

**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

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**NOTICE OF MOTION**  
**(APPROVAL AND VESTING, SEALING, AND OTHER RELIEF)**  
**DATE OF HEARING: FRIDAY, NOVEMBER 24, 2023 AT 10:00 A.M.**  
**THE HONOURABLE MR. JUSTICE CHARTIER**

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**McDougall Gauley LLP**  
**500 616 Main Street**  
**Saskatoon SK S7J 0H6**

**IAN A. SUTHERLAND, K.C. / CRAIG FRITH**  
**PHONE: (306) 665-5417 / (306) 665-5432**  
**FAX: (306) 664-4431**  
**CLIENT FILE NO. 568954.1**

**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

**NOTICE OF MOTION**  
**(APPROVAL AND VESTING, SEALING, AND OTHER RELIEF)**

Alvarez & Marsal Canada Inc. (the "**Monitor**"), the court appointed monitor of Manitoba Clinic Medical Corporation ("**Medco**") and The Manitoba Clinic Holding Co. Ltd. ("**Realco**") (collectively, the "**Applicants**"), will make a motion before the Honourable Mr. Justice Chartier on Friday, the 24<sup>th</sup> day of November, 2023 at 10:00 o'clock in the forenoon or so soon after that time as the motion can be heard at the Law Courts, 408 York Avenue at Kennedy Street, in the City of Winnipeg, in Manitoba.

THE MOTION IS FOR:

1. An Order in substantially the form attached hereto as Schedule "A" to this Notice of Motion (the "**Realco AVO**"):

- (a) abridging the time for service of this notice of motion and all other materials filed in support of the same such that this motion is properly returnable on November 24, 2023 at 10:00 a.m., and dispensing with further service thereof;
- (b) approving the the sale transaction (the "**Realco Transaction**") contemplated by an asset purchase agreement (the "**Realco APA**") between the Monitor, in its capacity as Monitor of Realco and not in its personal or corporate capacity, as vendor, and HSCF Property Inc. ("**HSCF**"), as purchaser, dated August 1, 2023, a copy of which is appended to the Sixth Report;

- (c) authorizing and directing the Monitor to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Realco Transaction and for the conveyance of Medco's right, title, and interest in and to the assets described in the Realco APA (the "**Realco Assets**") to HSCF;
  - (d) declaring that, upon the delivery of the Monitor's Certificate (as that term is defined in the Realco AVO) to HSCF, all of Realco's right, title, and interest in and to the Realco Assets shall vest absolutely in HSCF free and clear of and from any and all Claims and Encumbrances (as those terms are defined in the Realco AVO) and
  - (e) such further and other relief as counsel may advise and this Honourable Court may permit.
2. An Order in substantially the form attached hereto as Schedule "B" to this Notice of Motion (the "**Medco AVO**"):

- (a) abridging the time for service of this notice of motion and all other materials filed in support of the same such that this motion is properly returnable on November 24, 2023 at 10:00 a.m., and dispensing with further service thereof;
- (b) approving the the sale transaction (the "**Medco Transaction**") contemplated by an asset purchase agreement (the "**Medco APA**") between the Monitor, in its capacity as Monitor of Medco and not in its personal or corporate capacity, as vendor, and 1439573 B.C. Ltd. ("**BC Ltd.**"), as purchaser, dated September 21, 2023 (as amended by the Amendment to the Asset Purchase Agreement dated November 2, 2023), a copy of which is appended to the Sixth Report of the Monitor dated November 20, 2023 (the "**Sixth Report**");
- (c) authorizing and directing the Monitor to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Medco Transaction and for the conveyance of Medco's right, title, and interest in and to the assets described in the Medco APA (the "**Medco Assets**") to BC Ltd.;
- (d) declaring that, upon the delivery of the Monitor's Certificate (as that term is defined in the Medco AVO) to BC Ltd., all of Medco's right, title, and interest in and to the Medco Assets shall vest absolutely in BC Ltd. free and clear of and from any and all Claims and Encumbrances (as those terms are defined in the Medco AVO); and

- (e) such further and other relief as counsel may advise and this Honourable Court may permit.
3. An Order in substantially the form attached hereto as Schedule "C" to this Notice of Motion (the "**Enhanced Powers Order**"):

- (a) abridging the time for service of this notice of motion and all other materials filed in support of the same such that this motion is properly returnable on November 24, 2023 at 10:00 a.m., and dispensing with further service thereof;
- (b) declaring that, upon the filing of the Monitor's Certificate (as defined in the Enhanced Powers Order), the Monitor shall be directed and empowered, but not required, to exercise the following powers in respect of the Business and Property (as defined in the ARIO) for and on behalf of the Applicants where the Monitor considers it necessary or desirable to do so:
  - (i) to take any and all actions and steps to manage, operate, and carry on the Business;
  - (ii) to preserve and protect the Property, or any parts thereof;
  - (iii) to report to, meet with, and discuss with such affected Persons (as defined in the ARIO) as the Monitor deems appropriate on all matters relating to the Property and these proceedings, and to share information, subject to such terms as to confidentiality as the Monitor deems advisable;
  - (iv) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
  - (v) to perform such other duties as are required by this Order or by this Court from time to time.

(collectively, the "**Enhanced Powers**")

- (c) declaring that the Monitor's Certificate shall be filed and served if the Monitor determines, in its sole discretion, that the exercise of the Enhanced Powers is reasonably necessary for the Applicants to continue or conclude these proceedings;
- (d) authorizing and empowering the Monitor to exercise the Enhanced Powers to the exclusion of, and without any interference from, any Person;

- (e) declaring that any Person having notice the Enhanced Powers Order shall provide access and co-operation to the Monitor with respect to gaining access to the Property and Records (as defined in the Enhanced Powers Order);
- (f) limiting the Monitor's liability in exercising the Enhanced Powers pursuant to the Enhanced Powers Order, save and except for any gross negligence or willful misconduct on its part; and
- (g) such further and other relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

- 4. For the purposes of this application, the Monitor relies on:
  - (a) sections 11, 23(1)(k), and 36 of the *Companies' Creditors Arrangement Act* (Canada) ("*CCAA*");
  - (b) Rules 1.04, 3.02(1), 16.04(1), and 16.08 of the *King's Bench Rules*.

**INTERPRETATION**

- 5. Unless otherwise defined in this motion, capitalized terms will have the meanings given to them in the ARIO.

**SERVICE**

- 6. The Monitor's notice of motion and Sixth Report were served by email and facsimile, as required, on the members of the service list established in these proceedings, as contemplated by paragraph 47 of the ARIO. The Monitor's forthcoming brief of law will be served in the same manner.

**SALE APPROVAL**

- 7. The Monitor is of the view that the approval of the Realco APA is commercially reasonable in the circumstances for, among others, the following reasons:

- (a) the Realco APA arose from an extensive marketing process conducted in accordance with the court-approved Sale and Investment Solicitation Process (the "**SISP**");
  - (b) the SISP authorized the Monitor, with the approval of CIBC, to terminate aspects of the SISP if it received a High Value LOI (as defined in the SISP);
  - (c) after the Monitor received HSCF's Qualified LOI at the Phase I Bid Deadline of the SISP (as those terms are defined in the SISP), the Monitor and HSCF negotiated a High Value LOI, which led to the execution of the Realco APA; and
  - (d) the Realco APA is, in the Monitor's opinion, the best and highest offer for the Realco Assets resulting from the SISP and it is supported by the Applicants and CIBC, the first-ranking secured creditor.
8. The Monitor is of the view that the approval of the Medco APA is commercially reasonable in the circumstances for, among others, the following reasons:
- (a) similar to the Realco APA, the Medco APA:
    - (i) arose from an extensive marketing process conducted in accordance with the SISP;
    - (ii) is, in the Monitor's view, the highest and best offer received for the Medco Assets; and
    - (iii) is supported by the Applicants and CIBC;
  - (b) BC Ltd. is the nominee of WELL Health Clinic Networks Inc., an established, reputable operator in the Canadian healthcare industry; and
  - (c) the Medco APA provides the:
    - (i) Medco physicians the opportunity to continue their practices at the existing clinic; and
    - (ii) stands to preserve the existing Medco employees' jobs.

## ENHANCED POWERS

9. The Enhanced Powers Order is being sought on the basis that, once the Medco Transaction closes, the Applicants will no longer have employees to carry on the Business and otherwise complete the *CCAA* proceedings.

10. As set out in the Sixth Report, there is additional work that will need to be completed after the Medco and Realco Transactions close (e.g., the collection of receivables and completion of the year-end financials), which the Monitor is best suited to complete in the absence of Medco having any remaining employees and in light of the Monitor's intimate familiarity with the Business.

### THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

1. the Amended and Restated Initial Order signed December 2, 2022 and other Orders of the Court granted in the *CCAA* proceedings;
2. the Affidavit of Keith McConnell sworn November 28, 2022.
3. the Pre-Filing Report of Alvarez & Marsal Canada Inc. dated November 29, 2022.
4. the First Report of the Monitor dated January 20, 2023.
5. the Second Report dated April 18, 2023;
6. the Third Report of the Monitor dated July 31, 2023;
7. the Fourth Report of the Monitor dated September 22, 2023;
8. the Fifth Report of the Monitor dated October 27, 2023;
9. the Sixth Report of the Monitor dated November 24, 2023 and Confidential Supplement thereto;
10. the Affidavit of Service, to be filed;
11. the Monitor's Brief of Law, to be filed; and

12. such further and other documentation as counsel may advise and this Honourable Court may permit.

November 20, 2023

**McDOUGALL GAULEY LLP**

500 616 Main Street, Saskatoon SK S7J 0H6

Ian A. Sutherland, K.C. / Craig Frith

PHONE: (306) 665-5417 / (306) 665-5432

FAX: (306) 664-4431

TO: SERVICE LIST



**SCHEDULE "A"**

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

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**APPROVAL AND VESTING ORDER – HSCF PROPERTY INC.  
DATE OF HEARING: FRIDAY, NOVEMBER 24, 2023 AT 10:00 A.M.  
THE HONOURABLE MR. JUSTICE CHARTIER**

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**McDougall Gauley LLP  
500 616 Main Street  
Saskatoon SK S7J 0H6**

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FAX: (306) 664-4431  
CLIENT FILE NO. 568954.1**

**THE KING'S BENCH  
WINNIPEG CENTRE**

THE HONOURABLE )  
 ) Friday, the 24th day of November, 2023  
MR. JUSTICE CHARTIER )

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 – HSCF PROPERTY INC.**

THIS MOTION, made by Alvarez & Marsal Canada Inc., in its capacity as the Court-appointed monitor (the "**Monitor**") of Manitoba Clinic Medical Corporation and The Manitoba Clinic Holding Co. Ltd. ("**Realco**" and together with Manitoba Clinic Medical Corporation, the "**Applicants**") for an order approving the sale transaction (the "**Realco Transaction**") contemplated by an agreement of purchase and sale (the "**Realco APA**") between the Monitor, in its capacity as Monitor of Realco, as vendor, and HSCF Property Inc. ("**HSCF**"), as purchaser, dated August 1, 2023 and appended to the Sixth Report of the Monitor dated November 20, 2023 (the "**Sixth Report**"), and vesting in HSCF all of Realco's right, title and interest in and to the assets described in the Medco APA (the "**Realco Assets**"), was heard this day at the Law Courts Building at 408 York Avenue, in the City of Winnipeg, Manitoba.

ON READING the Sixth Report and the Confidential Supplement to the Sixth Report dated November 20, 2023, and on hearing the submissions of counsel for the Monitor, the Applicants, and Canadian Imperial Bank of Commerce, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of Shelby Braun sworn November 21, 2023; all filed:

## **SERVICE**

1. THIS COURT ORDERS AND DECLARES 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 REALCO TRANSACTION**

2. THIS COURT ORDERS AND DECLARES that the Realco Transaction is hereby approved, and the execution of the Realco APA by the Monitor is hereby authorized and approved, with such minor amendments as the Monitor 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 Realco Transaction and for the conveyance of the Realco Assets to HSCF.

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 wilful 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 HSCF 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 Realco Assets described in the Realco APA and listed on Schedule B hereto shall vest absolutely in HSCF, 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 Mr. Justice Kroft dated December 1, 2022; (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; and (iii) those Claims

listed on Schedule C hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D or any Cure Costs payable by HSCF in respect of the Assigned Contracts (as that term is defined in the Realco APA)) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Realco Assets are hereby expunged and discharged as against the Realco Assets.

5. THIS COURT ORDERS that upon the registration in the Winnipeg Land Titles Office ("**WLTO**") of a Transmission in the form prescribed by *The Real Property Act* (Manitoba) duly executed by HSCF, and accompanied by a certified true copy of this Order, title to the real property identified in Schedule B hereto (the "**Real Property**") shall vest in HSCF subject to all instruments registered on title at that time, other than those described in Schedule C, and the District Registrar is hereby directed to issue title accordingly.

6. THIS COURT ORDERS that this Order shall be accepted by the District Registrar notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period is expressly waived.

7. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Realco Assets shall stand in the place and stead of the Realco 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 Realco Assets with the same priority as they had with respect to the Realco Assets immediately prior to the sale, as if the Realco 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.

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

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 Realco and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of Realco;

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

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 Monitor 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

November \_\_, 2023

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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

**Schedule A – Form of Monitor’s Certificate**

File No. CI 22-01-38613

**THE KING'S BENCH  
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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

**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 and The Manitoba Clinic Holding Co. Ltd. ( "**Realco**").

B. Pursuant to an Order of the Court dated November 24, 2023, the Court approved the asset purchase agreement dated August 1, 2023 (the "**Realco APA**") between the Monitor, in its capacity as Monitor of Realco, as vendor, and HSCF Property Inc. (the "**Purchaser**"), as purchaser, and provided for the vesting in HSCF of Realco’s right, title and interest in and to the Realco Assets, which vesting is to be effective with respect to the Realco Assets upon the delivery by the Monitor to HSCF of a certificate confirming (i) the payment by HSCF of the Purchase Price for the Realco Assets; (ii) that the conditions to Closing have been satisfied or waived by the Monitor and HSCF; and (iii) the Realco 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 Realco APA.

THE MONITOR CERTIFIES the following:

1. HSCF has paid and the Monitor has received the Purchase Price for the Realco Assets payable on the Closing Date pursuant to the Realco APA;
2. The conditions to Closing the Realco APA have been satisfied or waived by the Monitor and HSCF; and
3. The Realco 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 Manitoba Clinic Medical Corporation  
and The Manitoba Clinic Holding Co. Ltd.,  
and not in its personal capacity**

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

Name:

Title:

### **Schedule B – Realco Assets**

- (a) the lands known municipally as 790 Sherbrook Street, Winnipeg, Manitoba (the “**Property**”), legally described as follows, free and clear of all encumbrances other than the Permitted Encumbrances:

Legal Description:

LOT 1 PLAN 58713 WLTO

IN RL 5 AND 6 PARISH OF ST JOHN

- (b) the building(s) constructed on the Property and all other structures and fixed improvements, HVAC and plumbing, electrical and other utility distribution systems located on, in or under the Property;
- (c) the Vendor’s entire right, title and interest in Assigned Contracts;
- (d) the Warranties; and
- (f) all chairs, desks, book cases, filing cabinets, procedure carts, scales, modular millwork, modular furniture, modular storage boxes, computers and monitors, non-electrical/mechanical examination beds, chart projectors and other furniture, but excluding:
  - (i) any chattels located within the leased premises occupied by Manitoba Clinic Medical Corporation; or
  - (ii) any medical equipment, regardless of location and level of affixation to the Property, which includes, but is not limited to, x-ray equipment, electrical/mechanical exam tables, examination lights and beds, stainless steel procedure carts, blood pressure machines, ophthalmology equipment, ENT chairs, wall mounted equipment, audiology units, and massage tables.

Capitalized terms appearing in this Schedule B will have the meanings given to them in the Realco APA.



### **Schedule C – Claims to be deleted and expunged from title to Real Property**

1. Registration Number: 4879369/1  
Instrument Type: Mortgage  
From: The Manitoba Clinic Holding Co. Ltd.  
To: Canadian Imperial Bank of Commerce
2. Registration Number 5292981/1  
Instrument Type: Amending Agreement Including Land;
3. Registration Number 4880522/1  
Instrument Type: Personal Property Security Notice  
By: Canadian Imperial Bank of Commerce
4. Registration Number: 4880523/1  
Instrument Type: Caveat  
By: Canadian Imperial Bank of Commerce
5. Registration Number: 5292981/1  
Instrument Type: Amending Agreement Including Land  
By: Canadian Imperial Bank of Commerce  
To: The Manitoba Clinic Holding Co. Ltd.

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

**(unaffected by the Vesting Order)**

1.     Registration Number: 2135458/1  
       Instrument Type: Caveat  
       By: The City of Winnipeg
2.     Registration Number: 2312825/1  
       Instrument Type: Caveat  
       By: Neon Products Limited
3.     Registration Number: 2636464/1  
       Instrument Type: Caveat  
       By: MTS Communications Inc.
4.     Registration Number: 2636465/1  
       Instrument Type: Caveat  
       By: MTS Communications
5.     Registration Number: 4629394/1  
       Instrument Type: Caveat  
       By: Shell Canada Limited
6.     Registration Number: 4686039/1  
       Instrument Type: Caveat  
       By: The City of Winnipeg
7.     Registration Number: 4686040/1  
       Instrument Type: Easement  
       From: The Manitoba Clinic Holding Co. Ltd.  
       To: MTS Inc. and Shaw Cablesystems Limited
8.     Registration Number: 4898335/1  
       Instrument Type: Easement  
       From: The Manitoba Clinic Holding Co. Ltd.  
       To: The Manitoba Hydro-Electric Board

**SCHEDULE "B"**

File No. CI 22-01-38613

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

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**APPROVAL AND VESTING ORDER – 1439573 B.C. LTD.  
DATE OF HEARING: FRIDAY, NOVEMBER 24, 2023 AT 10:00 A.M.  
THE HONOURABLE MR. JUSTICE CHARTIER**

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**McDougall Gauley LLP  
500 616 Main Street  
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**APPROVAL AND VESTING ORDER – 1439573 B.C. LTD.**

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ON READING the Sixth Report and the Confidential Supplement to the Sixth Report dated November 20, 2023, and on hearing the submissions of counsel for the Monitor, the Applicants, and Canadian Imperial Bank of Commerce, no one appearing for any other person on the service

list, although properly served as appears from the affidavit of Shelby Braun sworn November 21, 2023; all filed:

### **SERVICE**

1. THIS COURT ORDERS AND DECLARES 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 MEDCO TRANSACTION**

2. THIS COURT ORDERS AND DECLARES that the Medco Transaction is hereby approved, and the execution of the Medco APA by the Monitor is hereby authorized and approved, with such minor amendments as the Monitor 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 Medco Transaction and for the conveyance of the Medco Assets to BC Ltd.

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 wilful 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 BC Ltd. substantially in the form attached as Schedule A hereto (the "**Monitor's Certificate**"), all of Medco's right, title and interest in and to the Medco Assets described in the Medco APA and listed on Schedule B hereto shall vest absolutely in BC Ltd., 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 Mr. Justice Kroft dated December 1, 2022; (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; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D or any Cure Costs payable by BC Ltd. in respect of the Assigned Contracts (as that term is defined in the Medco APA)) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Medco Assets are hereby expunged and discharged as against the Medco 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 Medco Assets shall stand in the place and stead of the Medco 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 Medco Assets with the same priority as they had with respect to the Medco Assets immediately prior to the sale, as if the Medco 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, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Monitor is authorized and permitted to disclose and transfer to BC Ltd. all human resources and payroll information in Medco's records pertaining to Medco's past and current employees. BC Ltd. 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 Medco.

8. 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 Medco and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of Medco;

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

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

November \_\_, 2023

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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

**Schedule A – Form of Monitor’s Certificate**

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-**

**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 .

B. Pursuant to an Order of the Court dated November 24, 2023, the Court approved the asset purchase agreement dated September 21, 2023 (as amended by the Amendment to the Asset Purchase Agreement dated November 2, 2023) (the "**Medco APA**") between the Monitor, in its capacity as court-appointed Monitor of Medco, as vendor, and 1439573 B.C. Ltd. (the "**BC Ltd.**"), as purchaser, and provided for the vesting in BC Ltd. of Medco’s right, title and interest in and to the Medco Assets, which vesting is to be effective with respect to the Medco Assets upon the delivery by the Monitor to BC Ltd. of a certificate confirming (i) the payment by BC Ltd. of the Purchase Price for the Medco Assets; (ii) that the conditions to Closing have been satisfied or waived by the Monitor and the BC Ltd.; and (iii) the Medco 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 Medco APA.

THE MONITOR CERTIFIES the following:

1. BC Ltd. has paid and the Monitor has received the Purchase Price for the Medco Assets payable on the Closing Date pursuant to the Medco APA;
2. The conditions to Closing the Medco APA have been satisfied or waived by the Monitor and BC Ltd.; and
3. The Medco 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 Manitoba Clinic Medical Corporation and The Manitoba Clinic Holding Co. Ltd., and not in its personal or corporate capacity**

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

Name:

Title:

## **Schedule B – Medco Assets**

- (a) all furniture, fixtures, equipment, machinery, tools, vehicles, office equipment, computers, telephones, hardware, software, and relevant other miscellaneous tangible and intangible assets owned by Medco and which are located within the leased premises occupied by Medco;
- (b) all medical, office, scientific, testing or other materials and supplies owned by Medco and which are located within the leased premises occupied by Medco;
- (c) any permits or licenses issued by the College, all permits which are held by Medco and required to operate the Business, or which are required for the ownership and use of the Business (which can be assigned or transferred);
- (d) the Assigned Contracts;
- (e) all rights to any Action of any nature available to or being pursued by Medco as a plaintiff to the extent related to the Purchased Assets or the Assumed Liabilities, whether arising by way of counterclaim or otherwise;
- (f) all Patient Records;
- (g) all of Medco's rights under warranties, indemnities and all similar rights against third parties to the extent related to any Purchased Assets;
- (h) all of Medco's insurance benefits, including all rights and proceeds, arising from or relating to the Business, the Purchased Assets or the Assumed Liabilities;
- (i) the Books and Records;
- (j) the Business' goodwill, which is based on the relationship between Medco and the Patients and referral sources of the Business; and
- (k) the LibreMD Interest.

Capitalized terms appearing in this Schedule B will have the meanings given to them in the Medco APA.

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

N/A

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

**(unaffected by the Vesting Order)**

N/A

**SCHEDULE "C"**

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

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**ORDER  
(ENHANCING THE MONITOR'S POWERS)  
DATE OF HEARING: TUESDAY, NOVEMBER 24, 2023 AT 10:00 A.M.  
THE HONOURABLE MR. JUSTICE CHARTIER**

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**McDougall Gauley LLP  
500 616 Main Street  
Saskatoon SK S7J 0H6**

**IAN A. SUTHERLAND, K.C. / CRAIG FRITH  
PHONE: (306) 665-5417 / (306) 665-5432  
FAX: (306) 664-4431  
CLIENT FILE NO. 568954.1**

# THE KING'S BENCH WINNIPEG CENTRE

THE HONOURABLE )  
MR. JUSTICE CHARTIER ) Friday, the 24th day of November, 2023

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

## ORDER (ENHANCING THE MONITOR'S POWERS)

THIS MOTION, made by Alvarez & Marsal Canada Inc. in its capacity as the court-appointed monitor (the "**Monitor**") of Manitoba Clinic Medical Corporation and The Manitoba Clinic Holding Co. Ltd. (collectively, the "**Applicants**") for an order expanding the scope of the Monitor's powers, was heard this day at the Law Courts Building at 408 York Avenue, in the City of Winnipeg, Manitoba.

ON READING the Sixth Report and the Confidential Supplement, and on hearing the submissions of counsel for the Monitor, the Applicants, and Canadian Imperial Bank of Commerce ("**CIBC**"), 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 November 21, 2023; all filed:

## **SERVICE**

1. THE 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.

## **INTERPRETATION**

2. THE COURT ORDERS that, unless otherwise defined herein, capitalized terms appearing in this Order shall have the meanings given to them in the Amended and Restated Initial Order of the Honourable Mr. Justice Kroft dated December 1, 2022 (the "**ARIO**").

## **ORDER TO TAKE EFFECT UPON FILING OF MONITOR'S CERTIFICATE**

3. THIS COURT ORDERS that this Order shall become effective immediately upon the Monitor filing the Monitor's certificate attached as **Schedule "A"** to this Order (the "**Monitor's Certificate**") which shall then be forthwith served on the members of the Service List in accordance with paragraph 48 of the ARIO.

4. THIS COURT ORDERS that the Monitor's Certificate shall be filed and served if the Monitor determines, in its sole discretion, that the exercise of the additional powers provided herein is reasonably necessary for the Applicants to continue or conclude these proceedings.

## **MONITOR'S ENHANCED POWERS**

5. THIS COURT ORDERS that, without in any way limiting the powers and duties of the Monitor set out in the ARIO or other Orders of the Court in these proceedings, the Monitor shall be directed and empowered, but not required, to exercise the following powers in respect of the Business and Property for and on behalf of the Applicants where the Monitor considers it necessary or desirable to do so:

- (a) to take any and all actions and steps to manage, operate, and carry on the Business, including, without in any way limiting the generality of the foregoing:
  - (i) any actions or steps the Monitor considers necessary or desirable to proceed with an orderly liquidation of the Business and conclude these proceedings;
  - (ii) any actions or steps necessary to complete and disseminate the Applicants' year-end financials;
  - (iii) any and all actions or steps the Applicants are authorized, entitled, or empowered to take by virtue of the Orders made in these proceedings;
  - (iv) receiving and collecting all monies currently in the Applicants' possession, and receiving and collecting all monies and accounts now owed or hereafter owing to the Applicants and exercising all remedies of the Applicants in collecting such monies; and
  - (iv) applying for, surrendering, and otherwise dealing with any permits, licences, approvals, or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Monitor, in the name of the Applicants;
- (b) to preserve and protect the Property, or any parts thereof;
- (c) to report to, meet with, and discuss with such affected Persons as the Monitor deems appropriate on all matters relating to the Property and these proceedings, and to share information, subject to such terms as to confidentiality as the Monitor deems advisable;
- (d) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- (e) to perform such other duties as are required by this Order or by this Court from time to time.

6. THIS COURT ORDERS that the Monitor is solely authorized and empowered to exercise the powers set out in this Order to the exclusion of, and without any interference from, any Person.



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

7. THIS COURT ORDERS that any Person having notice of this Order shall forthwith advise the Monitor of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Monitor, and shall deliver all such Property to the Monitor upon the Monitor's request.

8. THIS COURT ORDERS that all Persons shall forthwith advise the Monitor of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records, and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Monitor or permit the Monitor to make, retain, and take away copies thereof and grant to the Monitor unfettered access to and use of accounting, computer, software, and physical facilities relating thereto, provided however that nothing in this paragraph 8 or in paragraph 9 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Monitor due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

the Monitor may in its discretion require including providing the Monitor with instructions on the use of any computer or other system and providing the Monitor with any and all access codes, passwords, account names, and account numbers that may be required to gain access to the information.

## **LIMITATION ON THE MONITOR'S LIABILITY**

10. THIS COURT ORDERS that the Monitor is not and shall not for any purposes be deemed to be an officer, director, employee, receiver, receiver-manager, or liquidator of the Applicants, and that no provision in this Order is intended to create a fiduciary duty to any party, including, without limitation, any creditor or shareholder of the Applicants. Any exercise of any power or authority granted to the Monitor by this Order shall be in its capacity as Monitor and for and on behalf of the Applicants.

11. THIS COURT ORDERS that the Monitor is not and shall not for the purposes of the *Income Tax Act*, RSC, 1985, c 1 (5<sup>th</sup> Supp) be deemed to be a legal representative or person to whom s. 150(3) of that Act applies.

12. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA, the Orders granted in these proceedings, or as an officer of this Court, the Monitor shall incur no liability or obligation, as a result of its appointment or the carrying out of 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 CCAA, the Orders granted in these proceedings, or any applicable legislation.

## **GENERAL**

13. THIS COURT ORDERS that, except as modified by this Order, the ARIO and other Orders of the Court made in these proceedings shall continue to apply.

14. THIS COURT ORDERS that the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

15. 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 respective 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 and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

16. THIS COURT ORDERS that the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

17. THIS COURT ORDERS that any interested party (including the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

November \_\_, 2023

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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

**Schedule A – Form of Monitor’s Certificate**

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-**

**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 and The Manitoba Clinic Holding Co. Ltd. (collectively, the "**Applicants**").

B. Pursuant to an Order of the Court dated November 24, 2023, the Court approved the enhancement of the Monitor's powers (the "**Enhanced Powers**") to be effective upon the filing by the Monitor of a certificate if the Monitor determines that the exercise of the Enhanced Powers are reasonably necessary for the Applicants to continue or conclude these proceedings.

THE MONITOR CERTIFIES that:

1. The Monitor has determined that the exercise of the Enhanced Powers are reasonably necessary for the Applicants to continue or conclude these proceedings.

4. This Certificate was delivered by the Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_  
[DATE].

**Alvarez & Marsal Canada Inc., in its capacity  
as Monitor of Manitoba Clinic Medical  
Corporation and The Manitoba Clinic Holding  
Co. Ltd., and not in its personal or corporate  
capacity**

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

Name:

Title: