

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

TRUE COPY

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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**THE KING'S BENCH
WINNIPEG CENTRE**

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

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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, Canadian Imperial Bank of Commerce, HSCF Property Inc., 1439573 B.C. Ltd., and Dale Syndicate Services Ltd., 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~~^{December} __, 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
Catherine Howden of Pitblado Law, counsel for HSCF Property Inc.
Brandon Rasula of WELL Health Technologies Corp., counsel for 1439573 B.C. Ltd.
Arad Mojtahedi of Norton Rose Fulbright, counsel for Dale Syndicate Services Ltd.

Schedule A – Form of Monitor’s Certificate

File No. CI 22-01-38613

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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 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