

File No. CI 22-01-38613

THE KING'S BENCH
WINNIPEG CENTRE

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
MANITOBA CLINIC MEDICAL CORPORATION AND THE MANITOBA CLINIC
HOLDING CO. LTD.

(the "Applicants")

APPLICATION UNDER: THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C., c. C-36, AS AMENDED

APPROVAL AND VESTING ORDER
DATE OF HEARING: TUESDAY, OCTOBER 31, 2023 AT 10:00 A.M.
THE HONOURABLE MR. JUSTICE CHARTIER

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FILED
KING'S BENCH
NOV 03 2023
LAW COURTS
WINNIPEG

*The Honourable Justice
Chertow*

**THE KING'S BENCH
WINNIPEG CENTRE**

Oct. 31, 2023

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APPROVAL AND VESTING ORDER

THIS MOTION, made by Alvarez & Marsal Canada Inc. in its capacity as the court-appointed monitor (the "**Monitor**") of Manitoba Clinic Medical Corporation ("**Medco**") and The Manitoba Clinic Holding Co. Ltd. ("**Realco**") (collectively, the "**Applicants**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Monitor, in its capacity as court-appointed monitor for and on behalf of Realco and not in its personal or corporate capacity, and Gamma-Dynacare Central Medical Laboratory Limited Partnership, by its general partner, Gamma-Dynacare Central Medical Laboratories GP Inc. (the "**Purchaser**"), a copy of which is appended to the Fifth Report of the Monitor dated October 27, 2023 (the "**Fifth Report**"), and vesting in the Purchaser Realco's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at the Law Courts Building at 408 York Avenue, in the City of Winnipeg, Manitoba.

ON READING the Fifth Report and the Confidential Supplement thereto (the "**Confidential Supplement**") and on hearing the submissions of counsel for the Monitor, the Applicants, Canadian Imperial Bank of Commerce, and the Purchaser, no one else

appearing for any other person on the service list, although properly served as appears from the affidavit of service of Shelby Braun sworn October 31, 2023 and the affidavit of service of Alecia Iwanchuk sworn October 31, 2023; all filed:

SERVICE

1. THIS COURT ORDERS that the time for service of the Monitor's notice of motion and supporting materials is hereby abridged and validated so that the motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF THE TRANSACTION

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Monitor is hereby authorized and approved, with such minor amendments as the Monitor and the Purchaser may deem necessary. The Monitor is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. THIS COURT ORDERS AND DECLARES that the Monitor shall incur no liability or obligation as a result of carrying out the provisions of this Order, save and except for any gross negligence or willful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the *Companies' Creditors Arrangement Act* (Canada) or any applicable legislation.

VESTING OF THE PROPERTY

4. THIS COURT ORDERS AND DECLARES that, upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Monitor's Certificate**"), all of Realco's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and

clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Amended and Restated Initial Order of the Honourable Mr. Justice Kroft dated December 1, 2022; and (ii) all charges, security interests or claims evidenced by registrations pursuant to *The Personal Property Security Act* (Manitoba) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**", but which term shall not include the permitted encumbrances listed at Schedule B herein) 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.

5. THIS COURT ORDERS that, for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

7. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;

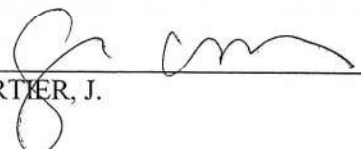
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Applicants and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Applicants;

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 Applicants and shall not be void or voidable by creditors of the Applicants, 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 or action other than in good faith pursuant to any applicable federal or provincial legislation.

MISCELLANEOUS MATTERS

8. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicants, the Monitor and their 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 Applicants or the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants, the Monitor and their agents in carrying out the terms of this Order.

November 1
~~October 31~~, 2023



CHARTIER, J.

I, Craig Frith, of the firm of McDougall Gauley LLP, hereby certify that I have received the consents as to form of the following parties:

J.J. Burnell of MLT Aikins LLP, counsel for Canadian Imperial Bank of Commerce

David R.M. Jackson of Taylory McCaffrey LLP, counsel for Manitoba Clinic Medical Corporation and The Manitoba Clinic Holding Co. Ltd.

Joseph Reynaud of Stikeman Elliot LLP, counsel for Gamma-Dynacare Central Medical Laboratory Limited Partnership, and its general partner, Gamma-Dynacare Central Medical Laboratories GP Inc.

Schedule A – Form of Monitor's Certificate

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MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Kroft of the Manitoba Court of King's Bench (the "**Court**") dated December 1, 2022, Alvarez & Marsal Canada Inc. was appointed as the Monitor (the "**Monitor**") of Manitoba Clinic Medical Corporation ("**Medco**") and The Manitoba Clinic Holding Co. Ltd. ("**Realco**") (collectively, the "**Applicants**").

B. Pursuant to an Order of the Court dated October 31, 2023, the Court approved the agreement of purchase and sale made as of October 20, 2023 (the "**Sale Agreement**") between the Monitor, in its capacity as court-appointed monitor for and on behalf of Realco and not in its personal or corporate capacity, and Gamma-Dynacare Central Medical Laboratory Limited Partnership, by its general partner, Gamma-Dynacare Central Medical Laboratories GP Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of Realco's right, title and interest in and to the Purchased Assets, which vesting is to be

effective with respect to the Purchased Assets upon the delivery by the Monitor 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 have been satisfied or waived by the Monitor and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

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

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid and the Monitor has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

**Alvarez & Marsal Canada Inc., in its capacity
as Monitor of the undertaking, property and
assets of the Applicants, and not in its personal
capacity**

Per: _____

Name: _____

Title: _____

Schedule B – Permitted Encumbrances

Nil