), which shall survive such termination.

9.3 Treatment of Deposit.

(1) *Retention of Deposit.* In the event that this Agreement is terminated (i) by the Vendor pursuant to Section 9.1(4), or (ii) by the Vendor or the Purchaser pursuant to Section 9.1(5) and the reason that Closing did not occur by the Outside Date was the result of a breach by the Purchaser of any representation, warranty or covenant contained in this Agreement, the Deposit shall be forfeited by the Purchaser and retained by the Vendor as a genuine estimate of liquidated damages, and not as a penalty to compensate the Vendor for the expenses incurred and opportunities foregone as a result of the failure to Close.

(2) *Return of Deposit.* In the event that this Agreement is terminated pursuant to any Section of this Agreement other than (i) Section 9.1(4) or (ii) 9.1(5) and the reason that Closing did not occur by the Outside Date was the result of a breach by the Purchaser of any representation, warranty or covenant contained in this Agreement, the Deposit shall be promptly returned to the Purchaser by the Vendor and the return of the Deposit shall be the Purchaser's sole and exclusive remedy for any termination of this Agreement.

ARTICLE 10 GENERAL

10.1 Survival. All representations, warranties, covenants and agreements of the Vendor or the Purchaser made in this Agreement or any other agreement, certificate or instrument delivered pursuant to this Agreement shall merge and shall not survive the Closing except

where, and only to the extent that, the terms of any such covenant or agreement expressly provide for rights, duties or obligations extending after the Closing, or as otherwise expressly provided in this Agreement. For greater certainty, the following sections shall survive Closing: 2.2 (*Assumed Liabilities*), 2.4(4) (*Post-Closing Assignment*), 3.3 (*Cash Reserve*), 3.4 (*Allocation of Purchase Price*), 3.5 (*Taxes*), 3.6 (*GST/HST Gross Up*), 3.7 (*Tax Elections*), 5.2(4) (*Commissions*), 5.3 (*As is, Where is*), 6.2 (*Transaction Personal Information*); 6.4 (*Indemnity*), 6.5 (*Environmental Liabilities*), 6.6 (*Books and Record*), 8.3 (*Vendor's Certificate*), 9.3 (*Treatment of Deposit*), 10.1 (*Survival*), 10.2 (*Expenses*), 10.3 (*Public Announcements*), 10.4 (*Notices*), 10.5 (*Time of Essence*), 10.6 (*Further Assurances*), 10.7 (*Post-Closing Wind-Up of Proceedings*), 10.8 (*Entire Agreement*), 10.9 (*Amendment*), 10.10 (*Waiver*), 10.11 (*Severability*), 10.12 (*Remedies*), 10.13 (*Governing Law*), 10.14 (*Dispute Resolution*), 10.15 (*Attornment*), 10.16 (*Successors and Assigns*), 10.17 (*Assignment*), 10.18 (*Vendor's Capacity*) and 10.19 (*Third Party Beneficiaries*).

10.2 Expenses. Except as otherwise expressly provided herein, each Party shall be responsible for all costs and expenses (including any Taxes imposed on such expenses) incurred by it in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the transactions contemplated by this Agreement (including the fees and disbursements of legal counsel, bankers, investment bankers, accountants, brokers and other advisers). Notwithstanding the forgoing, the cost of retaining a notary and a land surveyor, if necessary, in connection with the preparation of the legal descriptions of the Owned Real Property shall be borne by the Purchaser.

10.3 Public Announcements. The Vendor shall be entitled to disclose this Agreement (on an unredacted basis) and all information provided by the Purchaser in connection herewith to the Court and parties of interest in the Receivership Proceedings, or Bankruptcy Proceedings and a copy of this Agreement may be posted on KSV's website maintained in connection with the Receivership Proceedings and Bankruptcy Proceedings. Notwithstanding any other provision of this Agreement, unless such information is otherwise publicly disclosed or, upon the advice of counsel, required by Applicable Law or by any Governmental Authority to be disclosed (including in any Tax Returns), the Purchaser shall not disclose the quantum of the Purchase Price, Cash Purchase Price, Deposit, Assumed Liabilities or allocation of Purchase Price without the prior written consent of the Vendor.

10.4 Notices.

(1) *Mode of Giving Notice.* Any notice, direction, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service, or (iii) sent by e-mail or other similar means of electronic communication, in each case to the applicable address set out below:

(2) if to the Vendor to:

KSV Restructuring Inc.
150 King Street West, Suite 2308
Toronto, ON, Canada M5H 1J9

Attention: Mitch Vininsky
Email: mvininsky@ksvadvisory.com

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

Blake, Cassels & Graydon LLP
199 Bay Street, Suite 4000
Toronto, ON, Canada M5L 1A9

Attention: Chris Burr
Email: chris.burr@blakes.com

(3) if to the Purchaser, to:

12175622 Canada Ltd.
800 Swinbourne Drive,
Mississauga, Ontario
L5V 1J6

Attention: Santokh Mahal
Email: smahal@rogers.com

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

Dickinson Wright LLP
199 Bay Street, Suite 2200
Toronto, Ontario
M5L 1G4

Attention: David Preger
Email: Dpreger@dickinsonwright.com

Attention: Lisa Corne
Email: Lcorne@dickinsonwright.com

Attention: David Seifer
Email: Dseifer@dickinsonwright.com

(4) *Deemed Delivery of Notice.* Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of e-mailing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, e-mailed or sent before 5:00 p.m. Eastern time on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

(5) *Change of Address.* Any Party may from time to time change its address under this Section 10.4 by notice to the other Party given in the manner provided by this Section 10.4.

10.5 Time of Essence. Time shall be of the essence of this Agreement in all respects.

10.6 Further Assurances. The Vendor and the Purchaser shall, at the sole expense of the requesting Party, from time to time promptly execute and deliver or cause to be executed and delivered all such further documents and instruments and shall do or cause to be done all such further acts and things in connection with this Agreement that the other Party may reasonably

require as being necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.

10.7 Post-Closing Wind-Up of Receivership and Bankruptcy Proceedings. Notwithstanding any other provision of this Agreement, but subject to the Vendor's obligations in relation to the Cash Reserve and Refund as provided for under Section 3.3, nothing in this Agreement shall operate to restrict in any way the rights of the Vendor to distribute any of the Debtors' assets or otherwise wind up the Receivership Proceedings or Bankruptcy Proceedings as they may determine in their sole discretion after the Closing, even if doing so may impair the Vendor's ability to provide or perform any further cooperation, assistance or further assurances as may otherwise be provided under this Agreement.

10.8 Entire Agreement. Other than any confidentiality agreement, non-disclosure agreement or similar undertaking or agreement signed by the Purchaser in favour of the Vendor, which remain in full force and effect, except as amended by this Agreement, this Agreement and the agreements contemplated hereby constitute the entire agreement between the Parties or any of them pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written (including any letter of intent or expression of interest submitted by the Purchaser). There are no conditions, representations, warranties, obligations or other agreements between the Parties in connection with the subject matter of this Agreement (whether oral or written, express or implied, statutory or otherwise) except as explicitly set out in this Agreement.

10.9 Amendment. No amendment of this Agreement shall be effective unless made in writing and signed by the Parties.

10.10 Waiver. A waiver of any default, breach or non-compliance under this Agreement shall not be effective unless in writing and signed by the Party to be bound by the waiver and then only in the specific instance and for the specific purpose for which it has been given. No waiver shall be inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach or non-observance or by anything done or omitted to be done by the other Party. The waiver by a Party of any default, breach or non-compliance under this Agreement will not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).

10.11 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

10.12 Remedies Cumulative. The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party.

10.13 Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario and the Laws of Canada applicable therein.

10.14 Dispute Resolution. If any dispute arises with respect to the interpretation or enforcement of this Agreement, including as to what constitutes a breach or material breach of

this Agreement for the purposes of Article 9, such dispute shall be determined by the Court within the Receivership Proceedings, Bankruptcy Proceedings or by such other Person or in such other manner as the Court may direct. Without prejudice to the ability of the Vendor or the Purchaser to enforce this Agreement in any other proper jurisdiction, the Purchaser and the Vendor irrevocably submit and attorn to the non-exclusive jurisdiction of the Court.

10.15 Attornment. Each Party agrees (i) that any Legal Proceeding relating to this Agreement must be brought in the Court, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of the Court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Legal Proceeding in the Province of Ontario on any jurisdictional basis, including *forum non conveniens*; and (iii) not to oppose the enforcement against it in any other jurisdiction of any Order duly obtained from the Court as contemplated by this Section 10.15. Each Party agrees that service of process on such Party as provided in Section 10.4 shall be deemed effective service of process on such Party.

10.16 Successors and Assigns. This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns.

10.17 Assignment. Prior to the issuance of the Approval and Vesting Order, the Purchaser may assign all of its rights and obligations under this Agreement to an Affiliate, provided that (i) the Purchaser shall remain liable to perform all of its obligations hereunder, and (ii) the Purchaser and its assignee execute and deliver to the Vendor an assignment and assumption agreement, in form and substance satisfactory to the Vendor, evidencing such assignment. Other than in accordance with the preceding sentence, the Purchaser may not assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its rights or obligations under this Agreement.

10.18 Vendor's Capacity. The Purchaser acknowledges and agrees that KSV, acting in its capacity as the Receiver in the Receivership Proceedings, and as Trustee in the Bankruptcy Proceedings will have no Liability in connection with this Agreement whatsoever in its personal or corporate capacity, and shall have Liability in connection with this Agreement in its capacity as Receiver or Trustee only to the extent explicitly provided for herein, and subject in all cases to the applicable limitations of liability set out herein.

10.19 Third Party Beneficiaries. Except as set forth in Section 6.4, this Agreement is for the sole benefit of the Parties, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

10.20 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Party by e-mail in pdf format or by other electronic transmission and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving Party.

[SIGNATURE PAGE TO FOLLOW]

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

KSV RESTRUCTURING INC., in its capacities as Court-appointed receiver and manager, and trustee in bankruptcy of MAHAL VENTURE CAPITAL INC and GOLDEN MILES FOOD CORPORATION, and not in its personal or corporate capacity

By: noah goldstein
Name: Noah Goldstein
Title: Managing Director

12175622 CANADA LTD.

Name:

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

KSV RESTRUCTURING INC., in its capacities as Court-appointed receiver and manager, and trustee in bankruptcy of MAHAL VENTURE CAPITAL INC and GOLDEN MILES FOOD CORPORATION, and not in its personal or corporate capacity

By: _____
Name:
Title:

12175622 CANADA LTD.

By:  _____
Name: Santokh Mahal

Title: Director

(I have authority to bind the corporation)

SCHEDULE "A"

Assigned Contracts

Assigned Contracts

All contracts and agreements of the Debtors, including without limitation:

Nil.

Critical Contracts

The following Assigned Contracts are Critical Contracts:

Nil.

Personal Property Leases

The following Assigned Contracts are Personal Property Leases:

Nil.

SCHEDULE "B"

Owned Real Property

The buildings and land known municipally as 155 Adams Blvd, Brantford, Ontario, legally referred to as:

PIN 32281-0177 (LT): PT LT 38 CON 3 GEOGRAPHIC TWP OF BRANTFORD, BEING PT 2 ON 2R4137; BRANTFORD CITY; T/W EASEMENT OVER PART LOTS 37 & 38, CON 3 GEOGRAPHIC TWP OF BRANTFORD, PT 24,25,26,30,31,32,36,37,38,42,43,44, 2R6421 AS IN BC66565 AND PT RELEASE IN BC96373

PIN 32281-0309 (LT): FIRSTLY: PART LOTS 38, 39, CONCESSION 3 BRANTFORD CITY DESIGNATED AS PARTS 1, 2, PLAN 2R6545; SUBJECT TO EASEMENT OVER PART 2, PLAN 2R6545 AS IN BC304245; SECONDLY: PART LOTS 38, 39, CONCESSION 3 BRANTFORD CITY DESIGNATED AS PARTS 1, 2, 3, PLAN 2R1332 AND PART 1, PLAN 2R4747; CITY OF BRANTFORD

SCHEDULE "C"

Permits & Licences

All Permits and Licences of the Debtors, including without limitation:

- Building Permit No. 16 005638

SCHEDULE "D"**Purchased Assets**

All assets, undertakings and properties of the Debtors other than the Excluded Assets, including, without limitation, either Debtors' right, title and interest, if any, in the following assets:

- i. The Assigned Contracts;
- ii. All tangible Personal Property located at the Mill, including, without limitation, all property, equipment, parts, furniture, fixtures, machinery, three flour tankers with VIN numbers 2TLHB5042JB000342, 2TLHB4945JB000350, and 3H4JS4424J309886, 2008 Genie Z-135 (Serial Number Z13508-860), Toyota Forklift Model 8FGCU25 (Serial Number 11582), Toyota Forklift Model 42-6FGCU15 (Serial number 68631), Toyota Forklift Model 8FBE18U (Serial Number 19694);
- iii. All Owned Real Property;
- iv. All Permits and Licences, including without limitation all building permits issued to either of the Debtors in respect of the Owned Real Property, to the extent such building permits are transferrable and subject to Section 2.4.
- v. All Data;
- vi. All Receivables including, without limitation all Purchased Tax Refunds and all deposits paid to the City of Brantford, but not including the Excluded Tax Refunds or the Excluded Claims;
- vii. All Books and Records;
- viii. All Intellectual Property;
- ix. All goodwill of the Debtors;
- x. All proceeds of any or all of the foregoing.

SCHEDULE "E"**Deleted Encumbrances**

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
BC276347	2015/06/22	CHARGE	\$4,000,000	MAHAL VENTURE CAPITAL INC.	MERK INVESTMENTS LTD.
BC311800	2017/02/28	TRANSFER OF CHARGE		MERK INVESTMENTS LTD.	SKYMARK FINANCE CORPORATION
BC316950	2017/05/29	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	KLN HOLDINGS INC.
BC322163	2017/08/09	TRANSFER OF CHARGE		KLN HOLDINGS INC.	SKYMARK FINANCE CORPORATION
BC322166	2017/08/09	CHARGE	\$9,600,000	MAHAL VENTURE CAPITAL INC.	SKYMARK FINANCE CORPORATION
BC322167	2017/08/09	NO ASSGN RENT GEN		MAHAL VENTURE CAPITAL INC.	SKYMARK FINANCE CORPORATION
BC322175	2017/08/09	POSTPONEMENT		SKYMARK FINANCE CORPORATION	SKYMARK FINANCE CORPORATION
BC322181	2017/08/09	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	KLN HOLDINGS INC.
BC327419	2017/10/27	NO SEC INTEREST	\$928,500	SKYMARK FINANCE CORPORATION	
BC329736	2017/12/01	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	KLN HOLDINGS INC.
BC330339	2017/12/12	NO SEC INTEREST	\$3,300,000	SKYMARK FINANCE CORPORATION	
BC335201	2018/03/19	NO SEC INTEREST	\$633,950	SKYMARK FINANCE CORPORATION	
BC335884	2018/04/03	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	KLN HOLDINGS INC.
BC337603	2018/05/07	TRANSFER OF		SKYMARK FINANCE	KLN HOLDINGS INC.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
		CHARGE		CORPORATION	
BC344769	2018/09/07	CHARGE	\$6,400,000	MAHAL VENTURE CAPITAL INC.	SKYMARK FINANCE CORPORATION KLN HOLDINGS INC.
BC344775	2018/09/07	NO ASSGN RENT GEN		MAHAL VENTURE CAPITAL INC	SKYMARK FINANCE CORPORATION KLN HOLDINGS INC.
BC345096	2018/09/13	POSTPONEMENT		SKYMARK FINANCE CORPORATION	SKYMARK FINANCE CORPORATION KLN HOLDINGS INC.
BC345098	2018/09/13	POSTPONEMENT		SKYMARK FINANCE CORPORATION	SKYMARK FINANCE CORPORATION KLN HOLDINGS INC.
BC345099	2018/09/13	POSTPONEMENT		SKYMARK FINANCE CORPORATION	SKYMARK FINANCE CORPORATION KLN HOLDINGS INC.
BC345100	2018/09/13	POSTPONEMENT		SKYMARK FINANCE CORPORATION	SKYMARK FINANCE CORPORATION KLN HOLDINGS INC.
BC352563	2019/01/23	NO SEC INTEREST	\$650,891	SKYMARK FINANCE CORPORATION	
BC353871	2019/02/19	NO SEC INTEREST	\$2	SKYMARK FINANCE CORPORATION	
BC354820	2019/03/07	CONSTRUCTION LIEN	\$4,640,578	VICANO CONSTRUCTION LIMITED	
BC356416	2019/04/10	CONSTRUCTION LIEN	\$439,421	VICANO CONSTRUCTION LIMITED	
BC358285	2019/05/16	CERTIFICATE		VICANO CONSTRUCTION LIMITED	
BC360674	2019/06/27	TRANSFER OF CHARGE		SKYMARK FINANCE	THOMSON, ANDREW 2620509 ONTARIO INC. 2580165

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
				CORPORATION	ONTARIO INC. JANODEE INVESTMENTS LTD. RENAUD, RAYMOND RENAUD, CAMERON 1061307 ONTARIO INC. KLN HOLDINGS INC.
BC361676	2019/07/15	NO SEC INTEREST	\$2,680,000	SKYMARK FINANCE CORPORATION	
BC362237	2019/07/25	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	SEAGRAVE BUILDING SYSTEMS LTD.
BC386710	2020/09/21	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	MERK INVESTMENTS LTD.
BC393218	2020/12/22	TRANSFER OF CHARGE		RENAUD, RAYMOND	1061307 ONTARIO INC.
BC399266	2021/03/26	CHARGE	\$35,000,000	MAHAL VENTURE CAPITAL INC.	GOLDEN MILES FOOD CORPORATION
BC399986	2021/04/06	NOTICE OF LEASE	\$1	MAHAL VENTURE CAPITAL INC.	GOLDEN MILES FOOD CORPORATION

TAB 5

Appendix “H”



Electronically issued : 12-Apr-2022
Délivré par voie électronique
Toronto

Court File No. CV-21-00664778-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM)	MONDAY, THE 11 TH
)	
JUSTICE GILMORE)	DAY OF APRIL, 2022

B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicant

- and -

MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD
CORPORATION

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Restructuring Inc. ("**KSV**") in its capacity as the Court-appointed receiver and manager (in such capacity, the "**Receiver**"), without security, of the assets, undertakings and properties of Mahal Venture Capital Inc. ("**Mahal VC**") and Golden Miles Food Corporation ("**Golden Miles**") and, together with Mahal VC, the "**Companies**") owned or used in connection with the flour mill located on the property municipally known as 155 Adams Blvd., Brantford, Ontario for an order, (i) approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale between the Receiver and 12175622 Canada Inc. (the "**Purchaser**") dated March 18, 2022 and appended to the Third

Report of the Receiver dated April 4, 2022 (the "**Third Report**"), as amended by the asset purchase agreement amending agreement, dated April 8, 2022 (the "**APA**"), (ii) authorizing the Receiver to enter into any other ancillary documents and agreements required to complete the Transaction, (iii) vesting in the Purchaser the Companies' right, title and interest in and to the assets described in the APA (the "**Purchased Assets**") free and clear of all liens, charges, security interests and encumbrances, other than Permitted Encumbrances (defined in the APA), was heard this day by judicial videoconference.

ON READING the Third Report, the supplement to the third report of the Receiver dated April 8, 2022 (the "**Supplement**"), and on hearing the submissions of counsel for the Receiver, and such other parties listed on the Participant Information Form, no one else appearing although properly served as appears from the Affidavit of Service of Caitlin McIntyre sworn April 5, 2022 and the Affidavit of Service of Nancy Thompson sworn April 8, 2022, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Receiver's Notice of Motion dated April 1, 2022 (the "**NOM**"), the Third Report and the Supplement, be and hereby is abridged, such that service of the NOM, the Third Report and the Supplement is hereby validated, and that further service thereof is hereby dispensed with.

SALE AGREEMENT APPROVAL

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the APA.

3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the APA 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.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Receiver's and the Companies' right, title and interest in and to the Purchased Assets described in the APA 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 McEwen dated October 1, 2021; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule "B" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "C") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets and are non-enforceable and non-binding as against the Purchaser.

5. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Brant (No. 2) of an Application for Vesting Order in the form prescribed

by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule “D” hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule “B” hereto.

6. **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.

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

8. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the past and current employees of the Companies, including personal information. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Companies

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

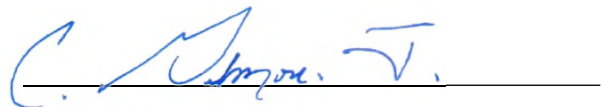
- (a) the pendency of these proceedings;

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

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Companies and shall not be void or voidable by creditors of the Companies, 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.

MISCELLANEOUS

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



Schedule A – Form of Receiver’s Certificate

Court File No. CV-21-00664778-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicant

- and –

MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD
CORPORATION

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice McEwen of the Ontario Superior Court of Justice (the "**Court**") dated October 1, 2021, KSV Restructuring Inc. was appointed as receiver and manager (in such capacity, the "**Receiver**"), without security, of the assets, undertakings and properties of Mahal Venture Capital Inc. ("**Mahal VC**") and Golden Miles Food Corporation ("**Golden Miles**" and, together with Mahal VC, the "**Companies**") owned or used in connection with the flour mill located on the property municipally known as 155 Adams Blvd., Brantford, Ontario

B. Pursuant to an Order of the Court dated April 11, 2022 the Court approved the agreement of purchase and sale made as of March 18, 2022 (as amended, the "**APA**") between the Receiver and 12175622 Canada Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Companies’ 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 Article 8 of the APA 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 APA.

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 APA;
2. The conditions to Closing as set out in Article 8 of the APA 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].

**KSV RESTRUCTURING INC., in its
capacity as Receiver of the undertaking,
property and assets of Mahal Venture Capital
Inc. and Golden Miles Food Corporation, and
not in its personal capacity**

Per: _____

Name:

Title:

Schedule B – Claims to be deleted and expunged from title to Real Property

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
BC276347	2015/06/22	CHARGE	\$4,000,000	MAHAL VENTURE CAPITAL INC.	MERK INVESTMENTS LTD.
BC311800	2017/02/28	TRANSFER OF CHARGE		MERK INVESTMENTS LTD.	SKYMARK FINANCE CORPORATION
BC316950	2017/05/29	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	KLN HOLDINGS INC.
BC322163	2017/08/09	TRANSFER OF CHARGE		KLN HOLDINGS INC.	SKYMARK FINANCE CORPORATION
BC322166	2017/08/09	CHARGE	\$9,600,000	MAHAL VENTURE CAPITAL INC.	SKYMARK FINANCE CORPORATION
BC322167	2017/08/09	NO ASSGN RENT GEN		MAHAL VENTURE CAPITAL INC.	SKYMARK FINANCE CORPORATION
BC322175	2017/08/09	POSTPONEMENT		SKYMARK FINANCE CORPORATION	SKYMARK FINANCE CORPORATION
BC322181	2017/08/09	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	KLN HOLDINGS INC.
BC327419	2017/10/27	NO SEC INTEREST	\$928,500	SKYMARK FINANCE CORPORATION	
BC329736	2017/12/01	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	KLN HOLDINGS INC.
BC330339	2017/12/12	NO SEC INTEREST	\$3,300,000	SKYMARK FINANCE CORPORATION	
BC335201	2018/03/19	NO SEC INTEREST	\$633,950	SKYMARK FINANCE CORPORATION	
BC335884	2018/04/03	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	KLN HOLDINGS INC.
BC337603	2018/05/07	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	KLN HOLDINGS INC.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
BC344769	2018/09/07	CHARGE	\$6,400,000	MAHAL VENTURE CAPITAL INC.	SKYMARK FINANCE CORPORATION KLN HOLDINGS INC.
BC344775	2018/09/07	NO ASSGN RENT GEN		MAHAL VENTURE CAPITAL INC	SKYMARK FINANCE CORPORATION KLN HOLDINGS INC.
BC345096	2018/09/13	POSTPONEMENT		SKYMARK FINANCE CORPORATION	SKYMARK FINANCE CORPORATION KLN HOLDINGS INC.
BC345098	2018/09/13	POSTPONEMENT		SKYMARK FINANCE CORPORATION	SKYMARK FINANCE CORPORATION KLN HOLDINGS INC.
BC345099	2018/09/13	POSTPONEMENT		SKYMARK FINANCE CORPORATION	SKYMARK FINANCE CORPORATION KLN HOLDINGS INC.
BC345100	2018/09/13	POSTPONEMENT		SKYMARK FINANCE CORPORATION	SKYMARK FINANCE CORPORATION KLN HOLDINGS INC.
BC352563	2019/01/23	NO SEC INTEREST	\$650,891	SKYMARK FINANCE CORPORATION	
BC353871	2019/02/19	NO SEC INTEREST	\$2	SKYMARK FINANCE CORPORATION	
BC354820	2019/03/07	CONSTRUCTION LIEN	\$4,640,578	VICANO CONSTRUCTION LIMITED	
BC356416	2019/04/10	CONSTRUCTION LIEN	\$439,421	VICANO CONSTRUCTION LIMITED	
BC358285	2019/05/16	CERTIFICATE		VICANO CONSTRUCTION LIMITED	
BC360674	2019/06/27	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	THOMSON, ANDREW 2620509 ONTARIO INC. 2580165 ONTARIO INC. JANODEE INVESTMENTS LTD.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
					RENAUD, RAYMOND RENAUD, CAMERON 1061307 ONTARIO INC. KLN HOLDINGS INC.
BC361676	2019/07/15	NO SEC INTEREST	\$2,680,000	SKYMARK FINANCE CORPORATION	
BC362237	2019/07/25	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	SEAGRAVE BUILDING SYSTEMS LTD.
BC386710	2020/09/21	TRANSFER OF CHARGE		SKYMARK FINANCE CORPORATION	MERK INVESTMENTS LTD.
BC393218	2020/12/22	TRANSFER OF CHARGE		RENAUD, RAYMOND	1061307 ONTARIO INC.
BC399266	2021/03/26	CHARGE	\$35,000,000	MAHAL VENTURE CAPITAL INC.	GOLDEN MILES FOOD CORPORATION
BC399986	2021/04/06	NOTICE OF LEASE	\$1	MAHAL VENTURE CAPITAL INC.	GOLDEN MILES FOOD CORPORATION

**Schedule C – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

- (a) Encumbrances related to Taxes and utilities arising by operation of law (statutory or otherwise) which relate to or secure Liabilities that in each case are not yet due or are not in arrears or, if due or in arrears, the validity of which is being contested;
- (b) only with respect to the Owned Real Property, construction, mechanics', carriers', workers', repairers', storers' or other similar Encumbrances (inchoate or otherwise) if individually or in the aggregate: (i) they are not material; (ii) they arose or were incurred in the ordinary course of business; (iii) they have not been filed, recorded or registered in accordance with Applicable Law; (iv) notice of them has not been given to the Debtors or the Vendor; and (v) the indebtedness secured by them is not in arrears;
- (c) title defects or irregularities, unregistered easements or rights of way, and other unregistered restrictions or discrepancies affecting the use of real property;
- (d) registered restrictive covenants, leases and notices of lease, easements, covenants, rights of way and other restrictions, including without limitation: (i) registered easements on real property for the supply of utilities or telephone services and for drainage, storm or sanitary sewers, public utilities lines, telephone lines, cable television lines or other services, and (ii) registered easements or rights-of-way for the passage, ingress and egress of Persons and vehicles over parts of the Owned Real Property;
- (e) registered agreements with municipalities or public utilities;
- (f) facility cost sharing, servicing, parking, reciprocal and other similar agreements with neighbouring landowners and/or any Governmental Authority in respect of the Owned Real Property;
- (g) any encroachments by any structure located on the Owned Real Property onto any adjoining lands and any encroachment by any structure located on adjoining lands onto the Owned Real Property;
- (h) in respect of the Owned Real Property, the provisions of any Applicable Law, including by-laws, regulations, airport zoning regulations, ordinances and similar instruments relating to development and zoning, and any reservations, exceptions, limitations, provisos and conditions contained in the original Crown grant or patent;
- (i) in respect of the Owned Real Property, any Work Orders; and

- (j) the notice of lease registered as instrument number A473982 against title to the Owned Real Property under PIN 32281-0177 in favour of The TDL Group Corp. (the “**TDL Notice**”), provided that the Vendor shall use commercially reasonable efforts to obtain the consent of The TDL Group Corp. to the discharge of the TDL Notice on or prior to the Closing Date (whether pursuant to the Approval and Vesting Order or otherwise);

provided that, notwithstanding anything in the foregoing to the contrary, Permitted Encumbrances shall not include any of the instruments or registrations listed in Schedule “B” hereof, nor any registrations made against either Debtor under the *Personal Property Security Act* (Ontario) to the extent such registrations attach to the Purchased Assets.

Schedule D – Real Property

PIN 32281-0177 (LT): PT LT 38 CON 3 GEOGRAPHIC TWP OF BRANTFORD, BEING PT 2 ON 2R4137; BRANTFORD CITY; T/W EASEMENT OVER PART LOTS 37 & 38, CON 3 GEOGRAPHIC TWP OF BRANTFORD, PT 24,25,26,30,31,32,36,37,38,42,43,44, 2R6421 AS IN BC66565 AND PT RELEASE IN BC96373

PIN 32281-0309 (LT): FIRSTLY: PART LOTS 38, 39, CONCESSION 3 BRANTFORD CITY DESIGNATED AS PARTS 1, 2, PLAN 2R6545; SUBJECT TO EASEMENT OVER PART 2, PLAN 2R6545 AS IN BC304245; SECONDLY: PART LOTS 38, 39, CONCESSION 3 BRANTFORD CITY DESIGNATED AS PARTS 1, 2, 3, PLAN 2R1332 AND PART 1, PLAN 2R4747; CITY OF BRANTFORD

SKYMARK FINANCE CORPORATION
Applicant

- and -

MAHAL VENTURE CAPITAL INC., et al.
Respondents

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

Proceeding Commenced at Toronto

APPROVAL AND VESTING ORDER

BLAKE, CASSELS & GRAYDON LLP

Barristers and Solicitors

199 Bay Street

Suite 4000, Commerce Court West

Toronto, Ontario M5L 1A9

Chris Burr, LSO #55172H

Tel: 416-863-3261

Email: chris.burr@blakes.com

Caitlin McIntyre, LSO #72306R

Tel: 416-863-4174

Fax: 416-863-2653

Email: caitlin.mcintyre@blakes.com

Lawyers for the Receiver

TAB 6



**Second Supplement to the Sixth Report to
Court of KSV Restructuring Inc.
as Receiver and Manager of
Mahal Venture Capital Inc. and
Golden Miles Food Corporation**

May 10, 2024

And

**Second Supplement to the Third Report to
Court of KSV Restructuring Inc.
as Licensed Insolvency Trustee of
Mahal Venture Capital Inc. and
Golden Miles Food Corporation**

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COURT FILE NO. CV-21-00664778-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

SKYMARK FINANCE CORPORATION

APPLICANT

- AND -

MAHAL VENTURE CAPITAL INC. AND
GOLDEN MILES FOOD CORPORATION

RESPONDENTS

SECOND SUPPLEMENT TO THE SIXTH REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER
AND
SECOND SUPPLEMENT TO THE THIRD REPORT
TO COURT OF KSV RESTRUCTURING INC. AS LICENCED
INSOLVENCY TRUSTEE OF MAHAL VENTURE CAPITAL INC.
AND GOLDEN MILES FOOD CORPORATION

MAY 10, 2024

1.0 Introduction

1. This report (the “Second Supplemental Report”) supplements the Receiver’s Sixth Report to Court and the Trustee’s Third Report to Court dated March 26, 2024 (the “Sixth Report”) and the Supplement to the Sixth Report to Court and the Supplement to the Trustee’s Third Report to Court dated April 3, 2024 (the “First Supplemental Report”).
2. Unless otherwise stated, capitalized terms used in this report have the meanings provided to them in the Sixth Report. This Second Supplemental Report should be read in conjunction with the Sixth Report and the First Supplemental Report.

1.1 Purpose

1. The purpose of this Second Supplemental Report is to provide the Court and stakeholders with an update on the relief sought by the Receiver in respect of the Omit Tax Reserve.

1.2 Restrictions

1. This Second Supplemental Report is subject to the restrictions in the Sixth Report.

2.0 Omit Tax Reserve

1. Section 5.2 of the Sixth Report outlines the Receiver's position with respect to liability for the Omit Tax Claims and concludes that the Purchaser (12175622 Canada Ltd.), and not the Receiver or the Trustee, is responsible for the approximately \$1,091,000 Omit Tax Claims (plus interest), on the basis of the language in the APA, AVO and Undertaking to Readjust (defined below).
2. On April 5, 2024, the Court adjourned the Receiver's motion for an order that the Receiver, KSV in its personal capacity, KSV in its capacity as licenced insolvency trustee of Mahal VC, and Mahal VC are not, and shall not be, liable or otherwise obligated to pay the Purchaser or the City of Brantford on account of the Omit Tax Claims (the "Omit Tax Motion"), on consent of the affected parties, to June 4, 2024.
3. The Sixth Report attached, as Appendix "F", the Receiver's undertaking to readjust any amounts in the statement of adjustments that was agreed in connection with the sale of the Real Property to the Purchaser (the "Undertaking to Readjust").
4. In addition to the Undertaking to Readjust and the other documents attached as Appendices to the Sixth Report or otherwise filed in the record of these proceedings, the Receiver intends to rely in connection with the adjudication of the Omit Tax Motion on the following correspondence and documentation that was prepared or exchanged as part of the closing of the purchase of the Real Property by the Purchaser:
 - a) The Receiver's counsel's email to the Purchaser's counsel, dated April 28, 2022 (the "April 28 Email"), attaching (among other things) a tax certificate provided by the City of Brantford in connection with the Real Property (the "Tax Certificate"). A copy of the April 28 Email is provided as Appendix "A";
 - b) The Tax Certificate, which is provided as Appendix "B";
 - c) The Receiver's counsel's email to the Purchaser's counsel, dated May 17, 2022 (the "May 17 Email"), attaching (among other things) a statement of adjustments in connection with closing (the "Statement of Adjustments"). A copy of the May 17 Email is provided as Appendix "C";
 - d) The Statement of Adjustments, which is provided as Appendix "D";
 - e) The Receiver's counsel's email to the Purchaser's counsel, dated May 18, 2022 (the "May 18 Email"), attaching (among other things): i) the Undertaking to Readjust; and ii) the Receiver's "undertaking re realty taxes" (the "Realty Tax Undertaking"). A copy of the May 18 Email is provided as Appendix "E";
 - f) The Realty Tax Undertaking, which is provided as Appendix "F";
 - g) The Purchaser's counsel's email to the Receiver's counsel, dated May 18, 2022 (the "May 18 DW Email"), attaching (among other things) the purchaser's undertaking to readjust (the "Purchaser Undertaking"). A copy of the May 18 DW Email is provided as Appendix "G"

- h) The Purchaser Undertaking, which is provided as Appendix “H”;
- i) The Receiver’s counsel’s email to the Purchaser’s counsel, dated June 7, 2022 (the “June 7 Email”), attaching (among other things) an acknowledgement from the City of Brantford that the Receiver paid \$167,402 on account of the outstanding property tax on the Real Property (the “Payment Acknowledgement”). A copy of the June 7 Email is provided as Appendix “I”; and
- j) The Payment Acknowledgement, which is provided as Appendix “J”.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
MAHAL VENTURE CAPITAL INC. AND GOLDEN MILES FOOD CORPORATION
AND AS LICENSED INSOLVENCY TRUSTEE OF
GOLDEN MILES FOOD CORPORATION
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

TAB 7

Appendix “A”

Burr, Chris

From: Lehman, Rachel
Sent: Thursday, April 28, 2022 6:24 PM
To: Ryan S. Cooper
Cc: Burr, Chris; Treffry, Ngina; David P. Preger; Paul A. Muchnik; Lisa S. Corne; David Z. Seifer; Hugo He
Subject: RE: KSV/12175622 (Mahal) - Property tax
Attachments: 00002D9C.PDF; 155 Adams Blvd - Tax Cert - Blake Cassels and Graydon.pdf; 403 Southside at Adams - Tax Cert - Blake Cassels and Graydon.pdf

Hi Ryan,

I've attached the tax and utility certificates we obtained.

Regards,

Rachel Lehman (she, her, hers)
 Associate
rachel.lehman@blakes.com
 T. +1-416-863-5816
 C. +1-604-992-3657

From: Ryan S. Cooper <RCooper@dickinson-wright.com>
Sent: Thursday, April 28, 2022 6:10 PM
To: Lehman, Rachel <rachel.lehman@blakes.com>
Cc: Burr, Chris <chris.burr@blakes.com>; Treffry, Ngina <ngina.treffry@blakes.com>; David P. Preger <DPreger@dickinson-wright.com>; Paul A. Muchnik <PMuchnik@dickinson-wright.com>; Lisa S. Corne <LCorne@dickinson-wright.com>; David Z. Seifer <DSeifer@dickinson-wright.com>; Hugo He <HHe@dickinson-wright.com>
Subject: RE: KSV/12175622 (Mahal) - Property tax

External Email | Courrier électronique externe

My apologies for the multiple emails, but the roll numbers on the statement seem to be invalid. Please verify and provide copies of the most recent property tax bill if available.

Ryan S. Cooper Lawyer

199 Bay Street
 Suite 2200
 Commerce Court West
 Toronto ON M5L 1G4

Phone 416-644-2824
 Fax 844-670-6009
 Email RCooper@dickinsonwright.com

[Profile](#) [V-Card](#)

DICKINSON WRIGHT LLP

ARIZONA CALIFORNIA FLORIDA ILLINOIS KENTUCKY MICHIGAN NEVADA
 OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

From: Ryan S. Cooper
Sent: Thursday, April 28, 2022 6:03 PM
To: 'Lehman, Rachel' <rachel.lehman@blakes.com>
Cc: 'Burr, Chris' <chris.burr@blakes.com>; 'Treffry, Ngina' <ngina.treffry@blakes.com>; David P. Preger <DPreger@dickinson-wright.com>; Paul A. Muchnik <PMuchnik@dickinson-wright.com>; Lisa S. Corne <LCorne@dickinson-wright.com>; David Z. Seifer <DSeifer@dickinson-wright.com>; Hugo He <HHe@dickinson-wright.com>
Subject: RE: KSV/12175622 (Mahal) - Property tax

Sorry, I see now that the statement of adjustments included 2 roll numbers. Assuming those are correct, please ignore my email below.

From: Ryan S. Cooper
Sent: Thursday, April 28, 2022 5:58 PM
To: 'Lehman, Rachel' <rachel.lehman@blakes.com>
Cc: Burr, Chris <chris.burr@blakes.com>; Treffry, Ngina <ngina.treffry@blakes.com>; David P. Preger <DPreger@dickinson-wright.com>; Paul A. Muchnik <PMuchnik@dickinson-wright.com>; Lisa S. Corne <LCorne@dickinson-wright.com>; David Z. Seifer <DSeifer@dickinson-wright.com>; Hugo He <HHe@dickinson-wright.com>
Subject: KSV/12175622 (Mahal) - Property tax

Hi Rachel,

Can you please provide the roll number for property tax? Thanks.

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TAB 8

Appendix “B”

TAX CERTIFICATE

CERTIFICATION DATE	ROLL NUMBER
March 21, 2022	2906-030-007-07200-0000

CERTIFICATE NUMBER	FEE PAID	ACCOUNT NO.	REFERENCE #
250216	\$80.00	00167800	

REQUESTED BY:	PROPERTY OWNER & LEGAL DESCRIPTION
BLAKE, CASSELS & GRAYDON LLP BARRISTERS & SOLICITORS 199 BAY ST SUITE 4000 TORONTO ON M5L 1A9	MAHAL VENTURE CAPITAL INC 155 ADAMS BLVD BRANTFORD CON 3 PT LOTS 38 AND 39 RP 2R6545 PARTS 1 AND 2 RP 2R4747 PART 1 RP 2R1332 PARTS 1 TO 3

(Certificate authorized by Section 352 of the Municipal Act, 2001, S.O. 2001, c.25)

CURRENT LEVY:	INTERIM	FINAL	SUPP/OMIT/ OTHER	ADJUSTMENT FOR CAP/CLAWBACK	TOTAL LEVY
	\$25,871.48	\$0.00	\$650.00	0.00	\$26,521.48

INSTALMENTS	TAXES LEVIED	TAXES PAST DUE	PENALTY / INTEREST	TOTAL OUTSTANDING
Interim Inst. 1. Feb 25, 22	\$12,936.48	\$12,936.48	\$161.71	\$13,098.19
Interim Inst. 2. Apr 27, 22	\$12,935.00	\$0.00	\$0.00	\$12,935.00
Final Inst. 1.	\$0.00	\$0.00	\$0.00	\$0.00
Final Inst. 2.	\$0.00	\$0.00	\$0.00	\$0.00
Supp/Omit/Other	\$650.00	\$650.00	\$7.50	\$657.50

PRIOR YEAR LEVY	\$51,742.94
-----------------	-------------

(YEARS NOT DETAILED BELOW ARE PAID IN FULL)

PRIOR YEARS	TAXES PAST DUE	PENALTY / INTEREST	TOTAL OUTSTANDING
2021	\$51,742.94	\$6,628.97	\$58,371.91
2020	\$58,183.84	\$13,255.09	\$71,438.93
2019 and Prior	\$0.00	\$0.00	\$0.00
DEFERRED TAXES			\$0.00
ON ACCOUNT CREDIT			\$0.00
GRAND TOTAL OUTSTANDING (ALL YEARS):			\$156,501.53

I HEREBY CERTIFY THAT THE ABOVE STATEMENTS RESPECTIVELY SHOW:

- The current amount of taxes on Real Property and whether any or all of the taxes have been paid as at this date in connection with the above lands, and that the Interim and/or Final taxes as described above, for The Corporation of the City of Brantford have been levied for the current year; and
- All arrears of taxes returned to this office and due and owing against the above lands.



(FOR) CITY TREASURER



TAX CERTIFICATE

Property Tax Office: 58 Dalhousie St. (N3T 2J2)
(Mail To) P.O. Box 515, Brantford, ON N3T 6L6
Phone: (519) 759-4150 Email: tax.info@brantford.ca
www.brantford.ca

LOCAL IMPROVEMENTS ASSESSED TO THE PROPERTY TO DATE INCLUDE:

BY LAW	DESCRIPTION	AMOUNT	EXPIRY
--------	-------------	--------	--------

Note: The City of Brantford does not have any properties with local improvement charges added to property tax accounts.

- Water and Sewer Arrears should be checked with Customer Services, at P.O. Box 515, Brantford, ON. N3T 6L6. Phone 519-756-1360.
- This Certificate reflects only those charges added to the Tax Collectors Roll up to the date of Certification.
- Any Credit Balance appearing on this Certificate is not verified. No adjustment should be made unless the credit balance is a known and acknowledged overpayment.
- The Tax Levy to date does not include subsequent supplementary taxes that may be levied and added under Section 33 or 34 of the Assessment Act, R.S.O. 1990, c.A.31, as amended, nor does it include adjustments that may be made under Section 357, 358 and 359 of the Municipal Act, and Section 39.1 and 40 of the Assessment Act.
- Supplementary tax bills for new buildings and additions/improvements to existing buildings, etc., have various due dates depending on when the billing is issued. They are normally payable in two installments with 21 days notice.
- Tax due dates for regular billings are normally during the months of February, April, June and September. Please call to verify this years due dates.
- If the taxes on this property are paid by **Pre-Authorized Payment (PAP)**, the owner is responsible for notifying the Tax Office when to cancel the PAP deductions. Deductions can be stopped up to the day before the PAP file is transmitted to our bank. Once the file is transmitted, the payments will be processed. We will not refund any payments that have been processed prior to notice being given to cancel the deductions. Taxes can be adjusted on closing to include the final PAP deduction.

TAX CERTIFICATE

CERTIFICATION DATE	ROLL NUMBER
March 21, 2022	2906-030-007-07910-0000

CERTIFICATE NUMBER	FEE PAID	ACCOUNT NO.	REFERENCE #
250217	\$80.00	00964411	25198/2

REQUESTED BY:	PROPERTY OWNER & LEGAL DESCRIPTION
BLAKE, CASSELS & GRAYDON LLP BARRISTERS & SOLICITORS 199 BAY ST SUITE 4000 TORONTO ON M5L 1A9	MAHAL VENTURE CAPITAL INC 403 S/S@ ADAMS CON 3 PT LOT 38 RP 2R6421 PART 2

(Certificate authorized by Section 352 of the Municipal Act, 2001, S.O. 2001, c.25)

CURRENT LEVY:	INTERIM	FINAL	SUPP/OMIT/ OTHER	ADJUSTMENT FOR CAP/CLAWBACK	TOTAL LEVY
	\$506.75	\$0.00	\$650.00	0.00	\$1,156.75

INSTALMENTS	TAXES LEVIED	TAXES PAST DUE	PENALTY / INTEREST	TOTAL OUTSTANDING
Interim Inst. 1. Feb 25, 22	\$253.75	\$253.75	\$3.17	\$256.92
Interim Inst. 2. Apr 27, 22	\$253.00	\$0.00	\$0.00	\$253.00
Final Inst. 1.	\$0.00	\$0.00	\$0.00	\$0.00
Final Inst. 2.	\$0.00	\$0.00	\$0.00	\$0.00
Supp/Omit/Other	\$650.00	\$650.00	\$7.50	\$657.50

PRIOR YEAR LEVY	\$1,013.49
-----------------	------------

(YEARS NOT DETAILED BELOW ARE PAID IN FULL)

PRIOR YEARS	TAXES PAST DUE	PENALTY / INTEREST	TOTAL OUTSTANDING
2021	\$1,013.49	\$129.80	\$1,143.29
2020	\$1,139.65	\$259.77	\$1,399.42
2019 and Prior	\$0.00	\$0.00	\$0.00
DEFERRED TAXES			\$0.00
ON ACCOUNT CREDIT			\$0.00
GRAND TOTAL OUTSTANDING (ALL YEARS):			\$3,710.13

I HEREBY CERTIFY THAT THE ABOVE STATEMENTS RESPECTIVELY SHOW:

1. The current amount of taxes on Real Property and whether any or all of the taxes have been paid as at this date in connection with the above lands, and that the Interim and/or Final taxes as described above, for The Corporation of the City of Brantford have been levied for the current year; and
2. All arrears of taxes returned to this office and due and owing against the above lands.



(FOR) CITY TREASURER



TAX CERTIFICATE

Property Tax Office: 58 Dalhousie St. (N3T 2J2)
(Mail To) P.O. Box 515, Brantford, ON N3T 6L6
Phone: (519) 759-4150 Email: tax.info@brantford.ca
www.brantford.ca

LOCAL IMPROVEMENTS ASSESSED TO THE PROPERTY TO DATE INCLUDE:

BY LAW	DESCRIPTION	AMOUNT	EXPIRY
--------	-------------	--------	--------

Note: The City of Brantford does not have any properties with local improvement charges added to property tax accounts.

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- This Certificate reflects only those charges added to the Tax Collectors Roll up to the date of Certification.
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- If the taxes on this property are paid by **Pre-Authorized Payment (PAP)**, the owner is responsible for notifying the Tax Office when to cancel the PAP deductions. Deductions can be stopped up to the day before the PAP file is transmitted to our bank. Once the file is transmitted, the payments will be processed. We will not refund any payments that have been processed prior to notice being given to cancel the deductions. Taxes can be adjusted on closing to include the final PAP deduction.

TAB 9

Appendix “C”

Burr, Chris

From: Treffry, Ngina
Sent: Tuesday, May 17, 2022 9:38 AM
To: Lehman, Rachel; Ryan S. Cooper
Cc: Burr, Chris; David P. Preger; Paul A. Muchnik; Lisa S. Corne; David Z. Seifer; Hugo He
Subject: RE: EXTERNAL: RE: KSV/12175622 (Mahal) - Property tax
Attachments: 13139418-v5-Statement of Adjustments - Full Purchase Price.XLS; 13139401-v5-Undertaking re tax and water arrears.DOCX

Hi Ryan,

Please see attached the updated SOA and undertaking re: tax/water arrears. Kindly advise if you have any comments.

Regards,

Ngina Treffry (she, her, hers)
Law Clerk
ngina.treffry@blakes.com
T. +1-416-863-2253
C. +1-519-771-0485

From: Lehman, Rachel <rachel.lehman@blakes.com>
Sent: Monday, May 16, 2022 1:23 PM
To: Ryan S. Cooper <RCooper@dickinson-wright.com>
Cc: Burr, Chris <chris.burr@blakes.com>; Treffry, Ngina <ngina.treffry@blakes.com>; David P. Preger <DPreger@dickinson-wright.com>; Paul A. Muchnik <PMuchnik@dickinson-wright.com>; Lisa S. Corne <LCorne@dickinson-wright.com>; David Z. Seifer <DSeifer@dickinson-wright.com>; Hugo He <HHe@dickinson-wright.com>
Subject: RE: EXTERNAL: RE: KSV/12175622 (Mahal) - Property tax

Hi Ryan, yes, we are working on it.

Thanks,

Rachel Lehman (she, her, hers)
Associate
rachel.lehman@blakes.com
T. +1-416-863-5816
C. +1-604-992-3657

From: Ryan S. Cooper <RCooper@dickinson-wright.com>
Sent: Monday, May 16, 2022 10:46 AM
To: Lehman, Rachel <rachel.lehman@blakes.com>
Cc: Burr, Chris <chris.burr@blakes.com>; Treffry, Ngina <ngina.treffry@blakes.com>; David P. Preger <DPreger@dickinson-wright.com>; Paul A. Muchnik <PMuchnik@dickinson-wright.com>; Lisa S. Corne <LCorne@dickinson-wright.com>; David Z. Seifer <DSeifer@dickinson-wright.com>; Hugo He <HHe@dickinson-wright.com>
Subject: RE: EXTERNAL: RE: KSV/12175622 (Mahal) - Property tax

External Email | Courrier électronique externe

Rachel, will you be sending an updated statement of adjustments for closing tomorrow?

112

Thanks.

Ryan S. Cooper Lawyer

199 Bay Street
Suite 2200
Commerce Court West
Toronto ON M5L 1G4

Phone 416-644-2824
Fax 844-670-6009
Email RCooper@dickinsonwright.com



ARIZONA CALIFORNIA FLORIDA ILLINOIS KENTUCKY MICHIGAN NEVADA
OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

From: Lehman, Rachel <rachel.lehman@blakes.com>
Sent: Friday, April 29, 2022 11:12 AM
To: Ryan S. Cooper <RCooper@dickinson-wright.com>
Cc: Burr, Chris <chris.burr@blakes.com>; Treffry, Ngina <ngina.treffry@blakes.com>; David P. Preger <DPreger@dickinson-wright.com>; Paul A. Muchnik <PMuchnik@dickinson-wright.com>; Lisa S. Corne <LCorne@dickinson-wright.com>; David Z. Seifer <DSeifer@dickinson-wright.com>; Hugo He <HHe@dickinson-wright.com>
Subject: RE: EXTERNAL: RE: KSV/12175622 (Mahal) - Property tax

Hi Ryan,

Please see below wire details, and contact details for Lynne Quintos at KSV, who can verbally verify these details:

Bank of Montreal

1 First Canadian Place
100 King Street West
Toronto, ON M5X 1A3

Bank Transit (ABA) #: [REDACTED]
Bank Institution #: [REDACTED]
Bank Account #: [REDACTED]
Bank Swift code: [REDACTED]
Name of account: [REDACTED]



Lynne Quintos
Administrative Assistant

T 416.932.6262
M 416.844.2726

Thanks,

Rachel Lehman (she, her, hers)
Associate
rachel.lehman@blakes.com

From: Ryan S. Cooper <RCooper@dickinson-wright.com>
Sent: Friday, April 29, 2022 9:51 AM
To: Lehman, Rachel <rachel.lehman@blakes.com>
Cc: Burr, Chris <chris.burr@blakes.com>; Treffry, Ngina <ngina.treffry@blakes.com>; David P. Preger <DPreger@dickinson-wright.com>; Paul A. Muchnik <PMuchnik@dickinson-wright.com>; Lisa S. Corne <LCorne@dickinson-wright.com>; David Z. Seifer <DSeifer@dickinson-wright.com>; Hugo He <HHe@dickinson-wright.com>
Subject: RE: EXTERNAL: RE: KSV/12175622 (Mahal) - Property tax

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Thanks Rachel.

Please provide KSV's wire instructions and a contact for verification purposes.

Ryan S. Cooper Lawyer

199 Bay Street
Suite 2200
Commerce Court West
Toronto ON M5L 1G4

Phone 416-644-2824
Fax 844-670-6009
Email RCooper@dickinsonwright.com



DICKINSON WRIGHT LLP

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Subject: EXTERNAL: RE: KSV/12175622 (Mahal) - Property tax

Hi Ryan,

I've attached the tax and utility certificates we obtained.

Regards,

Rachel Lehman (she, her, hers)
Associate
rachel.lehman@blakes.com
T. +1-416-863-5816
C. +1-604-992-3657

Blake, Cassels & Graydon LLP
 199 Bay Street, Suite 4000, Toronto ON M5L 1A9 ([Map](#))
[blakes.com](#) | [LinkedIn](#)



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From: Ryan S. Cooper <RCooper@dickinson-wright.com>
Sent: Thursday, April 28, 2022 6:10 PM
To: Lehman, Rachel <rachel.lehman@blakes.com>
Cc: Burr, Chris <chris.burr@blakes.com>; Treffry, Ngina <ngina.treffry@blakes.com>; David P. Preger <DPreger@dickinson-wright.com>; Paul A. Muchnik <PMuchnik@dickinson-wright.com>; Lisa S. Corne <LCorne@dickinson-wright.com>; David Z. Seifer <DSeifer@dickinson-wright.com>; Hugo He <HHe@dickinson-wright.com>
Subject: RE: KSV/12175622 (Mahal) - Property tax

External Email | Courriel électronique externe

My apologies for the multiple emails, but the roll numbers on the statement seem to be invalid. Please verify and provide copies of the most recent property tax bill if available.

Ryan S. Cooper Lawyer

199 Bay Street
 Suite 2200
 Commerce Court West
 Toronto ON M5L 1G4
 Phone 416-644-2824
 Fax 844-670-6009
 Email RCooper@dickinsonwright.com



DICKINSON WRIGHT LLP

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 OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

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To: 'Lehman, Rachel' <rachel.lehman@blakes.com>
Cc: 'Burr, Chris' <chris.burr@blakes.com>; 'Treffry, Ngina' <ngina.treffry@blakes.com>; David P. Preger <DPreger@dickinson-wright.com>; Paul A. Muchnik <PMuchnik@dickinson-wright.com>; Lisa S. Corne <LCorne@dickinson-wright.com>; David Z. Seifer <DSeifer@dickinson-wright.com>; Hugo He <HHe@dickinson-wright.com>
Subject: RE: KSV/12175622 (Mahal) - Property tax

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To: 'Lehman, Rachel' <rachel.lehman@blakes.com>

Cc: Burr, Chris <chris.burr@blakes.com>; Treffry, Ngina <ngina.treffry@blakes.com>; David P. Preger <DPreger@dickinson-wright.com>; Paul A. Muchnik <PMuchnik@dickinson-wright.com>; Lisa S. Corne <LCorne@dickinson-wright.com>; David Z. Seifer <DSeifer@dickinson-wright.com>; Hugo He <HHe@dickinson-wright.com>

Subject: KSV/12175622 (Mahal) - Property tax

Hi Rachel,

Can you please provide the roll number for property tax? Thanks.

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TAB 10

Court File No. CV-21-00664778-00CL

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

BETWEEN:

SKYMARK FINANCE CORPORATION

Applicant

and

**MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD
CORPORATION**

Respondents

**AFFIDAVIT OF PAT TELFER
AFFIRMED MAY 2, 2024**

I, Pat Telfer, of the City of Brantford, in the Province of Ontario, AFFIRM:

1. I am the Manager of Revenue/Tax Collector for The Corporation of the City of Brantford ("City"). The City informed KSV Restructuring Inc. that the property located at 155 Adams Blvd. in Brantford, Ontario was not properly assessed by the Municipal Property Assessment Corporation (MPAC) before the property was sold to 12175622 Canada Ltd. ("121") in 2022. After 155 Adams Blvd. was properly assessed by MPAC the City sent an Omit Tax bill for 2020, 2021 and 2022 to 121 because 121 was the property owner at the time that the Omit Tax bill was issued, and as such, I have knowledge of the matters contained in this

affidavit, except where I refer to matters based on information and belief, in which case I state the source of that information and believe it to be true.

2. I make this affidavit in response to the Receiver's motion for an order that the Receiver, KSV Restructuring Inc. ("KSV") is not liable or otherwise obligated to pay 121 or the City on account of the Omit Tax Claims described in KSV's motion of March 27, 2024.
3. The City takes no position on the remaining issues raised in that motion. The only issue to determine is liability for the Omit Taxes issued November 24, 2022 including accrued interest.
4. MPAC is responsible for assessing property values in Ontario for the purpose of calculating property taxes. Based on MPAC's assessment, municipalities throughout Ontario issue tax bills to property owners. MPAC is able to re-assess properties that have not been properly assessed. If a property has not been properly assessed, MPAC is able to assess omit taxes for a period of three (3) years prior to the re-assessment.
5. On October 1, 2021 KSV was appointed as the receiver and manager of all the assets, undertakings and properties of Mahal Venture Capital Inc. and Golden Miles Food Corporation owned or used in connection with the flour mill located on the property municipally known as 155 Admas Blvd. Brantford, Ontario. At that

time, and for several years prior, 155 Adams Blvd. was classified as Industrial Vacant Land (IX). On October 27 and 28, 2021 I exchanged e-mails with KSV to inform them that that there were unpaid property taxes with respect to 155 Adams Blvd. and that the property was not properly assessed. I also informed KSV that omitted tax notices would be issued after MPAC properly assessed this property. A copy of my e-mail correspondence with KSV is attached as **Exhibit "A"**.

6. On October 28, 2021 I made a request to MPAC to have 155 Admas Blvd. re-assessed. A copy of my re-assessment request is attached as **Exhibit "B"**.
7. On January 7, 2022 the City wrote to KSV providing KSV notice that the City intended to commence enforcement proceedings to recover unpaid property taxes. Legal counsel for KSV responded to the City on January 13, 2022 asserting that enforcement proceedings were stayed as a result of the Order of Justice McEwan dated October 1, 2021. A copy of the letter from legal counsel for KSV dated January 13, 2022 is attached as **Exhibit "C"**.
8. On January 18, 2022 KSV wrote to me and made inquiries regarding the assessment status of 155 Adams Blvd. I responded on the same day and informed KSV that the property had not been re-assessed. I subsequently made a further request to MPAC to have the property re-assessed on January 18,

2022. A copy of my e-mail correspondence with KSV and my request to MPAC are attached as **Exhibit “D”**.

9. On February 7, 2022 I received an e-mail from MPAC indicating that MPAC was not able to re-assess the property because each time the assigned assessor made attempts to re-assess 155 Admas Blvd. there was a freeze in place. I have been advised by MPAC, and do verily believe, that a freeze means that in person inspections were not happening due to COVID-19. A copy of the e-mail I received from MPAC on February 7, 2022 is attached as **Exhibit “E”**.

10. On February 22, 2022, the City sent a notice to Mahal Venture Capital Inc. that the City intended to enforce its security against the property located at 155 Adams Blvd. I am advised that legal counsel for KSV responded to legal counsel for the City on March 3, 2022 taking the position that unpaid property taxes owed to the City would be addressed in the receivership proceedings. The notice and e-mail correspondence are attached as **Exhibit “F”**.

11. Following receipt of the March 3, 2022 letter the City took no further steps to collect or enforce unpaid property taxes related to 155 Adams Blvd.

12. On April 11, 2022 the Honourable Madam Justice Gilmore made an Approval and Vesting Order with respect to 155 Adams Blvd. Madame Justice Gilmore approved the transaction contemplated by an agreement of purchase and sale

dated March 18, 2022, between KSV and 121. A copy of the Approval and Vesting Order is attached as **Exhibit “G”**.

13. After receiving the Approval and Vesting Order I followed up with MPAC regarding re-assessment of 155 Adams Blvd.

14. On May 19, 2022 legal counsel for KSV wrote to the City to confirm that the sale of 155 Adams Blvd. to 121 was completed on May 18, 2022. The letter asked that any future tax bills be sent to 121. A copy of the letter from KSV is attached as **Exhibit H**.

15. As of the date that the sale was completed, 155 Adams Blvd. was still classified as Industrial Vacant Land (IX). I had made several requests for MPAC to re-assess the property and I had informed KSV that the property was not properly assessed and that omit taxes would be levied after the re-assessment was complete.

16. On March 21, 2022 the City delivered two tax certificates in the amount of \$156,501.53 and \$3,710.13 regarding unpaid property taxes for 155 Adams Blvd. On May 25, 2022 KSV sent a letter enclosing a cheque in the amount of \$167,402.39 representing all unpaid property taxes plus interest up to May 31, 2022. The cheques were received by the City on May 30, 2022 and deposited the same day. At that point all assessed, but unpaid property taxes were paid.

The payment received did not include any amount for omit taxes that would be levied after the property was re-assessed. A copy of the March 21, 2022 tax certificates and the letter from KSV enclosing the cheques as well as a copy of the City's internal accounting ledger for 155 Adams Blvd. is attached as **Exhibit I**.

17. MPAC completed a re-assessment of 155 Adams Blvd. in October 2022. On October 28, 2022 MPAC sent the City an e-mail confirming the omit assessments for those years and on November 1, 2022 MPAC provided the City with an Omitted Assessment notice identifying all of the omitted properties that were assessed. After receiving these documents, the City prepared and delivered omitted tax assessments for 2020, 2021 and 2022. The omitted tax notices were delivered to 121 on November 24, 2022. A copy of the e-mail from MPAC, the Omitted Assessment notice and the Omit Tax bills for 2020, 2021 and 2022 are attached as **Exhibit J**.

18. 121 filed appeals disputing the re-assessments and the related Omit Tax bills in March 2023. All of the appeals were withdrawn before a hearing was scheduled. Notices of withdrawal for all appeals are attached as **Exhibit K**.

19. After I issued the Omit Tax notices for 2020, 2021 and 2022 I received a letter dated June 9, 2023 from legal counsel for Farm Credit Canada (FCC), the lender that advanced the funds necessary for 121 to purchase 155 Adams Blvd. FCC

asked the City to provide justification for a tax certificate that was issued on June 1, 2023 in the amount of \$1,723,076.34. The letter asserted that the City's claim to property taxes pre-dating the sale of 155 Adams Blvd. was vested out. The letter dated June 9 (without attachments) and the tax certificate dated June 1, 2023 are attached as **Exhibit L**.

20. I responded via e-mail on June 12, 2023 explaining the history of the tax arrears with respect to 155 Adams Blvd. I told legal counsel for FCC that KSV was informed prior to the sale of the property that the 155 Adams Blvd. was not fully assessed and that that additional taxes would eventually be added to the property. I also told legal counsel for FCC that the tax bills issued on March 21, 2022 only represented the outstanding taxes that had been levied at that time. I also provided the Omitted Tax listing the City received from MPAC and the related Omit Tax bills for 2020, 2021 and 2022 as support for the tax certificate issued on June 1, 2023. My e-mail dated June 12, 2023 excluding attachments is attached as **Exhibit M**.

21. On August 15, 2023 I received service of the Receiver's motion record, returnable on August 23, 2023 seeking among other things, (i) approval of certain distributions, and (ii) approval of the fees of the Receiver and its counsel. As part of that motion, the Receiver asked the court to approve a \$1,500,000 omit tax reserve related to the City's claim for omit taxes affecting 155 Adams Blvd. for 2020, 2021 and 2022. I am advised that the court approved the omit tax reserve

and that the receiver continues to hold the omit tax reserve and that omit tax reserve has not been disbursed.

22. I verily believe that the omit taxes for 2020, 2021 and 2022 were assessed in the normal course and that the City is entitled to receive payment for the omit taxes (plus accrued interest) that were assessed after the sale of the property to 121.

AFFIRMED by Pat Telfer of the City of)
Brantford, in the Province of Ontario, before)
me at the City of Brantford, in the Province)
of Ontario, on May 2, 2024 in)
accordance with O. Reg. 431/20,)
Administering Oath or Declaration)
Remotely.)



Commissioner for taking Affidavits

Geoffrey Daley

Pat Telfer

SKYMARK FINANCE CORPORATION
Applicant

-and-

MAHAL VENTURE CAPITAL INC., et al
Respondents

Court File No CV-21-00664778-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF PAT TELFER

The Corporation of the City of Brantford
58 Dalhousie Street
Brantford, Ontario N3T 2J2

Geoffrey Daley (70560J)

gdaley@brantford.ca

Tel: 519-759-4150 ext 5150

Lawyer for The Corporation of The City of
Brantford

TAB 11

This is Exhibit "A" to the Affidavit
of Pat Telfer sworn before me this
2nd day of May, 2024 at the
City of Brantford in accordance with O. Reg. 431/20,
Administering Oath or Declaration Remotely.

Geoff Daley

Commissioner for taking Affidavits

Geoffrey Daley

From: [Patrick Telfer](#)
To: [Murtaza Tallat](#); [Geoff Daley](#)
Cc: [Tommara McMillan](#); [Mitch Vininsky](#); [Noah Goldstein](#)
Subject: RE: 155 Adams Boulevard - ppty tax arrears
Attachments: [image003.png](#)
[image004.png](#)
[155 Adams Blvd Property Tax Statement of Account Oct 28 2021.pdf](#)

Hello Murtaza,

Please find attached a statement of account for 155 Adams Blvd showing outstanding taxes as of today's date.

Upon review of this property, it has come to my attention that this property is still not properly assessed.

MPAC still has the property assessed as Industrial Vacant Land (IX) with a value of \$1,889,000.

A request was submitted to MPAC in the Spring to have this rectified as the property has not been vacant land for a least a couple of years.

I have followed up with MPAC again today with a request to have this property valued and assessed properly and omitted assessment notices issued before they close off assessment changes for 2021.

This will result in additional taxes being added to the property and omitted tax notices being issued.

Currently we have the following owner and mailing address information on file:

MAHAL VENTURE CAPITAL INC

6845 SECOND LINE W

MISSISSAUGA ON L5W 1M8

Does this need to change before any future correspondence is sent out?

Please let me know if you have any questions.

Thanks,

Pat

Patrick Telfer

Manager of Revenue/Tax Collector

City of Brantford

519-759-4222 ext. 5483

From: Murtaza Tallat [mailto:mtallat@ksvadvisory.com]

Sent: Wednesday, October 27, 2021 4:44 PM

To: Patrick Telfer; Geoff B. Daley

Cc: Tommara E. Mcmillan; Mitch Vininsky; Noah Goldstein

Subject: RE: 155 Adams Boulevard - ppty tax arrears

Yes, that would be helpful as a start. We may have further requests once we have had a chance to review.



Murtaza Tallat

Manager

T 416.932.6031

M 647.640.4248

W www.ksvadvisory.com

From: Patrick Telfer <PTelfer@brantford.ca>
Sent: October 27, 2021 4:42 PM
To: Murtaza Tallat <mtallat@ksvadvisory.com>; Geoff B. Daley <GDaley@brantford.ca>
Cc: Tommara E. Mcmillan <TMcmillan@brantford.ca>; Mitch Vininsky <mvininsky@ksvadvisory.com>; Noah Goldstein <ngoldstein@ksvadvisory.com>
Subject: RE: 155 Adams Boulevard - ppty tax arrears

Hello Murtaza,
Can you let me know specifically what you are looking for.
Will a statement of account showing the current level of tax arrears suffice?
Thanks,
Pat

Patrick Telfer
Manager of Revenue/Tax Collector
City of Brantford
519-759-4222 ext. 5483

From: Murtaza Tallat [<mailto:mtallat@ksvadvisory.com>]
Sent: Wednesday, October 27, 2021 12:05 PM
To: Geoff B. Daley; Patrick Telfer
Cc: Tommara E. Mcmillan; Mitch Vininsky; Noah Goldstein
Subject: RE: 155 Adams Boulevard - ppty tax arrears

CAUTION EXTERNAL EMAIL This email originated from outside of the City of Brantford email system. Do not click links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, please contact the Service Desk at ext. 5555

Geoff, thank you for the introduction.

Pat, please see the attached copy of the receivership order dated October 1, 2021. A copy of the same, along with all other court materials in these proceedings, can be found on KSV's website, here: <https://www.ksvadvisory.com/insolvency-cases/case/mahal-venture-capital-inc>

I also request that you please include Mitch Vininsky and Noah Goldstein (both copied) of the Receiver's office on correspondence regarding this matter.

Thank you,



Murtaza Tallat
Manager

T 416.932.6031
M 647.640.4248
W www.ksvadvisory.com

From: Geoff B. Daley <GDaley@brantford.ca>
Sent: October 27, 2021 11:53 AM
To: Murtaza Tallat <mtallat@ksvadvisory.com>
Cc: Tommara E. Mcmillan <TMcmillan@brantford.ca>; Patrick Telfer <PTelfer@brantford.ca>
Subject: 155 Adams Boulevard - ppty tax arrears

Hello Mr. Tallat,

This e-mail is further to the recent exchange between the City, the City's outside counsel and Chris Burr regarding outstanding property taxes owing for the property bearing municipal address 155 Adams Boulevard, Brantford, Ontario.

By way of this e-mail I am introducing you to Mr. Pat Telfer, the City's Manager of revenue/tax collector. Mr. Telfer will be able to provide the information you requested regarding outstanding property taxes for this property.

If you could please provide Mr. Telfer with a copy of the receivership order confirming KSV's appointment as receiver in the Golden Miles proceedings we will be in a better position to provide the information you are seeking.

If you could please copy me on any correspondence regarding this matter please let me know.

Thanks

Geoffrey B. Daley
Legal Counsel and Head of Litigation
T: 519.759.4150, ext. 5150 | F: 519.751.4757

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Property Tax Office

58 Dalhousie Street
Brantford, ON N3T 2J2

Mailing address: P.O. Box 515, N3T 6L6
Phone: 519-759-4150 Fax: 519-770-1259

Statement Date	Account No.	Roll Number	Mortgage Policy No.
October 28, 2021	00167800	2906-030-007-07200-0000	

MAHAL VENTURE CAPITAL INC

6845 SECOND LINE W
MISSISSAUGA ON L5W 1M8

PENALTY & INTEREST CHARGES: On overdue taxes, a penalty of 1.25% will be added on the day of default of any instalment, plus 1.25% on the first day of each month thereafter until paid. Interest of 1.25% is charged on tax arrears and other charges, on the first of each month. Part payments will be credited first to outstanding interest and penalty charges, then the remainder to taxes and other charges added to taxes longest overdue. If you have submitted post-dated cheques, this statement is for your records. Payments after-hours may be deposited (cheques only) in the Drop-Box located at the doors at the top of the accessibility ramp at the corner of Queen St and Dalhousie St.

PROPERTY DESCRIPTION
BRANTFORD CON 3 PT LOTS 38 AND 39 RP 2R6545 PARTS 1 AND 2 RP 2R4747 PART 1 RP 2R1332 PARTS 1 TO 3
155 ADAMS BLVD

	INTERIM	FINAL	SUPP/OMIT/ OTHER	CAP/CLAWBACK INCLUDED	TOTAL BILLED
2021 LEVY	\$29,091.92	\$22,651.02	\$0.00	\$0.00	\$51,742.94

2021 CURRENT YEAR	TAXES LEVIED	TAXES PAST DUE	PENALTY/ INTEREST	TOTAL OUTSTANDING
Interim Inst. 1. Feb 26, 21	\$14,546.92	\$14,546.92	\$1,454.72	\$16,001.64
Interim Inst. 2. Apr 28, 21	\$14,545.00	\$14,545.00	\$1,090.86	\$15,635.86
Final Inst. 1. Jun 30, 21	\$11,326.02	\$11,326.02	\$566.32	\$11,892.34
Final Inst. 2. Sep 08, 21	\$11,325.00	\$11,325.00	\$283.12	\$11,608.12
Supp/Omit/Other	\$0.00	\$0.00	\$0.00	\$0.00

PRIOR YEARS				
2020	\$58,183.84	\$58,183.84	\$9,618.59	\$67,802.43
2019	\$52,378.39	\$0.00	\$0.00	\$0.00
2018 & Prior	\$82,940.60	\$0.00	\$0.00	\$0.00

GRAND TOTAL OUTSTANDING	\$109,926.78	\$13,013.61	\$122,940.39
ON ACCOUNT CREDIT			\$0.00

This balance may be paid in person at City Hall, 58 Dalhousie St, or by mail at the mailing address above, or at most financial institutions. After-hours payments can be deposited in the drop-box a located at the top of the accessibility ramp at the corner of Queen St and Dalhousie St. Please make your cheque payable to the City of Brantford.

Please and return to our Office with your payment

REMITTANCE PORTION

PLEASE MAKE YOUR CHEQUE PAYABLE TO:

THE CITY OF BRANTFORD

ACCOUNT # 00167800	MORTGAGE POLICY NO. :
ROLL NUMBER: 2906-030-007-07200-0000	
ASSESSED OWNER(S):	MAHAL VENTURE CAPITAL INC
TOTAL AMOUNT OWING: \$122,940.39	
INCLUDES PENALTY CHARGES TO: Sunday, October 31, 2021	
AMOUNT PAID:	

P.O. Box 515, Brantford ON N3T 6L6
58 Dalhousie St
Phn: 519-759-4150 Fax: 519-770-1259

Please return remittance portion with payment. If a receipt is required, please return entire statement along with a self-addressed, stamped envelope. The top portion will be receipted and returned.

Court of Appeal File No. COA-24-CV-0702
Superior Court File No. CV-21-00664778-00CL

SKYMARK FINANCE CORPORATION
Applicant

-and-

MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD CORPORATION
Respondents

COURT OF APPEAL FOR ONTARIO
Proceeding commenced at Toronto

**COMPENDIUM OF THE RESPONDENT IN APPEAL,
KSV RESTRUCTURING INC., IN ITS CAPACITY AS COURT-APPOINTED
RECEIVER AND MANAGER OF MAHAL VENTURE CAPITAL INC.
AND GOLDEN MILES FOOD CORPORATION.**

BLAKE, CASSELS & GRAYDON LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto ON M5L 1A9

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chris.burr@blakes.com

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Tel: 416-863-2937
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Jake Harris LSO #85481T
Tel: 416-863-2523
jake.harris@blakes.com

Lawyers for the Respondent in Appeal,
KSV Restructuring Inc., in its capacity as Court-appointed
Receiver and Manager of Mahal Venture Capital Inc.
and Golden Miles Food Corporation.