

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N :

**1951584 ONTARIO INC. DBA MAXIUM FINANCIAL SERVICES**

Applicant

– and –

**PULSE RX INC. AND FAMILY PHARMACY CLINIC INC.**

Respondents

**MOTION RECORD**

December 9, 2021

**WEISZ FELL KOUR LLP**  
Royal Bank Plaza, South Tower  
200 Bay Street  
Suite 2305, P.O. Box 120  
Toronto, ON M5J 2J3

**Caitlin Fell (LSO No. 60091H)**  
Email: cfell@wfkllaw.ca  
Tel: 416.613.8282

**Shaun Parsons (LSO No. 81240A)**  
Email: sparsons@wfkllaw.ca  
Tel: 416.613.8284

Fax: 416.613.8290

**Lawyers for the Receiver, MNP Inc.**

TO: The Service List

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**B E T W E E N :**

**1951584 ONTARIO INC. DBA MAXIUM FINANCIAL SERVICES**

Applicant

– and –

**PULSE RX INC. AND FAMILY PHARMACY CLINIC INC.**

Respondents

**INDEX**

<b>TAB</b>	<b>DOCUMENT</b>	<b>PG. NO.</b>
1.	Notice of Motion, dated December 9, 2021	001
2.	First Report of the Receiver	008
	Exhibit "A" - Receivership Order dated June 10, 2021	027
	Exhibit "B" - Sale Process	047
	Exhibit "C" - Redacted Stalking Horse Bid	057
	Exhibit "D" - Auction Process	093
	Exhibit "E" - Redacted Asset Purchase Agreement	097
	Exhibit "F" - Receiver's Statement of Receipts and Disbursements	138
3.	Draft Approval and Vesting Order	140
4.	Blackline of Draft Approval and Vesting Order to Model Order	150

# **TAB 1**

Court File No. CV-21-00661434-00CL

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

B E T W E E N:

**1951584 ONTARIO INC. DBA MAXIUM FINANCIAL SERVICES**

Applicant

- and -

**PULSE RX INC. AND FAMILY PHARMACY CLINIC INC.**

Respondents

**NOTICE OF MOTION  
(RE: APPROVAL AND VESTING ORDER)**

**MNP LTD.**, in its capacity as receiver and receiver and manager (in such capacities, the “**Receiver**”) of the undertakings, property and assets of Pulse RX Inc. (“**Pulse**”) and Family Pharmacy Clinic Inc. (together, the “**Debtors**”), will make a motion to the Court on December 14, 2021 at 11:30 a.m., or as soon after that time as the motion can be heard by judicial teleconference via Zoom at Toronto, Ontario. Please refer to the conference details attached as Schedule “**A**” hereto in order to attend the motion and advise if you intend to join the motion by emailing Christel Paul at: cpaul@wfkllaw.ca.

**PROPOSED METHOD OF HEARING:** The motion is to be heard:

in writing under subrule 37.12.1 (1);

in writing as an opposed notion under subrule 37.12.1 (4);

- in person;
- By telephone conference;
- By video conference.

**At the following location:**

**THE MOTION IS FOR:**

1. An Approval and Vesting Order, substantially in the form attached at Tab 3 of the Motion Record (the “**Order**”) that, among other things:
  - a) abridges the time for service of this motion, validates the manner of service, and declares that this motion is properly returnable before the Court;
  - b) approves the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Purchase Agreement**”) between the Receiver and 2047944 Ontario Inc. (the “**Purchaser**”) and appended as Appendix “E” to the First Report of the Receiver dated December 9, 2021 (the “**First Report**”);
  - c) vesting in the Purchaser, Pulse’s right, title and interest in and to the assets described in the Purchase Agreement;
  - d) approves the First Report and the activities and conduct of the Receiver and its counsel, Weisz Fell Kour LLP, as disclosed therein; and
  - e) seals the Confidential Appendices.
2. Such further and other relief as this Honorable Court deems just.

**THE GROUNDS FOR THIS MOTION ARE:**

3. On June 10, 2021, pursuant to an order (the “**Receivership Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), MNP Ltd. was appointed as receiver and receiver and manager without security, of all of the assets, undertakings and properties of the Debtors (the “**Property**”).
4. Pulse was incorporated on January 27, 1936 under the name Harbord Pharmacy Limited, and carries on business as a pharmacy. Its business focuses on servicing long term care and retirement residences.
5. Pulse’s assets consist primarily of inventory, accounts receivable, service contracts with four long term care homes (collectively, the “**Business Assets**”) as well as its charter/ articles of incorporation (the “**Pulse Charter**”). Pulse is considered a “Pre-1954 Charter Company”, as contemplated under Section 142(4) of the *Drug and Pharmacies Regulations Act* (Ontario), which exempts it from being required to be owned or operated by a pharmacist.
6. The Receiver has filed with the Court its First Report outlining, amongst other things: (i) further background of the Debtors’ assets, business, and these proceedings; (ii) the actions of the Receiver since the Receivership Order; (iii) details on the sale process implemented by the Receiver (the “**Sale Process**”); and (iv) details on the Purchase Agreement.
7. Under the Receivership Order, the Receiver is empowered to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or

parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate.

8. The Receiver devised and implemented a two-pronged Sale Process: (i) a stalking horse sales process for the Business assets; and (ii) a non-stalking horse sales process for the Pulse Charter.
9. As part of the Sale Process for the Business Assets, on November 10, 2021, the Receiver entered into a Stalking Horse Purchase Agreement with the CareRx Pharmacy Corp. (the “**Stalking Horse**”).
10. Following the marketing by the Receiver of the Business Assets, one bid in addition to the Stalking Horse, was received by the Receiver. Given the submission of the two bids, the Receiver commenced an auction.
11. The Purchaser submitted the highest or otherwise best bid during the auction. As a result, the Receiver requests approval from this Court of the Transaction and Purchase Agreement.
12. The Approval and Vesting Order should be granted by the Court for the following reasons:
  - a) the Purchase Agreement is conditional on obtaining the Approval and Vesting Order;
  - b) the sale proceeds generated are greater than what would be obtained in a bankruptcy;
  - c) the Transaction arises from a robust Sale Process. The Receiver made substantial efforts to market the Business Assets in order to obtain the best price, and has not acted improvidently.

- d) the Sale Process for the Business Assets and the auction was commercially reasonable in the circumstances, and maximized the value received for the Business Assets; and
- e) The Receiver does not believe that further marketing of the Business Assets will result in a superior offer.

### **Sealing Order**

- 13. A sealing order is required because in the event the Transaction does not close, the Confidential Appendices contain certain economic terms, the release of which would prejudice the stakeholders of the Debtors. The salutary effects of the proposed sealing order therefore outweigh any deleterious effects that may exist.

### **General**

- 14. The First Report and the appendices attached thereto;
- 15. Rules 1.04(1), 1.05, 2.01(1), 2.03 and 37 of the *Rules of Civil Procedure*, RSO 1990, Reg 194;
- 16. The equitable and inherent jurisdiction of the Court; and
- 17. Such further and other grounds as counsel may advise and this Honorable Court may permit.

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

- 18. The First Report and the appendices attached thereto;



19. Such further and other evidence as counsel may advise and this Honourable Court may permit.

December 9, 2021

**WEISZ FELL KOUR LLP**  
Royal Bank Plaza, South Tower  
200 Bay Street  
Suite 2305, P.O. Box 120  
Toronto, ON M5J 2J3

**Caitlin Fell (LSO No. 60091H)**  
Email: cfell@wfkllaw.ca  
Tel: 416.613.8282

**Shaun Parsons (LSO No. 81240A)**  
Email: sparsons@wfkllaw.ca  
Tel: 416.613.8284

Fax: 416.613.8290

**Lawyers for the Receiver, MNP Inc.**

**Schedule "A"**  
**Conference Details to join Motion via Zoom**

Topic: 1951584 Ontario Inc. and Pulse RX Inc. et al. - Court File No. CV-21-00661434-00CL  
Time: Dec 14, 2021 11:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/j/91461338707?pwd=eXUvbFJwUDdUUDV4bGJlbWdmMVN3dz09>

Meeting ID: 914 6133 8707

Passcode: 439641

One tap mobile

+17789072071,,91461338707#,,,,\*439641# Canada

+12042727920,,91461338707#,,,,\*439641# Canada

Dial by your location

+1 778 907 2071 Canada

+1 204 272 7920 Canada

+1 438 809 7799 Canada

+1 587 328 1099 Canada

+1 647 374 4685 Canada

+1 647 558 0588 Canada

Meeting ID: 914 6133 8707

Passcode: 439641

Find your local number: <https://zoom.us/u/acmUDLWds3>

# TAB 2

Court File No. CV-21-00661434-00CL

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

**B E T W E E N:**

**1951584 ONTARIO INC. DBA MAXIUM FINANCIAL SERVICES**

Applicant

- and -

**PULSE RX INC. and FAMILY PHARMACY CLINIC INC.**

Respondents

**FIRST REPORT OF MNP LTD., AS COURT-APPOINTED RECEIVER OF  
PULSE RX INC. AND FAMILY PHARMACY CLINIC INC.**

**DATED DECEMBER 8, 2021**

## TABLE OF CONTENTS

INTRODUCTION AND BACKGROUND .....	3
PURPOSE OF THIS REPORT.....	5
TERMS OF REFERENCE .....	6
RECEIVER’S OPERATIONS.....	6
MARKETING EFFORTS OF THE RECEIVER.....	9
SEALING OF CONFIDENTIAL INFORMATION .....	16
CANADA REVENUE AGENCY .....	16
STATEMENT OF RECEIPTS AND DISBURSEMENTS.....	17
CONCLUSIONS AND RECOMMENDATIONS .....	18

## APPENDICES

Appendix “A”	Receivership Order dated June 10, 2021
Appendix “B”	Sale Process
Appendix “C”	Redacted Stalking Horse Bid
Appendix “D”	Auction Process
Appendix “E”	Redacted Asset Purchase Agreement
Appendix “F”	Receiver’s Statement of Receipts and Disbursements

## CONFIDENTIAL APPENDICES

Confidential Appendix “A”	Sales Process
Confidential Appendix “B”	Stalking Horse Bid
Confidential Appendix “C”	Asset Purchase Agreement

## INTRODUCTION AND BACKGROUND

1. On June 10, 2021 (“**Date of Appointment**”), upon the application of 1951584 Ontario Inc. d.b.a Maxium Financial Services (“**Maxium**”), MNP Ltd. (“**MNP**”) was appointed as receiver and receiver and manager (the “**Receiver**”) over all of the assets, property and undertaking of Pulse RX Inc. (“**Pulse**”) and Family Pharmacy Clinic Inc. (“**Family Pharmacy**”, and together with Pulse, the “**Companies**”) by Order of the Ontario Superior Court of Justice (the “**Court**”), a copy of which is attached hereto as **Appendix “A”** (the “**Receivership Order**”).
2. The Receivership Order together with other publicly available information have been posted to the Receiver’s website (the “**Case Website**”), which can be found at: <https://mnpdebt.ca/PulseRx>. The Receiver has posted its contact information on the Case Website so that interested parties may contact the Receiver if they have questions with respect to the receivership proceedings.
3. Pulse, incorporated on January 27, 1936 under the name Harbord Pharmacy Limited, carries on business as a pharmacy from rented premises located at 111 Zenway Blvd. Suite 3, Woodbridge, ON (the “**Premises**”). The business of the Companies focuses on servicing long term care and retirement residences. As of the date of the Receivership Order, Pulse had four separate service contracts in place with four long term care and retirement residences located in Toronto (the “**Service Contracts**”). Two of the Service Contracts are with the Rekai Centres (“**Rekai Centres**”), a non-profit, charitable corporation that owns and operates two Long-Term Care facilities in downtown Toronto (the “**Rekai Contracts**”). The Service Contracts with the Rekai Centres represented a material source of revenue for the Pulse business.
4. Pulse is a wholly owned subsidiary of Family Pharmacy. Family Pharmacy was incorporated on May 27, 2004. The Companies are corporations incorporated pursuant to the laws of the Province of Ontario, with their registered offices at the Premises.
5. Pulse’s assets consist primarily of inventory, accounts receivable, the Service Contracts (collectively, the “**Business Assets**”) and the charter/ articles of incorporation (the “**Pulse**

**Charter**”). Given the date of Pulse’s incorporation, Pulse is considered a “Pre-1954 Charter Company”, as contemplated under Section 142(4) of the *Drug and Pharmacies Regulations Act* (Ontario) (the “**Pharmacies Act**”). Under the Pharmacies Act, no corporation shall own or operate a pharmacy unless a majority of the shares of the corporation are owned by and registered in the name of a pharmacist. However, pursuant to section 142(4) of the Pharmacies Act, this requirement does not apply to a corporation operating a pharmacy prior to May 1954.

6. Martin Kusmirek (hereafter “**Mr. Kusmirek**”) is the President and sole officer of Pulse and Thelma Sarsam (“**Ms. Sarsam**”) is the sole director.
7. Mr. Kusmirek is the sole officer and director of Family Pharmacy.
8. Based on the information available to the Receiver, the following chart summarizes Pulse’s secured indebtedness as at the date of the Receivership Order to each of Maxium, National Pharmacy (as defined below), LPG Pharmaceutical Advisors Inc. and McKesson Canada Corporation (collectively, the “**Secured Creditors**”):

Secured Creditor	Estimated Claim
McKesson Canada Corporation	\$4,666
National Pharmacy	\$1,400,000
Maxium	\$969,691
LPG Pharmaceutical Advisors Inc.	\$1,600,000

9. Based on the information available to the Receiver, the following chart summarizes Family Pharmacy’s secured indebtedness as at the Date of Appointment:

Secured Creditor	Estimated Claim
Maxium	\$969,691

## PURPOSE OF THIS REPORT

10. The purpose of this report (the “**Report**”) is to, *inter alia*,
- i) describe the Receiver’s activities since the granting of the Receivership Order;
  - ii) summarize the sale process implemented by the Receiver for the assets of Pulse, which sale process consists of a two-pronged process: (i) a stalking horse sale process for the Business Assets; and (ii) a non-stalking horse sale process for the Pulse Charter (the “**Sale Process**”);
  - iii) summarize an agreement of purchase and sale dated November 25, 2021 (the “**Purchase Agreement**”) executed by 2047944 Ontario Inc. d.b.a. National Pharmacy (“**National Pharmacy**”) as purchaser (the “**Purchaser**”) pursuant to which National Pharmacy will acquire the Business Assets (and not the Pulse Charter); and
  - iv) support the request that this Court issue an order, *inter alia*:
    - a. approving the Sale Process *nunc pro tunc*;
    - b. approving the steps taken by the Receiver in connection with the Sale Process;
    - c. approving, and authorizing the Receiver to enter into the Purchase Agreement and authorizing the Receiver to complete the transaction for the purchase and sale of the Business Assets as contemplated therein (the “**Transaction**”);



- d. vesting title in the Business Assets to the Purchaser free and clear of all claims and encumbrances upon closing of the Transaction;
- e. approving the Receiver's activities to date, including the Receiver's Interim Statement of Receipts and Disbursements;
- f. approving the sealing of confidential appendices to the First Report; and
- g. such other relief as the Court deems just.

## TERMS OF REFERENCE

- 11. In preparing this Report and making the comments herein, the Receiver has relied on the following information with respect to the Companies: (i) information provided by Maxium and its counsel; (ii) information provided by Canada Revenue Agency ("CRA"); (iii) information provided by the Companies; and (iv) information otherwise made available or provided to the Receiver and/or its counsel (collectively, referred to as the "**Information**").
- 12. Except as described in this Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada.
- 13. Capitalized terms not defined in this Report are as defined in the Receivership Order. All references to dollars are in Canadian currency unless otherwise noted.

## RECEIVER'S OPERATIONS

### *Operational Issues and Stabilizing the Business*

- 17. The Receiver initially retained the Employees to assist the Receiver, including Ms. Sarsam in her capacity as the Designated Manager.
- 18. pregnant and due to deliver in October 2021. To address Mr. Sarsam's impending leave, the Receiver solicited a pharmacist that could act as a custodian pharmacist and serve as

Designated Manager to Pulse. In addition to its cash flow constraints and limited human resources, much of Pulse's physical equipment is old, outdated and unsupported. Each of these factors posed a risk of the Receiver being unable to deliver the services required under the Service Contracts.**Dealings with Mr. Kusmirek**

20. Following the appointment of the Receiver, Mr. Kusmirek was initially cooperative in providing the Receiver with the information it requested. Mr. Kusmirek was also willing to assist the Receiver, provided he was remunerated for such services.
21. During the pendency of the receivership however, Mr. Kusmirek became unresponsive to the Receiver's repeated requests for assistance or information, including for the books and records of the Companies, and passwords. In addition, historical financial information obtained has been very limited information as the Companies have not filed tax returns in years. Invoicing to patients/clients for uninsured services and products were also well behind.

### **Stabilizing Operations**

22. shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, contract, agreement with the Companies without written consent of the Receiver or leave of this Court. Notwithstanding this provision and in order to preserve the value of the Service Contracts, the Receiver considered it imperative that there be continuity of service under the Service Contracts. Ensuring continuity required a two-pronged approach. First, the Receiver needed to facilitate continuity in the operations of Pulse during the receivership, and secondly, the Receiver needed to develop a plan promote an orderly transition of Pulse's business, including the Service Contracts to a credible service provider in order to provide comfort to Pulse's customers that there would not be an interruption of supply of goods or services from Pulse as a result of the receivership. On June 22, 2021, the Receiver was approached by CareRx Pharmacy Corp. ("**CareRx**"), a large provider of pharmacy services to the long-term care sector and other congregate care settings in Canada, serving over 56,000 residents in over 950 facilities across Canada. Following execution of a non-disclosure agreement, the Receiver and CareRx engaged in discussions with a view to CareRx acting as a stalking horse bidder in respect to the

Business Assets (the “**Stalking Horse Purchaser**”). In the midst of negotiating the terms of a stalking horse agreement with CareRx, on July 23, 2021, CareRx advised the Receiver that a counter party to two of the Service Contracts- the Reikai Centres- had issued a request for proposals (“**RFP**”) in order to source a replacement provider for the pharmaceutical services provided by Pulse to the Reikai Centres. Given the RFP commenced by the Reikai Centres, which RFP the Receiver believed to be contrary to the Receivership Order, discussions concerning a stalking horse bid were put in abeyance while the Receiver addressed the RFP and other issues relating to the Reikai Contracts as described in more detail below. **Relationship with the Reikai Centres**

26. Under the Reikai Contracts, Pulse was retained as the exclusive provider of pharmaceutical services for the Reikai Centres. The Reikai Contracts each had an initial term of five years. and provided for an automatic renewal for additional five-year periods.
- i) suspended the RFP;
  - ii) the Receiver hiring a new pharmacy manager for the Pulse business, including carrying out Pulse’s obligations under the Reikai Contracts;
  - iii) CareRX be designated as the Stalking Horse Purchaser for the Business Assets, including the Reikai Contracts;
  - iv) revised the Reikai Contracts, including the scope of services to be provided by any purchaser of the Business Assets;
  - v) the Sale Process for the Business Assets contain a requirement that any submitted bid contain at least the scope of services being offered to the Reikai Centres by the Stalking Horse Purchaser as part of its bid; and
  - vi) the Sale Process for the Business Assets contain a condition that the Reikai Centres not object to a bid being designated by the Receiver as the “Successful Bid”, as such term is defined by the Sale Process.
29. The aforementioned negotiations with the Reikai Centres delayed the commencement of a marketing and sale process initially planned by the Receiver.

### **Retention of a New Pharmacy Manager**

30. The Receiver's search for a custodian pharmacist was not fruitful. The Receiver, having regard to concerns raised by the Reikai Centres, Ms. Sarsam's impending maternity leave, Mr. Kusmirek's lack of cooperation and the need to sustain and stabilize Pulse's business operations during the Sale Process, commenced immediate negotiations with National Pharmacy, a secured creditor of the Companies, to have National Pharmacy act as consultant to the Receiver in carrying on Pulse's business.
31. In the circumstances, including the short timeline the Receiver had to stabilize the business in order to preserve value during the Sale Process, National Pharmacy was viewed by the Receiver as the logical party to serve as a consultant. National Pharmacy was already familiar with Pulse's business given that it was a secured creditor and that it had, in recent years, previously acquired Pulse's customer contracts in the Ottawa area. National Pharmacy also had sufficient resources and expertise available to it to service the needs of Pulse's customers, including the Reikai Centres and could provide a pharmacist that could serve in the capacity as Pulse's Designated Manager upon Ms. Sarsam's leave.
32. On September 2, 2021 the Receiver entered into a non-exclusive consulting and management services contract with National Pharmacy (the "**National Consulting Agreement**") and during the month of September 2021, management of the operations of Pulse were transitioned to the care of National Pharmacy.
33. The salient terms of the National Consulting Agreement are summarized below:
  - i) Monthly fee of \$20,000; and
  - ii) provision by National Pharmacy with the oversight of the Receiver, of clinical services as well as

#### **MARKETING EFFORTS OF THE RECEIVER**

34. After stabilizing Pulse's business operations by, among other things, entering into the National Consulting Agreement and reaching settlement terms with the Reikai Centres, the Receiver resumed its efforts to conduct the Sale Process.
35. In designing an appropriate sale process, the Receiver weighed the following factors as it related to the Business Assets and the Pulse Charter:

- i) the potential buyer group for each category of asset;
- ii) the period required to fully expose each asset category to the market and to maximize recovery; and
- iii) other business considerations relevant to the development of the Sale Process.

36. As noted above, in respect of the Business Assets, the Receiver considered that:

- i) the Rekai Centres and other Pulse customers required a quick and timely transition to a stable service provider to deliver patient-centered care;
- ii) a need to solicit interest from established pharmacy operators that were approved by the Rekai Centres in order for the Receiver to be able to transfer the Service Contracts consensually;
- iii) potential purchasers need to be existing players in the industry and have the means of delivering high quality health care satisfactory to the Rekai Centres;
- iv) the limited number of parties invited by the Rekai Centres to participate in the RFP and the Rekai Centres' preference that its future pharmacy service provider be a larger player in the sector;
- v) the familiarity of the RFP parties and National Pharmacy with the Rekai Centres' business needs would minimize the due diligence period required to carry out the Stalking Horse Sale Process;
- vi) the Stalking Horse Bidder was not interested in acquiring the Pulse Charter;
- vii) the inherent risks associated with continuing Pulse's business given the nature of its business and the aging infrastructure for an extended period; and
- viii) the costs of the continuing the business in the receivership for an extended period were going to be in excess of any benefits.

37. In respect of the Pulse Charter, the Receiver considered:

- i) the field of potential purchasers (which largely included non-pharmacy entities) is wider and different than those pursuing the opportunity to acquire the Business Assets;
- ii) the cost associated with running a lengthier Sale Process in respect of the Pulse Charter would be minimal; and
- iii) the nature and scope of advertising of the Pulse Charter. The opportunity to acquire the Pulse Charter, and thereby enter into the pharmacy industry,

necessarily required a lengthier sale process to maximize advertising and awareness of the opportunity.

38. After considering the foregoing, the Receiver consulted with the material Secured Creditors concerning the Sale Process, recommending the following:
- i) the Stalking Horse Sale Process in respect of the Business Assets; and
  - ii) a lengthier non-stalking horse sale process for the Pulse Charter.
39. A copy of the Sale Process implemented by the Receiver and given to all prospective bidders is attached hereto as **Confidential Appendix “A”**. A redacted copy is attached hereto as **Appendix “B”**.
40. As part of the Sale Process for the Business Assets and in accordance with the terms of the Sale Process, on October 13, 2021, the Receiver entered into a Stalking Horse Asset Purchase Agreement with CareRx for the purchase of the Business Assets (the “**Stalking Horse Bid**”), a copy of which is attached hereto as **Confidential Appendix “B”**. A redacted copy is attached hereto as **Appendix “C”**. The Stalking Horse Bid would serve as the minimum baseline for the terms and consideration for the Business Assets.

### ***Stalking Horse Sale Process***

41. On October 15, 2021 the Receiver commenced a 28-day Sale Process for the Business Assets. As stipulated in the Sale Process, offers for the Business Assets were to be submitted to the Receiver by no later than 5:00 PM on November 12, 2021 (the “**Business Assets Due Date**”), along with a deposit of fifteen percent of the offer price. The Sale Process for the Business Assets is summarized as follows:
- (a) the Receiver prepared a process summary (the “**Teaser Letter**”) describing the sales opportunity, outlining the minimum Stalking Horse Bid and inviting recipients of the Teaser Letter to express their interest pursuant to the terms of the Sale Process;
  - (b) the Receiver prepared a non-disclosure and confidentiality agreement (an “**NDA**”) for execution by interested potential purchasers;
  - (c) the Receiver gathered and reviewed all diligence materials that it determined to be relevant to interested parties and established a secure, electronic data room (the “**Data**

**Room**”), which was maintained and administered by the Receiver throughout the Sale Process;

- (d) the Receiver prepared a list of five potential interested parties including the parties within the RFP and National Pharmacy (each a “**Potential Bidder**”). Each Potential Bidder was considered by the Receiver to be an established pharmacy capable of meeting the needs of Pulse’s customers;
  - (e) the Receiver sent the Teaser Letter and NDA to the Potential Bidders;
  - (f) the Receiver provided the three Potential Bidders who had executed the NDA with access to the Data Room, which included among other items, the Stalking Horse Bid, copies of the Service Contracts and a template of the new service contract to be executed by the successful bidder and the Rekai Centres upon closing of the transaction; and
  - (g) on November 8, 2021, the Receiver sent a reminder to Potential Bidders of the Business Assets Due Date.
42. As at the Business Assets Due Date, in addition to the Stalking Horse Bid, the Receiver received one offer from National Pharmacy. Earlier that day, another Potential Bidder advised the Receiver that it would like to submit an offer but would be unable to provide the required deposit and executed offer by the Business Assets Due Date. As the Receiver had contacted that Potential Bidder earlier in the week to remind it of the Business Assets Due Date and given that no valid reason was provided for not being able to comply with the Business Assets Due Date or the terms of the Sale Process, the Receiver did not make an exception to the compliance required pursuant to the terms of the Sale Process.
43. On November 17, 2021 the Receiver notified the Stalking Horse Bidder and National Pharmacy that it would commence an auction for the Business Assets on November 22, 2021 at 9:00 AM and the Receiver provided both bidders with the terms of the auction process (the “**Auction Procedure**”), a copy of which is attached hereto as **Appendix “D”**.

44. The auction was held on November 22, 2021 and resulted in an increase of \$195,000 over the previous highest offer. The winning bid was submitted by National Pharmacy. The salient terms of the Purchase Agreement are:
- i) **Inventory:** In addition to the base purchase price, National Pharmacy shall pay 75% of the invoice price of the Inventory (as defined in the Purchase Agreement) paid for by Pulse;
  - ii) The purchase of the Business Assets included the following:
    - a. Service Contracts;
    - b. Patient Records;
    - c. Goodwill;
    - d. Purchased Inventory and Supplies; and
    - e. Books and Records;
  - iii) **Excluded Assets:** cash, receivables, the Pulse Charter, equipment, the excluded inventory,<sup>1</sup> intellectual property, IT systems, tax refunds, books and records that do not relate to the Business Assets;
  - iv) **As Is, Where Is:** the Business Assets are being acquired on an “as is, where is” basis;
  - v) **Conditions:** issuance of the Approval and Vesting Order and the Purchaser agreeing to provide the services listed as part of Schedule D to the Purchase Agreement to the Reikai Centres, which services form the Reikai Contracts to be assumed by the Purchaser.
45. In accordance with the Sale Process and Auction Procedure, an additional deposit was promptly submitted to the Receiver and an amended Purchase Agreement was submitted by National Pharmacy to reflect the winning bid accepted by the Receiver, subject to approval by the Court. The Purchase Agreement is attached hereto as **Confidential Appendix “C”**. A redacted copy of that agreement is attached hereto as **Appendix “E”**.

---

<sup>1</sup> Under the Purchase Agreement, Excluded Inventory and Supplies means any inventories of products and medications including raw materials, supplies, packaging, work in process and finished goods related to the Business which (a) are sold or otherwise disposed of during the Interim Period in the Ordinary Course, (b) are listed on the Excluded Assets Schedule, or (c) are expired or otherwise unusable, obsolete, damaged, worn, defective or unsaleable goods, broken as of the Closing Date or packages and Rx (prescription) merchandise with an expiry date less of than six months after the Closing Date or that are liquid and contained in an open vial or bottles



46. The Receiver recommends the Court approve the Transaction contemplated by the Purchase Agreement for the following reasons:
- a. the duration of the Sale Process for the Business Assets was sufficient to allow interested parties an opportunity to perform due diligence and submit offers. During the Sale Process, the Receiver undertook extensive (and ultimately successful) effort to maximize value for the Business Assets, including by implementing the Auction;
  - b. customers of Pulse require the stability of a completed transaction to ensure that the long-term care homes have consistent access to pharmaceuticals;
  - c. the Transaction provides for a fair market price for the Business Assets; and
  - d. there has been no unfairness in conducting the Sale Process, and all qualified bidders were given the opportunity to submit a bid.

#### *Charter Sale Process*

47. On October 15, 2021, the Receiver commenced the Sale Process for the Charter, a 49-day sale process to solicit purchasers for the Pulse Charter. As stipulated in the Sale Process, offers for the Pulse Charter were due to be provided to the Receiver by no later than 5:00 PM on December 3, 2021 (the “**Charter Offer Due Date**”), along with a deposit of fifteen percent of the offer price.
48. The Sale Process for the Pulse Charter is summarized as follows:
- (a) the Receiver prepared a process summary (the “**Charter Teaser Letter**”) describing the opportunity, outlining the Sale Process, and inviting recipients of the Charter Teaser Letter to express their interest pursuant to the terms of the Sale Process;
  - (b) the Receiver prepared a non-disclosure and confidentiality agreement (an “**NDA**”) for execution by interested potential purchasers;
  - (c) the Receiver gathered and reviewed all due diligence materials that it determined to be

relevant to interested parties and established a secure, electronic data room (the “**Charter Data Room**”), which was maintained and administered by the Receiver throughout the Sale Process;

- (d) the Receiver prepared a list of 28 potential interested parties (each a “**Charter Potential Bidder**”);
- (e) the Receiver sent the Charter Teaser Letter and NDA to all Charter Potential Bidders and to any other parties who responded to the Advertisement or Notice (as defined below) or otherwise approached the Receiver and were deemed to be qualified Charter Potential Bidders;
- (f) In addition to the sending the Charter Teaser Letter to the Charter Potential Bidders, the Receiver:
  - a. Delivered the Charter Teaser Letter to 60 lawyers focusing their practices to clients in the health care sector and to representatives of the larger accounting firms to enable them to share the opportunity with their clients;
  - b. On October 20, 21 and 28, 2021, published notice of the opportunity in Canadian Health Care Magazine’s newsletters directed to doctors, healthcare managers and Pharmacy practitioners, respectively (the “**Advertisement**”);
  - c. Published notice of the opportunity in Insolvency Insider newsletter between October 25 2021 and November 29, 2021 (the “**Notice**”);
- (g) the Receiver provided all Charter Potential Bidders who had executed the NDA with access to the Charter Data Room, which included among other items, copies of the minute books, share register, articles of incorporation and tax records; and
- (h) on November 26, 2021, the Receiver sent a reminder to Charter Potential Bidders of the Charter Offer Due Date and contacted the Charter Potential Bidders to see if they have any additional queries.

49. The Receiver is in the process of consulting with the Secured Creditors with respect to the results of the Charter Sale Process. The Receiver will seek approval of any sale related to the Pulse Charter as part of a further motion to Court in these proceedings.

#### **SEALING OF CONFIDENTIAL INFORMATION**

50. The Receiver is of the view that the Stalking Horse Bid and Purchase Agreement included in the Confidential Appendices should be filed with the Court on a confidential basis and sealed until the completion of the Transaction. The Receiver does not believe that any party will be prejudiced if the information is sealed at this time. Accordingly, the Receiver believes the proposed sealing order is appropriate.
51. The Receiver has filed unredacted versions of Stalking Horse Bid and Purchase Agreement with the Court as Confidential Appendices to provide the Court with the benefit of the information to allow the Court to determine whether it should approve the Stalking Horse Bid and Purchase Agreement.
52. The Receiver is of the view that its approach aligns with the purpose of the Sale Process and the interests promoted thereby, is fair and reasonable in the circumstances, and will achieve the desired benefit without unduly impairing the openness of the Court's process.

#### **CANADA REVENUE AGENCY**

53. Pulse has a history of non-compliance with CRA. As mentioned above, tax filings with CRA are in arrears. The last corporate tax return filed was for the fiscal year ended December 31, 2014 and there are approximately forty-eight outstanding monthly HST returns to the Date of Appointment.
54. As of August 19, 2021, CRA had assessed the outstanding liability of Pulse with respect to unremitted payroll deduction at \$774,517 to December 31, 2019, of which \$327,842 represents a deemed trust claim. A further assessment is expected with respect to the years 2020 and 2021 to the Date of Appointment.

55. The Receiver has reviewed the corporate tax assessments that it received from CRA with respect to the fiscal 2013 and 2014 year ends and notes that as at December 31, 2013 there appears to be cumulative tax losses of \$1,034,438. The Receiver is unaware as to the carry-forward expiration dates of those losses and does not have sufficient information available to it to prepare financial statements or corporate tax returns for the period January 1, 2015 through to the date of Receivership and is seeking a waiver of its requirement to file the returns from CRA.
56. The Receiver intends on filing the outstanding HST returns based on its future review of the Companies' bank statements. Pulse's sales and purchases of pharmaceutical product are largely zero-based, and accordingly, the Receiver expects Pulse to be in a refund position vis-à-vis HST in respect to the input tax credits it may claim for its overhead expenses.

#### **STATEMENT OF RECEIPTS AND DISBURSEMENTS**

57. The Receiver has prepared a statement of receipts and disbursements (the "**R&D**") showing all receipts and disbursements from the Date of Appointment through to December 6, 2021. A copy of the R&D is attached as **Appendix "F"**.
58. The R&D reflects receipts over disbursements of \$17,981, however does not reflect certain unpaid obligations including payment of the Receiver's fees and expenses. The R&D also does not reflect the deposits paid to the Receiver by CareRx and National Pharmacy.
59. Prior to starting her maternity leave, Ms. Sarsam requested payment of her accrued vacation pay in the amount of approximately \$19,506. The Receiver advised Ms. Sarsam that her claim for vacation pay did not rank prior to the claims of the Secured Creditors due to her being Pulse's sole director. Ms. Sarsam took the position that her employment contract treated her as an employee notwithstanding her being a director and that her directorship was merely to facilitate a regulatory requirement imposed by the Ontario College of Pharmacists. After considering the issue with the Secured Creditors, including the relatively nominal amount in dispute, the Receiver paid Ms. Sarsam her alleged vacation pay.

60. The Receiver will address the security registrations and distribution of the proceeds of the Transaction at a later date, following the completion of the Sale Process for the Pulse Charter.

### CONCLUSIONS AND RECOMMENDATIONS

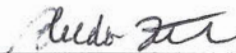
61. Based on the foregoing, the Receiver respectfully recommends that the Court make an order granting the relief detailed in paragraph 10.

All of which is respectfully submitted on this 8th day of December, 2021.

**MNP LTD.**

in its capacity as Court Appointed Receiver of  
Pulse RX Inc. and Family Pharmacy Clinic Inc.

Per:



---

Sheldon Title

# **EXHIBIT “A”**

Court File No. CV-21-00661434-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE	)	THURSDAY, THE 10TH
	)	
MR. JUSTICE MCEWEN	)	DAY OF JUNE, 2021

**1951584 ONTARIO INC. DBA MAXIUM FINANCIAL SERVICES**

Applicant

– and –

**PULSE RX INC. AND FAMILY PHARMACY CLINIC INC.**

Respondents

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985, c. B-3 AS AMENDED AND SECTION 101 OF  
THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED**

**RECEIVERSHIP ORDER**

**THIS APPLICATION**, made by 1951584 Ontario Inc. dba Maxium Financial Services (the “**Applicant**”) for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), appointing MNP Ltd. (“**MNP**”) as receiver and

- 2 -

manager (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of both Pulse RX Inc. and Family Pharmacy Clinic Inc. (collectively, the “**Debtors**” and, individually, a “**Debtor**”) acquired for, or used in relation to businesses carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario by videoconference in light of the COVID-19 crisis.

**ON READING** the affidavit of Benjamin Wyett sworn April 7, 2021, and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, and those other parties present as indicated on the counsel sheet, and on reading the consent of MNP to act as the Receiver,

### **SERVICE**

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

### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, MNP is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of both of the Debtors acquired for, or used in relation to businesses carried on by the Debtors, including but not limited to the provision of pharmaceutical services under the business name “Pulse RX LTC Pharmacy”), and including all proceeds thereof (collectively, the “**Property**”).

### **RECEIVER’S POWERS**

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;



- 3 -

- (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the businesses of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the businesses, or cease to perform any contracts of the Debtors;
- (d) to engage pharmacists, consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the businesses of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors, or either of them, and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by any of the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to either or both of the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of any of the Debtors or "Pulse RX LTC Pharmacy", for any purpose pursuant to this Order;

- 4 -

- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to any of the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
  - (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
  - (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
    - (i) without the approval of this Court in respect of any transaction not exceeding \$75,000.00, provided that the aggregate consideration for all such transactions does not exceed \$300,000.00; and
    - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, shall not be required.
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
  - (m) to summarily dispose of Property that is perishable or likely to depreciate rapidly in value;
  - (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the

- 5 -

receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of either or both of the Debtors;
- (q) to enter into agreements with any licensed insolvency trustee appointed in respect of either of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by either of the Debtors;
- (r) to exercise any shareholder, partnership, joint venture or other rights which either of the Debtors may have;
- (s) to contact, make any necessary inquiries and obtain information pertaining to either of the Debtors from the Ontario College of Pharmacists, the Ministry of Health and Long-Term Care, the Ontario Drug Benefit Program and any insurance company;
- (t) to inquire into and report to the Applicant, 2047944 Ontario Inc. (dba National Pharmacy), LPG Pharmaceutical Advisors Inc. and the Court on the financial condition of either or both of the Debtors and the Property;
- (u) to file an assignment in bankruptcy on behalf of either or both of the Debtors; and
- (v) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

**DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. **THIS COURT ORDERS** that (i) the Debtors, (ii) all of the Debtors' respective current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on the instructions or behalf of either or both of the Debtors, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order, including, but not limited to the Ontario College of Pharmacists, the Ministry of Health and Long-Term Care, the Ontario Drug Benefit Program and any insurance company (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any client records and prescription information ("**Client Records**"), books, documents, securities, contracts, orders, billing privileges, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of either or both of the Debtors, 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, subject to paragraph 6 herein, provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that, should the Receiver deem it necessary to seek from any insurance company or its pharmacy benefits manager personal information regarding persons covered pursuant to benefit plans which might have had claims under such plans relating to the Debtors or "Pulse RX LTC Pharmacy", such information shall be sought pursuant to a motion on notice to the insurance company and its pharmacy benefits manager. Such information shall

- 7 -

only be released by the insurance company or its pharmacy benefits manager on the agreement of such insurance company or as provided in the Order so obtained.

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

8. **THIS COURT ORDERS** that with respect to Client Records, the Receiver shall: (i) take all steps reasonably necessary to maintain the integrity of the confidential aspects of the Client Records; (ii) if necessary, appoint a pharmacist licensed and qualified to practice in the Province of Ontario to act as custodian (the “**Custodian**”) for the Client Records; (iii) not allow anyone other than the Receiver or the Custodian to have access to the Client Records; and (iv) allow Pulse RX Inc. supervised access to the Client Records for any purposes required pursuant to the *Regulated Health Professions Act, 1991*, the *Pharmacy Act, 1991* or any other governing Ontario or Canadian statute that requires Pulse RX Inc., from time to time, to perform certain obligations.

9. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court

upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

10. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

11. **THIS COURT ORDERS** that no Proceeding against or in respect of either or both of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of either of the Debtors or the Property, other than the action commenced by the Applicant as against the Debtors and others before the Superior Court of Justice at Newmarket bearing Court File No. CV-20-00003321-0000, are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

12. **THIS COURT ORDERS** that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or either of the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, (iv) prevent the registration of a claim for lien, or (v) exempt the Receiver or either of the Debtors from inspection pursuant to section 14 of the *Ontario Drug Benefit Act*.

**NO INTERFERENCE WITH THE RECEIVER**

13. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by either or both of the Debtors, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

14. **THIS COURT ORDERS** that all Persons having oral or written agreements with either or both of the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, claims processing services, payment processing services, payroll services, insurance, transportation services, utility or other services to either or both of the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the applicable Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

15. **THIS COURT ORDERS** that, without limiting the generality of paragraph 14 herein, no insurer providing insurance to either or both of the Debtors or its directors or officers shall terminate or fail to renew such insurance on the existing terms thereof provided that such insurer is paid any premiums, as would be paid in the normal course, in connection with the continuation or renewal of such insurance at its current prices, subject to reasonable annual increases in the ordinary course with respect to such premiums.

**RECEIVER TO HOLD FUNDS**

16. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the

collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## **EMPLOYEES**

17. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the applicable Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

18. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, and any other applicable privacy legislation, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.



- 11 -

19. **THIS COURT ORDERS** that, pursuant to section 42 of the Ontario *Personal Health Information Protection Act* (“**PHIPA**”), the Receiver shall only disclose personal health information to prospective purchasers or bidders who are potential successor(s) to the pharmacy business of Pulse RX Inc. (the “**Pharmacy**”) as Health Information Custodian(s) (as defined in the PHIPA) for the purposes of allowing the potential successor to assess and evaluate the operations of the Pharmacy. Each potential successor to whom such personal health information is disclosed is required in advance of such disclosure to review and sign an acknowledgment of this Order indicating that it agrees to keep the information confidential and secure and not to retain any of the information longer than is necessary for the purposes of the assessment or evaluation, and if such potential successor does not complete a Sale, such potential successor shall return all such information to the Receiver, or in the alternative shall destroy all such information and provide the Receiver with confirmation of such destruction. Such acknowledgment shall be deemed to be an agreement between the Receiver and the potential successor for the purposes of section 42 of the PHIPA.

20. **THIS COURT ORDERS** that the Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in complete custody or control of records of personal health information held by the Debtors, or any of them, for the purposes of PHIPA, unless it is actually in complete custody or control of such records of personal health information.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

21. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property or any of either or both of the Debtors’ other assets, property or undertaking, including (without limitation) property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational*

*Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or to make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER’S LIABILITY**

22. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER’S ACCOUNTS**

23. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

25. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

26. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

27. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

28. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

29. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

**SERVICE AND NOTICE**

30. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission.

31. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors, or either of them, and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

**GENERAL**

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

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

34. **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

- 15 -

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.

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

36. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estates with such priority and at such time as this Court may determine.

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

38. **THIS COURT ORDERS** that the Receiver, its counsel and counsel for the Applicant are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to any creditors of the Debtors or any other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SORS/DORS).



---

- 16 -

**SCHEDULE "A"**

## RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that MNP Ltd., the receiver and manager (in such capacities, the "**Receiver**") of the assets, undertakings and properties of Pulse RX Inc. and Family Pharmacy Clinic Inc. (collectively, the "**Debtors**", and, individually, a "**Debtor**") acquired for, or used in relation to a business carried on by either or both of the Debtors, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Order**") made in an action having Court file number CV-21-00661434-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

- 17 -

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

MNP Ltd., solely in its capacity  
as the court-appointed receiver and manager of  
the property and assets of Pulse RX Inc. and  
Family Pharmacy Clinic Inc., and not in its  
personal capacity

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

Name:

Title:

1951584 ONTARIO INC., APPLICANT – AND –  
PULSE RX INC. et al., RESPONDENTS

AND IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE  
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED

10 June 21

The Order shall go as per the draft filed and signed. None of the creditors oppose the relief sought although there may be further disputes between them vis a vis security issues.

The Respondents did not attend despite being properly served and acknowledging service.

The appointment of the Receiver, and the terms of the Order are fair and reasonable. The Respondents have long been in default. The provisions of the BIA have been met and the GSA allows for the appointment of a Receiver.

A default judgment has also been obtained against the Respondents in another action.



ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceeding commenced at Toronto

RECEIVERSHIP ORDER



- 2 -

**WILSON VUKELICH LLP**  
Barristers and Solicitors  
60 Columbia Way, 7th Floor  
Markham, Ontario  
Canada L3R 0C9

**Christopher A.L. Caruana** LSO#: 39377U  
ccaruana@wvllp.ca  
**Evan Ivkovic** LSO#: 73867H  
eivkovic@wvllp.ca

Tel: (905) 940-8700

Lawyers for the Applicant

# **EXHIBIT “B”**

## Stalking Horse Sale Process

### Recitals

1. On June 10, 2021, pursuant to an order (the “**Receivership Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), MNP Ltd. was appointed as receiver and receiver and manager (the “**Receiver**”), without security, of all of the assets, undertakings and properties of Pulse RX Inc. (“**Pulse**”) and Family Pharmacy Clinic Inc. (together with Pulse, the “**Companies**”) acquired for, or used in relation to a business carried on by the Companies, including the charter or articles of incorporation of Pulse (the “**Pulse Charter**”). Pulse is a “Pre-1954 Charter Company”, as contemplated in Section 142(4) of the *Drug and Pharmacies Regulations Act* (Ontario), being originally incorporated on January 27, 1936 as Harbord Pharmacy Limited.
2. Pursuant to the Receivership Order, the Receiver is authorized to market any or all of the assets of the Companies (the “**Assets**”) and the shares in the capital of Pulse (the “**Shares**”), including advertising or soliciting offers in respect of any and all such Assets and Shares or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver may deem appropriate.
3. The Receiver will be entering into a Stalking Horse Asset Purchase Agreement with CareRX Pharmacy Corp. (the “**Stalking Horse Purchaser**” and the “**Stalking Horse Agreement**”), pursuant to which the Stalking Horse Purchaser has agreed to acquire certain of the Assets, including the customer contracts and select inventory but specifically excluding the Shares.
4. Set forth below is the sale process (the “**Sale Process**”) to be employed with respect to the proposed sale of the Assets and/or the Shares (as defined herein) of the Companies. The purpose of the Sale Process is to seek offers for the purchase of: (i) all the Assets of Pulse other than the Pulse Charter (the “**Stalking Horse Assets**”) for an amount and on terms which are superior to the transaction contemplated by the Stalking Horse Agreement (the “**Stalking Horse Bid**”); and (ii) the Shares of Pulse in order to acquire the Pulse Charter (the “**Charter Asset**”).
5. The Sale Process, and any orders of the Court made in the proceedings relating to the Sale Process, shall exclusively govern the process for soliciting and selecting bids for the sale of the Stalking Horse Assets and the Charter Asset (each, a “**Transaction**”).
6. All capitalized terms contained herein, but not otherwise defined herein, shall have the meanings ascribed thereto in the Stalking Horse Agreement to which this schedule is appended.
7. Unless otherwise indicated herein, any event that occurs on a day that is not a Business Day shall be deemed to occur on the next Business Day (a “**Business Day**” is any day, other than a Saturday or Sunday, on which banks are ordinarily open for business in Toronto, Ontario).

### Solicitation of Interest

8. The Receiver will prepare an initial offering summary notifying prospective purchasers of the existence of the Sale Process and inviting prospective purchasers of either the Stalking Horse Assets or the Charter Asset to express their interest in making an offer in respect of a Transaction pursuant to the terms of the Sale Process.

### Timeline

9. The following table sets out the key milestones under the Sale Process:

Milestone	Deadline
Publication of Notice re: Charter Asset only	As soon as practicable
Delivery of Teaser Letter and NDA	As soon as practicable
Bid Deadline for Stalking Horse Assets	30 Days following the Commencement of Sale Process
Bid Deadline for Charter Asset	45 Days following the Commencement of Sale Process
Schedule Approval Motion with the Court	As soon as reasonably practical following execution and delivery of Binding APA for Stalking Horse Assets or Binding APA for Charter Asset
The close of the Transaction under the Successful Bid	No later than 5 days following Court approval of the Successful Bid(s)

10. Subject to the terms contained herein, the dates set out in the Sale Process for the Stalking Horse Assets, the Charter Asset or both may be extended by the Receiver, acting reasonably, all with a view to completing a fair and reasonable offer for the Stalking Horse Assets and the Charter Asset.

*Pre-Marketing Stage*

11. As soon as reasonably practicable (the “**Sale Process Commencement**”):
- (a) the Receiver will prepare: (i) a process summary (the “**Teaser Letter**”) describing the Opportunity, outlining the process under the Sale Process and inviting recipients of the Teaser Letter to express their interest pursuant to the terms of the Sale Process; and (ii) a non-disclosure and confidentiality agreement with the Receiver (an “**NDA**”). The Teaser Letter will specifically stipulate that the Receiver makes no representations or warranties as to the accuracy or completeness of the information contained in the Teaser Letter, the Data Room, or made available pursuant to the Sale Process or otherwise, except to the extent expressly contemplated in any definitive sale agreement with a Successful Bidder (as defined below) ultimately executed and delivered by the

Receiver;

- (b) the Receiver will gather and review all due diligence materials, it determines to be relevant, to be provided to interested parties and shall establish a secure, electronic data room (the “**Data Room**”), which will be maintained and administered by the Receiver throughout the Sale Process; and
- (c) the Receiver will prepare a list of potential interested parties, (each a “**Potential Bidder**”).

#### *Marketing Stage*

- 12. As soon as reasonably possible after the Sale Process Commencement, the Receiver shall:
  - (a) arrange for a notice of the Sale Process (and such other relevant information as the Receiver considers appropriate) (the “**Notice**”) to be published in such newspaper(s) or journal(s) as the Receiver considers appropriate; and
  - (b) send the Teaser Letter and NDA to all Potential Bidders and to any other party who responds to the Notice as soon as reasonably practicable.

#### **Free of Any and all Claims and Interests**

13. Depending on the structure of the Transaction proposed by a Qualified Bidder (as defined herein), all of the Assets and/or Shares of the Companies shall be transferred free and clear of all liens and claims, subject to any permitted encumbrances, pursuant to an approval and vesting order issued by the Court approving the Transaction (the “**Approval and Vesting Order**”). For greater certainty, if required by the proposed Transaction, liens and claims will be discharged and any security interest will only attach to the net proceeds of such Transaction following the granting of the Approval and Vesting Order.

#### **“As Is, Where Is”**

14. Any purchase of the Assets and/or the Shares will be on an “as is, where is” basis without representations or warranties of any kind, nature or description by the Receiver or any of its respective directors, officers, partners, employees, agents, advisors or estates, except to the extent as may be set forth in a Binding APA (as defined herein) and approved by the Court. By submitting a bid, each Potential Bidder (as defined herein) shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Companies and its assets prior to making its bid, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and the Companies’ assets in making its bid, and that it did not rely upon any written or oral statements, representations, warranties or guarantees, express, implied, statutory or otherwise, regarding the Companies or its assets or the completeness of any information provided in connection therewith, except as expressly stated in this Sale Process or as set forth in a Binding APA and approved by the Court.

#### **Participation Requirements**

15. Each Potential Bidder must deliver to the Receiver, an executed NDA, in the form attached herein as Schedule “A”, prior to the distribution of any confidential information by the

Receiver. The Stalking Horse Purchaser in respect to the Stalking Horse Assets shall be deemed to be a Potential Bidder for the purposes of this Sale Process.

16. If it is determined by the Receiver that a Potential Bidder: (i) has a *bona fide* interest in pursuing a Transaction; and (ii) has delivered an executed NDA, then such Potential Bidder will be deemed to be a “**Qualified Bidder**”.

17. The Receiver will grant access to each Qualified Bidder, as soon as reasonably practicable, to the Data Room, which will provide, among other things, information considered relevant to the Sale Process, including in the case of a Qualified Bidder that desires to make a bid for the Stalking Horse Assets, the Stalking Horse Agreement.

### **Due Diligence**

18. The Receiver, subject to competitive and other business considerations, may give each Qualified Bidder such access to due diligence materials and information relating to the Companies as the Receiver deems appropriate. Due diligence access may include access to an electronic data room, on-site inspections and other matters which a Qualified Bidder may reasonably request and as to which the Receiver may agree. Neither the Receiver, nor any of its representatives will be obligated to furnish any information relating to the Companies to any person. The Receiver makes no representation or warranty, express or implied, as to the information provided through this due diligence process or otherwise, except as may be set forth in a Binding APA.

### **Binding APA Deadline**

19. A Qualified Bidder that desires to make a bid for the Stalking Horse Assets shall deliver written copies of its bid, in the form of the Stalking Horse Agreement, together with a blackline outlining all changes made to the Stalking Horse Agreement (the “**Binding APA for the Stalking Horse Assets**”). A Qualified Bidder that desires to make a bid for the Charter Asset shall deliver written copies of its bid, in the form of a template Share Purchase Agreement (the “**Template Share Purchase Agreement**”), together with a blackline outlining all changes made to the Template Share Purchase Agreement (the “**Binding APA for the Charter Asset**”, together with the Binding APA for the Stalking Horse Assets, the “**Binding APA**”).

20. A Binding APA for the Stalking Horse Assets must be submitted to the Receiver as follows: Attn: Sheldon Title, sheldon.title@mnp.ca, so as to be received by no later than November 12, 2021 at 5:00 p.m. (ET) (as may be extended as set out below, the “**Stalking Horse Binding APA Deadline**”). The Receiver may extend the Stalking Horse Binding APA Deadline, once or successively, but is not obligated to do so. If the Stalking Horse Binding APA Deadline is extended, the Receiver will promptly notify all Qualified Bidders.

21. A Binding APA for the Charter Asset must be submitted to the Receiver as follows: Attn: Sheldon Title, sheldon.title@mnp.ca, so as to be received by no later than December 12, 2021 at 5:00 p.m. (ET) (as may be extended as set out below, the “**Charter Asset Binding APA Deadline**”). The Receiver may extend the Charter Asset Binding APA Deadline, once or successively, but is not obligated to do so. If the Charter Asset Binding APA Deadline is extended, the Receiver will promptly notify all Qualified Bidders.

## Binding APA

22. A Binding APA must comply with all of the following:
- (a) the bid (either individually or in combination with other bids that make up one Binding APA) is an offer:
    - (i) to purchase some or all of the Stalking Horse Assets on terms consistent with the form of the Stalking Horse Agreement, together with all completed schedules thereto, and on conditions acceptable to the Receiver and delivered to the Receiver prior to the Stalking Horse Binding APA Deadline; or
    - (ii) to purchase the Shares including the Charter Asset on terms consistent with the form of the Template Share Purchase Agreement, together with all completed schedules thereto, and on conditions acceptable to the Receiver and delivered to the Receiver prior to the Charter Asset Binding APA Deadline;
  - (b) it is duly authorized and executed, and includes a purchase price for the Assets expressed in Canadian dollars (collectively, the “**Purchase Price**”):
    - (i) with respect to the Stalking Horse Assets, \$ [REDACTED] in Cash plus (i) a minimum incremental amount of \$5,000 in excess of the aggregate purchase price contemplated by the Stalking Horse Agreement; (ii) a break fee in the amount of \$30,000; and (iii) a reimbursement of the Stalking Horse Purchaser's reasonable fees and disbursements relating to the preparation and execution of the Stalking Horse Agreement in the maximum amount of \$5,000; and
    - (ii) with respect to the Shares, including the Charter Asset, an amount in Cash.

For greater certainty, Qualified Bidders shall not be entitled to credit bid as consideration for the purchase of any of the Assets.
  - (c) includes a letter of acknowledgment stating that the Qualified Bidder's offer is irrevocable and open for acceptance until the Successful Bid (as defined herein) is selected by the Receiver;
  - (d) it is accompanied by written evidence of a firm, irrevocable commitment for financing or other evidence satisfactory to the Receiver, in its sole discretion, of the ability of the Qualified Bidder to consummate the proposed Transaction, and that will allow the Receiver to make a determination as to the Qualified Bidder's financial and other capabilities to consummate the proposed sale and pay the Purchase Price;
  - (e) it will be unconditional;
  - (f) it fully discloses the identity of each entity that will be bidding for, or otherwise



sponsoring, financing, participating or benefiting from such bid, the Assets and/or the Shares;

- (g) it includes an acknowledgement and representation of the Qualified Bidder that: (i) it has had an opportunity to conduct any and all due diligence regarding the Assets, the Shares and the Companies prior to making its bid; (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in making its bid; and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Assets, the Shares, the Companies or the completeness of any information provided in connection therewith;
- (h) it includes evidence, in form and substance reasonably satisfactory to the Receiver, of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution and delivery of the Binding APA submitted by the Qualified Bidder;
- (i) it is received by the Receiver by:
  - (i) the Stalking Horse Binding APA Deadline if a Binding APA for the Stalking Horse Assets; or
  - (ii) the Charter Asset Binding APA Deadline if a Binding APA for the Charter Asset;
- (j) in respect to a Binding APA for the Stalking Horse Assets, the Binding APA contains at a minimum, the scope of services to be offered to the Rekai Centre at Sherbourne Place and the Rekai Centre at Wellesley Central Place (together, the "**Rekai Centres**") by the Stalking Horse Bidder as outlined in Schedule "D" to the Stalking Horse Agreement and the Rekai Centres do not object to the Binding APA being designated as the Successful Bid;
- (k) provides a deposit in the amount of not less than 15% of the Purchase Price offered by the Qualified Bidder (the "**Deposit**"); and
- (l) the bid contemplates closing the Transaction set out therein within 5 business days of the Approval and Vesting Order (the "**Closing Date**").

23. The Receiver may determine whether to entertain bids for the Stalking Horse Assets and/or the Shares that do not conform to one or more of the requirements specified herein.

24. Notwithstanding anything herein to the contrary, the offer represented by the Stalking Horse Agreement with respect to the Stalking Horse Assets shall be deemed to be a Binding APA for the Stalking Horse Assets for all purposes under, and at all times in connection with, this Sale Process.

25. If no Binding APA for the Stalking Horse Assets (other than the Stalking Horse Bid) is received by the Stalking Horse Binding APA Deadline, the Stalking Horse Bid shall be deemed



the Successful Stalking Horse Bid (defined below).

26. The Receiver may extend the Stalking Horse Binding APA Deadline and the Charter Asset Binding APA Deadline or cancel the Sale Process.

### **Evaluation of Binding APA**

27. Each Binding APA will be considered and reviewed by the Receiver based upon several factors including, without limitation, items such as the Purchase Price and the net value provided by such bid, the claims likely to be created by such bid in relation to other bids, the counterparties to such transactions, the proposed transaction documents, other factors affecting the speed and certainty of the closing of the transaction, the value of the transaction, the Assets included or excluded from the bid, the transition services required from the Companies (if any), any related transaction costs, the likelihood and timing of consummating such transactions, and such other matters as the Receiver may determine.

28. Each Qualified Bidder shall comply with all reasonable requests for additional information by the Receiver regarding the Qualified Bidder or the Binding APA. Failure of a Qualified Bidder to comply with such requests for additional information will be a basis for the Receiver to reject a Binding APA.

### **Selection of Successful Bid**

29. With respect to the Stalking Horse Assets the Receiver may identify the highest or otherwise best offer or combination of offers for the Stalking Horse Assets (the “**Successful Stalking Horse Bid**”).

30. If the Receiver receives one or more Binding APAs for the Stalking Horse Assets, it may, in the Receiver’s sole discretion, proceed with an auction to select the Successful Stalking Horse Bid (an “**Auction**”) on notice to the Stalking Horse Purchaser and each Qualified Bidder that submits a Binding APA for the Stalking Horse Assets and is invited to attend the Auction by the Receiver having regard to the terms of its Binding APA for the Stalking Horse Assets (each, an “**Auction Bidder**”). For greater certainty, the Stalking Horse Purchaser shall constitute an Auction Bidder in all circumstances in which an Auction is conducted.

31. If an Auction is commenced, the Receiver will implement Auction procedures that will be made available to all Auction Bidders if and when the Auction is implemented.

32. With respect to the Charter Asset: (i) the Receiver may identify the highest or otherwise best offer or combination of offers for the Charter Asset (the “**Successful Charter Asset Bid**”, and with the Successful Stalking Horse Bid, a “**Successful Bid**”); or (ii) if the Receiver determines that two or more Binding APAs for the Charter Asset are close in value, at the discretion of the Receiver, the Receiver may decide to negotiate with the applicable Qualified Bidders in order for the Qualified Bidders to submit an improved bids for the Charter Asset, and as a result of such negotiations and the Receiver may identify a Successful Charter Asset Bid.

33. The determination of a Successful Bid by the Receiver shall be subject to approval by the Court.

34. The determination of a Successful Charter Asset Bid by the Receiver shall be additionally subject to approval by each of 1951584 Ontario Inc. (dba Maxium Financial Services), 2047944 Ontario Inc. (dba National Pharmacy) and LPG Pharmaceutical Advisors Inc. (each, a “**Secured Creditor**”). Notwithstanding the foregoing, any Secured Creditor that elects to submit a Binding APA for the Charter Asset shall not be entitled to exercise the aforementioned approval right.

35. Notwithstanding the foregoing, a Binding APA may not be withdrawn, modified or amended without the written consent of the Receiver prior to the Successful Bid being determined. Any such withdrawal, modification or amendment made without the written consent of the Receiver prior to the Successful Bid being determined shall result in the forfeiture of such Qualified Bidder’s Deposit as liquidated damages and not as a penalty.

36. In the event a Binding APA is not selected as a Successful Bid, the Deposit (without interest) shall be returned to the Qualified Bidder as soon as reasonably practicable.

37. The Receiver shall have no obligation to select a Successful Bid, and it reserves the right to reject any or all Binding APAs and to amend or otherwise modify this Sale Process.

#### **Sale Approval Motion Hearing**

38. The motion for an order of the Court approving any Successful Bid (the “**Sale Approval Motion**”) shall be determined by the Receiver. The Sale Approval Motion shall be heard on a date determined by the Receiver and subject to the Court’s availability.

39. All of the Binding APAs for the Stalking Horse Assets other than any Successful Stalking Horse Bid, if any, shall be deemed rejected by the Receiver on and as of the Closing Date.

40. All of the Binding APAs for the Charter Asset other than any Successful Charter Asset Bid, if any, shall be deemed rejected by the Receiver on and as of the date of closing of the Closing Date.

#### **Reservation of Rights**

41. The Receiver may: (a) determine which Binding APA, if any, is the highest or otherwise best offer; (b) notwithstanding anything contained herein, reject at any time before the issuance and entry of an order approving a Binding APA, any bid that is (i) inadequate or insufficient as determined by the Receiver; or (ii) not in conformity with the requirements of this Sale Process or any order of the Court; and (c) may modify the Sale Process or impose additional terms and conditions on the sale of the Assets at any time, provided that paragraph 34 may not be modified without the prior written consent of the Secured Creditors.

42. This Sale Process does not, and shall not be interpreted to, create any contractual or other legal relationship between the Receiver and any other party, other than as specifically set forth in definitive agreements that may be executed.

43. The Receiver shall have the right to adopt such rules, not inconsistent with the Sale Process described herein, that, in its reasonable discretion, will promote the goals of the Sale Process.

**Approvals**

44. For the avoidance of doubt, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by the Receivership Order or any other statute or as otherwise required at law in order to implement a Successful Bid.

**Limitation of Liability**

45. The Receiver shall not have any liability whatsoever to any person or party, including without limitation to any Potential Bidder, Qualified Bidder, a bidder who submits a Successful Bid or any creditor or other stakeholder, for any act or omission related to this Sale Process. By submitting a bid, each Potential Bidder shall be deemed to have agreed that it has no claim against the Receiver for any reason, matter or thing whatsoever.

# **EXHIBIT “C”**

**ASSET PURCHASE AGREEMENT****MNP LTD.**

in its capacity as the court-appointed receiver of  
Pulse RX Inc. and Family Pharmacy Clinic Inc.,  
and not in its personal or corporate capacity  
as the Receiver

- and -

**CARERX PHARMACY CORP.**

as the Buyer

- and –

**Pulse RX Inc., and  
Family Pharmacy Clinic Inc.**

together, as the Company

**Made as of October \_\_\_\_\_, 2021**

## TABLE OF CONTENTS

ARTICLE 1 INTERPRETATION.....	2
1.1 Definitions.....	2
1.2 Appendices and Schedules.....	10
1.3 Statutes.....	10
1.4 Headings and Table of Contents.....	10
1.5 Interpretations.....	10
1.6 Currency.....	10
1.7 Invalidity of Provisions.....	10
1.8 Entire Agreement.....	11
1.9 Waiver, Amendment.....	11
1.10 Governing Law, Jurisdiction and Venue.....	11
ARTICLE 2 PURCHASE AND SALE.....	11
2.1 Purchased Assets.....	11
2.2 Excluded Assets.....	12
2.3 As Is, Where Is.....	13
2.4 Purchase Price.....	13
2.5 Deposit.....	14
2.6 Satisfaction of Purchase Price.....	14
2.7 Purchase Price Allocation.....	14
2.8 Tax Matters.....	15
ARTICLE 3 ASSUMED LIABILITIES AND EXCLUDED LIABILITIES.....	15
3.1 Assumed Liabilities.....	15
3.2 Excluded Liabilities.....	16
3.3 Consent Required Agreements.....	16
3.4 Additions to Purchased Assets, Excluded Assets and Excluded Liabilities.....	17
ARTICLE 4 REPRESENTATIONS AND WARRANTIES.....	18
4.1 Existence.....	18
4.2 Corporate Power.....	18
4.3 Residence of the Receiver and Company.....	18
4.4 Due Authorization and Enforceability of Obligations.....	18
ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE BUYER.....	18
5.1 Corporate Power.....	18
5.2 Residence of The Buyer.....	19
5.3 Due Authorization and Enforceability of Obligations.....	19
5.4 GST/HST Legislation.....	19
5.5 Diligence.....	19
5.6 Adequate Funds.....	19
5.7 No Violation.....	19

ARTICLE 6 OTHER AGREEMENTS .....	20
6.1    Conduct Prior To Closing .....	20
6.2    Sale Procedures .....	20
6.3    Access to Information .....	21
6.4    Access to Third Parties .....	21
ARTICLE 7 CONDITIONS .....	21
7.1    Conditions for The Benefit of The Buyer .....	21
7.2    Conditions for The Benefit of The Receiver.....	22
7.3    Mutual Conditions .....	22
ARTICLE 8 CLOSING .....	23
8.1    Date, Time and Place of Closing .....	23
8.2    Receiver Deliverables at Closing.....	23
8.3    Buyer Deliverables at Closing .....	24
8.4    Possession of Assets .....	24
ARTICLE 9 EMPLOYEES .....	24
9.1    Employees.....	24
9.2    Assumed Employee Obligations.....	25
ARTICLE 10 TERMINATION.....	25
10.1  Termination.....	25
10.2  Effect of Termination.....	26
ARTICLE 11 GENERAL MATTERS .....	26
11.1  Further Assurances.....	26
11.2  Structuring.....	26
11.3  Personal Information.....	26
11.4  Survival.....	27
11.5  Expenses .....	27
11.6  Time of the Essence .....	27
11.7  Successors and Assigns.....	27
11.8  Notices .....	27
11.9  Amendment.....	28
11.10 Counterparts, Electronic Signatures.....	28
11.11 Receiver’s Capacity .....	28
SCHEDULE A PURCHASED ASSETS SCHEDULE.....	30
SCHEDULE B EXCLUDED ASSETS SCHEDULE .....	31
SCHEDULE C SALE PROCEDURES .....	32
SCHEDULE D REKAI SERVICES.....	33

## ASSET PURCHASE AGREEMENT

**THIS AGREEMENT** is made as of October \_\_\_, 2021 (the “**Execution Date**”).

### **B E T W E E N:**

**MNP Ltd.**, in its capacity as the court-appointed receiver of the Company (the “**Receiver**”), and not in its personal or corporate capacity

- and -

**CareRx Pharmacy Corp.**, a corporation organized under the laws of the Province of Ontario (the “**Buyer**”)

### **RECITALS:**

- A. On June 10, 2021, pursuant to an order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), MNP Ltd. was appointed as receiver and receiver and manager without security, of all of the assets, undertakings and properties (collectively, the “**Property**”) of Pulse RX Inc. and Family Pharmacy Clinic Inc., (together, the “**Company**”) acquired for, or used in relation to a business carried on by the Company.
- B. Pursuant to the Appointment Order, the Receiver is authorized to market any or all of the Property, including advertising or soliciting offers in respect of any and all the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver, in its discretion, may deem appropriate.
- C. In connection with the sale and investment solicitation process commenced by the Receiver, the Buyer, wishes to purchase, and the Receiver has agreed to sell, the Purchased Assets pursuant to and in accordance with the terms of the Sale Procedures (as defined herein) and subject to and in accordance with the conditions of this Agreement.
- D. The transactions contemplated by this Agreement are subject to the approval of the Court and will be consummated only pursuant to the Approval Order (as defined herein) to be entered in the receivership proceedings.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confirmed, the Parties agree as follows:



## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement,

- (a) “**Actions**” means any claims, refunds, causes of action, rights of recovery, rights of set-off, subrogation and rights of recoupment of the Company related to the Business or any of the Purchased Assets or any of the Assumed Liabilities, and the interest of the Company in any litigation and in the proceeds of any judgment, order or decree issued or made in respect thereof in respect of occurrences, events, accidents or losses suffered by the Company prior to the Closing Time;
- (b) “**Affiliate**” has the same meaning as “affiliate” under the *Ontario Business Corporations Act*, R.S.O. 1990, c. B.16, as amended;
- (c) “**Agreement**” means this purchase agreement and all Appendices, Exhibits and Schedules attached hereto, in each case as the same may be supplemented, amended, restated or replaced from time to time; and the expressions “Article”, “Section”, “Schedule” and “Exhibit” followed by a number or letter mean and refer to the specified Article, Section, Schedule or Exhibit of this Agreement;
- (d) “**Applicable Law**” means any statute, law (including the common law), ordinance, rule, regulation, restriction, by-law (zoning or otherwise), order, or any consent, exemption, approval or licence of any Governmental Authority that applies in whole or in part to the Company, the Transaction, the Purchased Assets, the Receiver or the Buyer;
- (e) “**Appointment Order**” has the meaning given to it in the recitals of this Agreement;
- (f) “**Approval Order**” means an approval and vesting order of the Court, *inter alia*, approving the Transaction, and effective upon the delivery of the Receiver’s Vesting Certificate to the Buyer, vesting in the Buyer all of the right, title and interest in and to the Purchased Assets, free and clear of all Encumbrances other than Permitted Encumbrances, which order shall be in form and substance acceptable to the Receiver and the Buyer;
- (g) “**Assignment Order**” means an order of the Court authorizing and approving the assignment of a Consent Required Agreement, which order shall be in form and substance acceptable to the Receiver and the Buyer;
- (h) “**Assumed Employee Obligations**” has the meaning given to it in Section 9.2;
- (i) “**Assumed Liabilities**” has the meaning given to it in Section 3.1;

- (j) “**Authorizations**” means all orders, permits, approvals, waivers, licences or authorizations of any Governmental Authority issued to or in respect of the Purchased Assets other than the Pulse Letters Patent and Articles of Incorporation;
- (k) “**Books and Records**” means all customer and supplier lists, and export of the Company’s databases for the Purchased Assets, books of account, employee personal records of Transferred Employees, Tax records and books and other sales and business records relating or pertaining to the Purchased Assets;
- (l) “**Break Fee**” means the break fee in an amount equal to \$30,000.00 contemplated by the Sales Procedures that will become immediately due and payable to the Buyer (in its capacity as “Stalking Horse Purchaser” under the Sales Procedures) if this Agreement is not designated by the Receiver as the Successful Stalking Horse Bid pursuant to and in accordance with the Sale Procedures and Section 10.1(b) hereof;
- (m) “**Business**” means the business now carried on by the Company;
- (n) “**Business Day**” means any day of the year on which national banking institutions in Toronto, Ontario are open to the public for conducting business and are not required or authorized by Applicable Law to close;
- (o) “**Buyer**” has the meaning given to it in the preamble to this Agreement;
- (p) “**Cash**” means all cash and cash equivalents, bank accounts and bank balances, monies in possession of banks and other depositories, refunds or rebates, term deposits and similar cash property, in each case of the Company, and includes
  - (i) cash held by or for the benefit of the Company at the Closing Time, and
  - (ii) cash received by the Company, or held by or for the benefit of the Company, from and after the Closing Time that is received in respect of, or relates to, a Receivable in existence as of the Closing Time;
- (q) “**Closing**” means the completion of the Transaction pursuant to the terms and conditions of this Agreement at the time set forth in Section 8.1 and of all other transactions contemplated by this Agreement that are to occur concurrently with the sale and purchase of the Purchased Assets;
- (r) “**Closing Date**” means the date on which all of the conditions in Sections 7.1 to 7.3 have been satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date, but subject to the satisfaction and waiver of such conditions), or such other date as may be agreed upon by the Receiver and the Buyer, provided however that the Closing Date shall be no later than the Outside Date;

- (s) “**Closing Time**” means 12:01 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Receiver and the Buyer agree that the Closing Time shall take place;
- (t) “**Company**” has the meaning given to it in the preamble to this Agreement;
- (u) “**Consent Required Agreement**” has the meaning given to it in Section 3.3;
- (v) “**Contract**” means any contract, agreement, lease, sublease, licence, sublicense, sales order, purchase order, instrument, or other commitment, whether written or oral, that is binding on the Company or any part of its assets or property (personal, real, tangible, intangible or otherwise) under Applicable Law;
- (w) “**Court**” has the meaning given to it in the recitals to this Agreement;
- (x) “**Cure Costs**” means, in respect of a Consent Required Agreement, the amount that the Buyer agrees to pay in satisfaction of any monetary defaults thereunder;
- (y) “**Deposit**” means a deposit in an amount equal to \$ [REDACTED];
- (z) “**Employee**” means all individuals who are employed by the Company, whether on a full- time or a part-time basis as of the Closing Date;
- (aa) “**Employee Plans**” means all the employee benefit, fringe benefit, supplemental unemployment benefit, bonus, incentive, profit sharing, termination, change of control, retirement, pension, registered retirement savings, health, welfare, medical, dental, disability, life insurance and similar plans, programmes, arrangements or practices relating to the current or former directors, officers or Employees of the Company maintained, sponsored or funded by the Company, whether written or oral, funded or unfunded, insured or self-insured, registered or unregistered;
- (bb) “**Encumbrance**” means any security interest, lien, prior claim, charge, hypothec, hypothecation, reservation of ownership, pledge, encumbrance, trust (including any statutory, constructive or deemed trust), mortgage or adverse claim of any nature or kind whatsoever;
- (cc) “**Excluded Assets**” has the meaning given to it in Section 2.2;
- (dd) “**Excluded Assets Schedule**” means Schedule B to this Agreement;
- (ee) “**Excluded Contracts**” means all Contracts of the Company that are not Purchased Contracts;
- (ff) “**Excluded Equipment**” means all equipment and personal property, including fixed and tangible assets, machinery, chattels, furniture, computer hardware and other tangible assets listed on the Excluded Assets Schedule;

- (gg) **“Excluded Inventory and Supplies”** means any inventories of products and medications including raw materials, supplies, packaging, work in process and finished goods related to the Business which (a) are sold or otherwise disposed of during the Interim Period in the Ordinary Course, (b) are listed on the Excluded Assets Schedule, or (c) are expired or otherwise unusable, obsolete, damaged, worn, defective or unsaleable goods, broken as of the Closing Date or packages and Rx (prescription) merchandise with an expiry date less of than six months after the Closing Date or that are liquid and contained in an open vial or bottles;
- (hh) **“Excluded Liabilities”** has the meaning given to it in Section 3.2;
- (ii) **“Execution Date”** means the date noted on page 1 of this Agreement;
- (jj) **“Expense Reimbursement Amount”** means the amount, not to exceed \$5,000.00 in the aggregate, that will become immediately due and payable to the Buyer (in its capacity as “Stalking Horse Purchaser” under the Sales Procedures) as reimbursement for the Buyer’s reasonable fees and disbursements relating to the preparation and execution of this Agreement in the event that this Agreement is not designated by the Receiver as the Successful Stalking Horse Bid pursuant to and in accordance with the Sale Procedures and Section 10.1(b) hereof;
- (kk) **“General Conveyance and Assumption Agreement”** means a general conveyance and assumption agreement with respect to the Purchased Assets and the Assumed Liabilities in form and substance acceptable to the Receiver and the Buyer, acting reasonably;
- (ll) **“Goodwill”** means the goodwill of the Business, including the right of the Buyer to represent itself as carrying on the Business in continuation of and in succession to the Company;
- (mm) **“Governmental Authority”** means: (i) any national, federal, provincial, state, municipal, local or other governmental or public department, court, commission, board, bureau, agency or instrumentality; (ii) any subdivision or authority of any of the foregoing; or (iii) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of or in lieu of any of the above;
- (nn) **“GST/HST”** means goods and services tax payable under the GST/HST Legislation, including “harmonized sales tax”;
- (oo) **“GST/HST Legislation”** means Part IX of the *Excise Tax Act* (Canada);
- (pp) **“Insurance”** means (i) Contracts of insurance, insurance policies and insurance plans of the Company, to the extent transferable; (ii) any insurance proceeds net of any deductibles and retention recovered by the Company under all other Contracts of insurance, insurance policies (excluding proceeds paid directly by the insurer to or on behalf of directors and officers under director and officer policies) and insurance plans during the Interim Period; and (iii) the full benefit of the

Company's rights to insurance claims (excluding proceeds paid directly by the insurer to or on behalf of directors and officers under director and officer policies) relating to the Business and amounts recoverable in respect thereof net of any deductible;

- (qq) **“Intellectual Property”** means all rights, interests and benefits of the Company, through ownership, licensing or otherwise, in (i) any trademarks, trade names, business names, brand names, services marks, copyrights, trade secrets, industrial designs, inventions, patents, formulas, processes, know how, technology, manufacturing, engineering and other technical drawings and manuals, blue prints, research and development reports, technical information, technical assistance, engineering data, design and engineering specifications, telephone numbers, domain names, domain name registrations, website names and worldwide web addresses, social media accounts and social media handles and other communication addresses, and related goodwill, and (ii) any applications or registrations of the foregoing, issued patents, continuations in part, divisional applications or analogous rights therefor, in each case whether registered or not, including the Intellectual Property listed on the Purchased Assets Schedule;
- (rr) **“Interim Period”** means the period from date of the execution by the Parties of this Agreement to and including the Closing Date;
- (ss) **“Inventory”** means all merchantable inventories of branded Rx (prescription) pharmaceuticals and OTC Products held for sale in good and saleable condition in connection with the Business and for which title is legally and beneficially held by the Company, subject to confirmation by a physical inventory count (as provided in the definition of **“Inventory Amount”** below) and provided that all non-liquid Rx (prescription) pharmaceuticals contained in open vials or bottles shall be deemed to be half full;
- (tt) **“Inventory Amount”** means the 75% of the invoice price of the Inventory paid for by Pulse at the time of purchase with an inventory amount to be completed at such discounted cost value by Western Inventory Services, or alternative third-party inventory counting service agreed upon by the Receiver and the Buyer, after the close of business on the evening prior to the Closing Date or such earlier date as agreed upon by the Receiver and the Buyer. The costs of such count shall be split between the Receiver and the Buyer on a 50/50 basis;
- (uu) **“IT Systems”** means all software (including source code and object code form), computer hardware, licenses, and documentation therefor and rights therein owned by the Company, and any other information technology systems owned or used by the Company, including, all electronic data processing systems, cloud services, program specifications, source codes, object code, input data, report layouts, formats, algorithms, record file layouts, diagrams, functional specifications, narrative descriptions, flow charts, operating manuals, training manuals and other related material;

- (vv) “**Offered Employees**” has the meaning given to it in Section 9.1(a);
- (ww) “**Ordinary Course**” means, with respect to an action taken or omitted to be taken by a Person, that such action is reasonably practicable and generally consistent with the recent past practices of the Person having regard to the recent circumstances leading up to and including the transactions contemplated by this Agreement and, as applicable, subject to the Appointment Order;
- (xx) “**OTC Products**” means all products recognized as having therapeutic or prophylactic properties when applied to or taken into the human body which are available for sale in Canada without prescription, including, but not limited to, analgesics, cough and cold remedies, infant formula, diabetic care products, homeopathic products, eye and ear care products, skin care products including acne care and lip balms, internal remedies including antacids, laxatives, sedatives, stimulants and anti-nausea products, and which are commonly referred to as over-the-counter products;
- (yy) “**Outside Date**” means December 31, 2021 or such later date as may be agreed by the Buyer and the Receiver;
- (zz) “**Parties**” means, collectively, the Receiver and the Buyer and “**Party**” means any of them;
- (aaa) “**Patient Records**” means all prescription files, patient record files, and sales records of the Business including all digital back-up tapes and/or disks and the customer list showing each customer’s name, address, telephone number, patient history and third-party drug information;
- (bbb) “**Permitted Encumbrances**” means the Encumbrances expressly listed as permitted Encumbrances in the Approval Order;
- (ccc) “**Person**” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, co-operative, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted;
- (ddd) “**Personal Property Leases**” means all leases of personal or moveable property of the Company listed on the Purchased Assets Schedule;
- (eee) “**Premises**” means the premises leased and occupied by the Company located at 111 Zenway Blvd., Units 2 and 3, Woodbridge, Ontario;
- (fff) “**Prepaid Expenses**” means all prepaid expenses, including *ad valorem* Taxes, of the Company, and all deposits of the Company with any Person, including any supplier, public utility, lessor under any Personal Property Lease or Real Property Lease, or Governmental Authority;

- (ggg) **“Pulse Letters Patent and Articles of Incorporation”** means the pre-1954 charter of Pulse RX Inc., including the Letters Patent Dated December 6, 1967 and the Articles of Amendment dated June 13, 2005;
- (hhh) **“Purchase Price”** has the meaning given to it in Section 2.4;
- (iii) **“Purchased Assets”** has the meaning given to it in Section 2.1;
- (jjj) **“Purchased Assets Schedule”** means Schedule A to this Agreement;
- (kkk) **“Purchased Contracts”** means the Contracts listed on the Purchased Assets Schedule;
- (lll) **“Purchased Equipment”** means all equipment and personal property owned by the Company wherever located, including all fixed and tangible assets, machinery, chattels, tooling, furniture, computer hardware and other tangible assets, but excluding Excluded Equipment;
- (mmm) **“Purchased Inventory and Supplies”** means all of the Company’s Inventory, merchandise, samples and supplies, including raw materials, work in process, finished goods, and packaging and shipping supplies, but excluding Excluded Inventory and Supplies;
- (nnn) **“Real Property Leases”** means the Company’s leasehold interest in the leases, agreements to lease, subleases or licences listed on the Purchased Assets Schedule;
- (ooo) **“Receivables”** means all future payments made by Cash, cheque, automatic clearing houses, direct or pre-authorized debit, wire transfer, electronic money transfers or other forms of payment related to the Business, including for goods, services or facilities provided by the Company but excluding, for greater certainty, Related Party Amounts;
- (ppp) **“Receiver”** has the meaning given to it in the recitals to this Agreement;
- (qqq) **“Receiver’s Vesting Certificate”** means the Receiver’s certificate contemplated by the Approval Order;
- (rrr) **“Receivership Proceedings”** means the proceedings in respect of the Company commenced pursuant to the Appointment Order;
- (sss) **“Rekai Centre Contracts”** means, collectively: (i) the Service Agreement as between Pulse Rx Inc. and the Rekai Centre at Sherbourne Place dated April 1, 2015, and (ii) the Service Agreement as between Pulse Rx Inc. and the Rekai Centre at Wellesley Place dated April 1, 2015, as may be amended;
- (ttt) **“Rekai Centres”** means the Rekai Centre at Sherbourne Place and the Rekai Centre at Wellesley Central Place;



- (uuu) “**Related Party Amounts**” means any indebtedness, liabilities or other amounts owed or payable to the Company from current or former directors, officers, employees or shareholders of the Company;
- (vvv) “**Representatives**” means, in respect of any Party, its and its Affiliates’ directors, officers, employees, agents and advisors (including financial and legal advisors);
- (www) “**Sale Procedures**” means the procedures for the conduct of a sale process in respect of the Purchased Assets approved by the Court, which procedures shall be in substantially the form attached hereto as Schedule C;
- (xxx) “**Successful Stalking Horse Bid**” has the meaning given to it in the Sale Procedures;
- (yyy) “**Tax**” and “**Taxes**” means all taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever imposed by any Governmental Authority, together with all interest, penalties, fines, additions to tax or other additional amounts imposed in respect thereof, including (a) those levied on, or measured by, or referred to as income, gross receipts, earnings, profits, capital, corporate, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, license, franchising, real or personal property, payroll, employment, wage, employer health, social services, severance, utility, occupation, premium, windfall, education and social security taxes, all surtaxes, all custom duties and import and export taxes, all license, franchise and registration fees and all employment and unemployment insurance, health insurance and Canada and other government pension plan premiums, workers’ compensation levies, and retirement contributions, including those imposed by any Governmental Authority, and (b) any liability for the payment of any amount of the type described in the immediately preceding clause (a) as a result of being a “transferee” (within the meaning of section 160 of the Tax Act or any other Applicable Laws) of another taxpayer or entity or a member of a related, non-arm’s length, affiliated or combined group;
- (zzz) “**Tax Act**” means the *Income Tax Act* (Canada), as amended from time to time;
- (aaaa) “**Tax Refunds**” means the benefit of the Company to any Tax refunds (including in respect of any overpayment of Taxes), rebates or credits (including refundable credits) payable or paid to the Company, net of any amounts withheld by any Governmental Authority having jurisdiction over the assessment, determination, collection, or other imposition of any Tax, and the benefit of the Company to any claim or right of the Company to any such refund, rebate, or credit in respect of Taxes, including in any case any interest thereon received or receivable from any Governmental Authority, but for greater certainty, only to the extent that such refund, rebate or credit relates to a taxable period ending on or before the Closing Date or, in respect of a taxable period that includes but does not end on the Closing Date, the portion thereof up to and including the Closing Date;



(bbbb) “**Transaction**” means the purchase of the Purchased Assets and the assumption of the Assumed Liabilities contemplated by this Agreement and any of the other transactions contemplated by this Agreement;

(cccc) “**Transferred Employees**” means solely those Offered Employees who accept the offer of employment made by the Buyer or its Affiliate(s) pursuant to Section 9.1 and who actually commence employment with the Buyer or its Affiliates on their first scheduled shift after Closing; and

(dddd) “**Transfer Taxes**” has the meaning given to it in Section 2.8(a).

## 1.2 Appendices and Schedules

The following Schedules form part of this Agreement:

Schedule A	Purchased Assets Schedule
Schedule B	Excluded Assets Schedule
Schedule C	Sale Procedures
Schedule D	Rekai Services

## 1.3 Statutes

Unless specified otherwise, reference in this Agreement to a statute refers to that statute as it may be amended, or to any restated or successor legislation of comparable effect.

## 1.4 Headings and Table of Contents

The inclusion of headings and a table of contents in this Agreement is for convenience of reference only and shall not affect the construction or interpretation hereof.

## 1.5 Interpretations

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders. In addition, every use of the words “including” or “includes” in this Agreement is to be construed as meaning “including, without limitation” or “includes, without limitation”, respectively.

## 1.6 Currency

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in Canadian dollars.

## 1.7 Invalidity of Provisions

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.

## 1.8 Entire Agreement

This Agreement and the agreements and other documents required to be delivered pursuant to this Agreement constitute the entire agreement between the Parties and set out all the covenants, promises, warranties, representations, conditions and agreements between the Parties in connection with the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement and any document required to be delivered pursuant to this Agreement.

## 1.9 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by the Receiver and the Buyer. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

## 1.10 Governing Law, Jurisdiction and Venue

This Agreement, the rights and obligations of the Parties under this Agreement, and any claim or controversy directly or indirectly based upon or arising out of or in connection with this Agreement or the Transaction or any part thereof, including all matters of construction, validity and performance, as well as the rights and obligations of the Parties hereunder or thereunder, shall in all respects be governed by, and interpreted, construed and determined in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to the conflicts of law principles thereof. The Parties consent to the exclusive jurisdiction and venue of the courts of the Court for the resolution of any such disputes arising under or in connection with this Agreement. Each Party agrees that service of process on such Party as provided in Section 11.8 shall be deemed effective service of process on such Party.

## ARTICLE 2 PURCHASE AND SALE

### 2.1 Purchased Assets

Subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time and the Receiver agrees to sell, assign, transfer and convey to the Buyer, and the Buyer agrees to purchase, assume and accept from the Receiver and the Company, free and clear of all Encumbrances other than Permitted Encumbrances, all of the right, title, benefit and interest of the Receiver and the Company, if any, in, to and under, or relating to, the assets, property and undertaking owned or used or held for use in connection with the Business (the “**Purchased Assets**”), including the following properties, assets and rights:

- (a) the Purchased Contracts;

- (b) the Patient Records;
- (c) the Goodwill;
- (d) the Purchased Inventory and Supplies;
- (e) the Books and Records; and
- (f) the Authorizations,

but, for greater certainty, in each case excluding any Excluded Assets.

## 2.2 Excluded Assets

Notwithstanding any provision of this Agreement, the Purchased Assets shall not, and will not be deemed to, include any of the following assets of the Company (collectively, the “**Excluded Assets**”):

- (a) Cash;
- (b) the Receivables;
- (c) the Pulse Letters Patent and Articles of Incorporation;
- (d) the Excluded Contracts;
- (e) the Excluded Equipment;
- (f) the Real Property Leases;
- (g) the Personal Property Leases;
- (h) the Excluded Inventory and Supplies;
- (i) the Employee Plans;
- (j) Prepaid Expenses;
- (k) IT Systems;
- (l) the Insurance;
- (m) the Intellectual Property;
- (n) the Tax Refunds;
- (o) the original Tax records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents

relating to the organization, maintenance and existence of the Company, in each case that do not relate to the Business or the Purchased Assets;

- (p) all of the Company and Receiver's rights and benefits under this Agreement and the Transaction;
- (q) all shares, partnership or joint venture interests and any other securities of any Person owned or held by the Company or any of its Affiliates;
- (r) all minute books, share ledgers, corporate seals and stock certificates of the Company; or
- (s) any other assets as may be expressly designated by the Buyer in writing prior to Closing.

### **2.3 As Is, Where Is**

THE BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE PURCHASED ASSETS AND THE BUSINESS RELATED THERETO ARE PURCHASED AND THE ASSUMED LIABILITIES ARE ASSUMED BY THE BUYER ON AN "AS IS, WHERE IS" BASIS AS THEY SHALL EXIST AT THE CLOSING DATE WITH ALL FAULTS AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, IN FACT OR BY LAW WITH RESPECT TO THE PURCHASED ASSETS, THE BUSINESS AND THE ASSUMED LIABILITIES, AND WITHOUT ANY RECOURSE TO THE RECEIVER OR ANY OF ITS DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, REPRESENTATIVES, AGENTS OR ADVISORS. THE BUYER AGREES TO ACCEPT THE PURCHASED ASSETS, THE BUSINESS RELATED THERETO AND THE ASSUMED LIABILITIES IN THE CONDITION, STATE AND LOCATION THEY ARE IN ON THE CLOSING DATE BASED ON THE BUYER'S OWN INSPECTION, EXAMINATION AND DETERMINATION WITH RESPECT TO ALL MATTERS AND WITHOUT RELIANCE UPON ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF ANY NATURE MADE BY OR ON BEHALF OF OR IMPUTED TO THE RECEIVER, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT. Unless specifically stated in this Agreement, the Buyer acknowledges and agrees that no representation, warranty, term or condition, understanding or collateral agreement, whether statutory, express or implied, oral or written, legal, equitable, conventional, collateral or otherwise, is being given by the Receiver in this Agreement or in any instrument furnished in connection with this Agreement, as to description, fitness for purpose, sufficiency to carry on any business, merchantability, quantity, condition, latent defects, quality, value, suitability, durability, environmental condition, assignability or marketability thereof, or in respect of any other matter or thing whatsoever, and all of the same are expressly excluded. The provisions of this Section 2.3 shall survive and not merge on Closing.

### **2.4 Purchase Price**

The Purchase Price payable by the Buyer to the Receiver for the Purchased Assets shall be:

- (a) the sum of [REDACTED];

- (b) the sum of the amount of all Cure Costs (if any); and
- (c) the sum of the Inventory Amount (if any).

(collectively, the “**Purchase Price**”).

## **2.5 Deposit**

Within two Business Days after the Execution Date, the Buyer shall pay the Deposit to the Receiver’s solicitors. The Deposit shall be held, pending Closing, by the Receiver’s solicitors in a non-interest-bearing trust account at one of the five (5) largest Schedule I Canadian chartered banks. The Deposit shall be dealt with in the following manner:

- (a) if the Transaction is completed, the Deposit will be applied against the Purchase Price payable on the Closing Date;
- (b) if the Transaction is not completed due to (i) the failure of the Receiver to complete any of its obligations as set out in the Agreement, or (ii) if any of the conditions for the benefit of the Buyer (including those conditions for the mutual benefit of the Receiver and Buyer) as set out in this Agreement have not been met and are not waived by the Outside Date, or (iii) if this Agreement is terminated under Subsection 10.1 (a), (b), or (c) provided that the Buyer is not in material breach of this Agreement, or Subsection 10.1(e), then the Deposit will be released from trust and returned to the Buyer or the Buyer’s Counsel via wire transfer on the earlier of the Outside Date and the date of the termination of the Agreement;
- (c) if the Transaction is not completed for any reason other than as set out in Subsection 2.5(b), then the Deposit will be released from trust and forfeited and paid to the Receiver, or as the Receiver may otherwise direct, as liquidated damages. The Receiver retains its right to claim any additional damages and/or pursue all other available remedies arising from the Transaction not being completed for such reason.

## **2.6 Satisfaction of Purchase Price**

The Buyer shall pay and satisfy the Purchase Price on the Closing Date as follows:

- (a) the Buyer shall pay in Cash the Cure Costs, if any; and
- (b) the Buyer shall pay the balance of the Purchase Price less the Deposit in Cash in immediately available funds by way of wire transfer to the Receiver.

## **2.7 Purchase Price Allocation**

The Buyer shall, acting reasonably, prepare and deliver to the Receiver an allocation of Purchase Price among the Purchased Assets within 120 days following Closing. Such allocation shall be binding on the Buyer, the Receiver and the Company, and the Buyer, the Receiver and the Company will file all Tax returns in a manner consistent with such allocation.

## 2.8 Tax Matters

- (a) All amounts payable by the Buyer pursuant to this Agreement are exclusive of any GST/HST and all transfer, documentary, sales, use, registration and provincial sales Taxes arising in connection with the sale, conveyance, assignment and transfer of the Purchased Assets to the Buyer (collectively, “**Transfer Taxes**”). The Buyer will be solely liable and responsible for and will pay, if required by Applicable Law, all Transfer Taxes (and within the time periods required thereunder). The Parties will cooperate with each other in good faith and will use commercially reasonable efforts to assist the Buyer in mitigating such Taxes. If the Receiver is required by any Applicable Law or by administration thereof to collect any applicable Transfer Taxes from the Buyer, the Buyer will pay such amounts to the Receiver concurrent with the payment of any consideration payable pursuant to this Agreement or, if arising after Closing, forthwith, and the Receiver will pay such amounts to the applicable Governmental Authority on a timely basis and otherwise in accordance with Applicable Laws.
- (b) The Buyer agrees to indemnify and save the Receiver harmless from and against all claims and demands for payment of all Transfer Taxes payable by the Buyer in connection with the purchase of the Purchased Assets, including penalties and interest thereon and any liability or costs incurred as a result of any failure by the Buyer to pay such Taxes when due.
- (c) The Parties agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax return, claim for refund or other required filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution of any suit or other proceedings relating to Tax matters and for the answer to any inquiry of any Governmental Authority relating to Tax matters.

## ARTICLE 3 ASSUMED LIABILITIES AND EXCLUDED LIABILITIES

### 3.1 Assumed Liabilities

Subject to Closing, the Buyer agrees to assume, pay, discharge, perform, as the case may be, from and after the Closing Time, the following obligations and liabilities of the Company with respect to the Purchased Assets (collectively, the “**Assumed Liabilities**”), which Assumed Liabilities shall exclude the Excluded Liabilities and shall consist solely of:

- (a) all obligations and liabilities under the Purchased Contracts to the extent arising and relating to the period on or after the Closing Date;
- (b) all obligations and liabilities related to the operation of the Purchased Assets on or after the Closing Date; and

- (c) the Assumed Employee Obligations (if any).

### 3.2 Excluded Liabilities

Except as expressly assumed by the Buyer pursuant to Section 3.1, the Buyer shall not assume, accept or undertake any debt, obligation, duty or liability of the Company of any kind or nature whatsoever, whether accrued, contingent, known or unknown, express or implied, direct or indirect, liquidated or unliquidated, contingent or otherwise, and whether due or to become due (the “**Excluded Liabilities**”), which Excluded Liabilities, without limitation, shall include the following liabilities or obligations:

- (a) all liabilities, obligations, present and future actions, causes of action, lawsuits, damages, judgements, executions or claims relating to or arising out of the conduct or operation of the Business or the Purchased Assets prior to the Closing Date, including all liabilities, obligations, claims and causes of action relating to or arising from breaches of contract, violations of Applicable Law, product liability, warranties, or tortious or illegal conduct;
- (b) all liabilities and obligations relating to the Excluded Assets;
- (c) all liabilities and obligations for (i) all Taxes of the Company for any Tax period; all Taxes relating to the Purchased Assets for periods (or any portion thereof) ending on or prior to the Closing Date, including any Taxes based upon operation, possession, use or ownership of the Purchased Assets, (ii) any Taxes in respect of any payments to Persons employed or retained in connection with the Business in respect of any period prior, and any related obligation to withhold or remit Taxes, even though a claim may be made after the Closing Date, and (iii) any Taxes relating to the Excluded Assets;
- (d) other than the Assumed Employee Obligations, all liabilities and obligations relating to the employment or the termination of the employment of the Employees (including Transferred Employees), including termination and severance obligations; and
- (e) all liabilities of the Company to its debtholders and other creditors.

### 3.3 Consent Required Agreements

In the event that there are any Assigned Agreements or Authorizations that are not assignable in whole or in part to the Buyer without the consent, approval or waiver of any counterparty to such Assigned Agreement or issuer of such Authorization (each, a “**Consent Required Agreement**”):

- (a) the Parties shall, at the direction of the Buyer, use commercially reasonable efforts to obtain any such consent, approval or waiver in respect of a Consent Required Agreement;
- (b) if any consent, approval or waiver is not obtained for any Consent Required Agreement, the Receiver, if requested by the Buyer in its sole discretion, shall as

soon as reasonably practicable bring a motion before the Court seeking the issuance of an Assignment Order with respect to each such Consent Required Agreement;

- (c) the determination as to whether to pay Cure Costs in order to obtain any required consent, approval or waiver, and the determination as to whether to seek an Assignment Order in respect of a Consent Required Agreement that, if granted, will necessitate the payment of Cure Costs, shall be made by the Buyer in its sole discretion;
- (d) the payment of any Cure Costs payable to obtain the consent, approval or waiver of any counterparty to an Assigned Agreement or as a condition to obtaining an Assignment Order in respect of any Consent Required Agreement shall be the responsibility of the Buyer; and
- (e) where any required consent, approval or waiver in respect of a Consent Required Agreement or, in the alternative, an Assignment Order in respect of such Consent Required Agreement, has not been obtained as of the Closing Time, nothing in this Agreement shall be construed as an assignment of such Consent Required Agreement, the Buyer shall have no responsibility whatsoever in respect of such Consent Required Agreement, and such Consent Required Agreement shall constitute an Excluded Asset for purposes of this Agreement.

### **3.4 Additions to Purchased Assets, Excluded Assets and Excluded Liabilities**

- (a) Notwithstanding anything to the contrary herein, the Buyer shall have the right, at any time prior to the Closing Time, by notice in writing to the Receiver and without any adjustment to the Purchase Price, to deem:
  - (i) (a) any asset or agreement of the Company (including any asset or agreement that is otherwise identified herein as a Purchased Asset) to be an Excluded Asset, and (b) any liability or obligation of the Company (including any liability or obligation that is otherwise identified herein as an Assumed Liability) to be an Excluded Liability, in each case for all purposes of this Agreement, in which case such Excluded Asset or Excluded Liability, as the case may be, shall not be assigned or transferred to or assumed by, and shall not vest in, the Buyer at Closing; and
  - (ii) any asset or agreement of the Company (including any asset or agreement that is otherwise identified herein as an Excluded Asset) to be a Purchased Asset for all purposes of this Agreement.
- (b) The Schedules to this Agreement may be updated by the Buyer at any time prior to the Closing Time to reflect any actions taken by the Buyer pursuant to this Section 3.4. There shall be no adjustment to the Purchase Price as a result of any designation or modification of Purchased Assets, Excluded Assets, Assumed Liabilities or Excluded Liabilities pursuant to this Section 3.4.



## **ARTICLE 4 REPRESENTATIONS AND WARRANTIES**

The Receiver and the Company, as applicable, represent and warrant as follows to the Buyer as of the date hereof and acknowledge and confirm that the Buyer is relying upon the following representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

### **4.1 Existence**

The Receiver has been appointed as the receiver of the assets and property of the Company pursuant to the Appointment Order.

### **4.2 Corporate Power**

- (a) The Receiver is duly organized and validly existing under the laws of its jurisdiction of organization.
- (b) Subject to the issuance and entry of the Approval Order, the Receiver has the power, authority and capacity to enter into and perform its obligations under this Agreement.
- (c) Subject to the issuance and entry of the Approval Order, the Company has the power to enter into and perform its obligations under this Agreement.

### **4.3 Residence of the Receiver and Company**

Neither the Receiver nor the Company is a non-resident of Canada for the purposes of the Tax Act.

### **4.4 Due Authorization and Enforceability of Obligations**

Pursuant to the Appointment Order, and subject to the issuance of the Approval Order, this Agreement has been duly and validly executed by the Receiver and constitutes a valid and binding obligation of the Receiver and the Company enforceable against such parties in accordance with its terms.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE BUYER**

The Buyer represents and warrants to the Receiver as follows, and acknowledges that the Receiver is relying upon the following representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

### **5.1 Corporate Power**

The Buyer:

- (a) is a corporation duly organized and validly existing and in good standing under the Applicable Laws of its jurisdiction of formation; and

- (b) has the power, capacity and authority to enter into and perform its obligations under this Agreement and carry on business.

## **5.2 Residence of The Buyer**

The Buyer is not a non-resident of Canada for the purposes of the Tax Act.

## **5.3 Due Authorization and Enforceability of Obligations**

The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary corporate action of the Buyer. This Agreement has been duly and validly executed by the Buyer and constitutes a valid and binding obligation of the Buyer enforceable against it in accordance with its terms.

## **5.4 GST/HST Legislation**

The Buyer will be registered for purposes of the GST/HST Legislation prior to Closing and shall provide the Receiver with its registration number prior to Closing.

## **5.5 Diligence**

The Buyer acknowledges and agrees that: (a) it is purchasing the Purchased Assets and assuming the Assumed Liabilities on an “as is, where is” basis; (b) it has relied upon its own independent review, investigation and inspection of the documents and information made available by or on behalf of the Receiver or the Company for the purpose of the Transaction; (c) except as expressly set forth in this Agreement, it is not relying upon any written or oral statements, documents, information, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Purchased Assets, the Business or the Assumed Liabilities; and (d) the obligations of the Buyer under this Agreement are not conditional upon any additional due diligence.

## **5.6 Adequate Funds**

The Buyer has adequate funds available in an aggregate amount sufficient to pay: (a) all amounts required to be paid by the Buyer under this Agreement; and (b) all expenses which have been or will be incurred by the Buyer in connection with this Agreement and the Transaction.

## **5.7 No Violation**

The execution and delivery of this Agreement by the Buyer and the consummation of the Transactions herein provided for will not result in the violation of, or constitute a default under, or conflict with or cause the acceleration of any obligation of the Buyer under:

- (a) any Contract to which the Buyer is a party or by which it is bound;
- (b) any judgment, decree, order or award of any court, governmental body or arbitrator having jurisdiction over the Buyer; or

- (c) any Applicable Law, save and except for those matters set out as conditions to Closing.

## **ARTICLE 6 OTHER AGREEMENTS**

### **6.1 Conduct Prior To Closing**

During the Interim Period, the Company shall conduct the Business in the Ordinary Course, except to the extent required to allow the Receiver and the Company to comply with their obligations under this Agreement or as may be permitted with the written consent of the Buyer, subject in all cases to the Appointment Order and any other Court orders granted in the Receivership Proceedings. Without limiting the generality of the foregoing, the Company shall:

- (a) maintain, preserve and protect the Purchased Assets in the condition in which they exist on the date hereof, other than ordinary wear and tear and other than replacements, dispositions, modifications or maintenance in the Ordinary Course;
- (b) preserve intact the Goodwill and maintain satisfactory relationships with suppliers, customers, landlords, Governmental Authorities, and all other Persons with whom the Company has a business relationship;
- (c) not amend any Purchased Contract without the consent of the Buyer;
- (d) continue and keep in full force and effect all Insurance currently held by the Company; and
- (e) comply in all material respects with all Applicable Laws relating to the conduct of the Business and the ownership and use of the Purchased Assets.

### **6.2 Sale Procedures**

- (a) The Receiver shall conduct the Sale Procedures in respect of the business and assets of the Company in accordance with the Sale Procedures and shall not seek any material amendment or modification to the Sale Procedures without the prior consent of the Buyer or further order of the Court.
- (b) If the Transaction is designated as the Successful Stalking Horse Bid pursuant to the Sale Procedures, the Receiver shall as soon as reasonably practicable serve and file a motion, on notice to the service list in the Receivership Proceedings and any other Person reasonably requested by the Buyer, seeking the Approval Order.
- (c) All motion materials of the Receiver in respect of the Approval Order and the Assignment Order, if applicable, shall be in form and substance acceptable to the Buyer and provided sufficiently in advance to the Buyer for review and comment.

### 6.3 Access to Information

Until the Closing and to the extent permitted by Applicable Law, the Receiver shall provide the Buyer and its Representatives, during normal business hours and upon reasonable advance notice, reasonable access to the Premises and shall furnish them with all such information relating to the Business and the Purchased Assets as the Buyer may reasonably request in connection with the Transaction.

### 6.4 Access to Third Parties

The Receiver shall co-operate with the Buyer in arranging any such meetings or discussions as the Buyer or its Representatives may reasonably request with employees, customers, suppliers, lessors or other Persons having a business relationship with the Company, and the Company shall provide the Buyer with such assistance, documentation and materials as the Buyer may reasonably request in connection with the preparation for and participation in such meetings and discussions. Such co-operation shall include, but shall not be limited to, the Receiver facilitating meetings and discussions between the Buyer and the relevant representative or representatives of the counterparties to each of the Purchased Contracts within 10 Business Days of this Agreement. The Receiver shall be entitled to have a Representative present in connection with any such meetings or discussions.

## ARTICLE 7 CONDITIONS

### 7.1 Conditions for The Benefit of The Buyer

The obligation of the Buyer to complete the Transaction is subject to the following conditions to be fulfilled or performed at or prior to the Closing:

- (a) **Truth of Representations and Warranties.** The respective representations and warranties of the Receiver and the Company contained in this Agreement shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of such date (except for those representations and warranties that are made as of a specific time or date), which shall be certified by the Receiver, as the case may be, pursuant to the certificate delivered by the Receiver to the Buyer at Closing;
- (b) **Performance of Covenants.** The Receiver and the Company shall have performed, in all material respects, each of their covenants and agreements to be performed by them at or prior to the Closing, which shall be certified by the Receiver and the Company, as the case may be, pursuant to certificates delivered by each of the Receiver and the Company to the Buyer at Closing;
- (c) **Deliverables.** The Receiver must have delivered to the Buyer the documents contemplated in Section 8.2, in each case in form and substance satisfactory to the Buyer, acting reasonably; and

- (d) **Assignment Order.** If requested by the Buyer to cause the assignment of a Consent Required Agreement, the Court shall have issued an Assignment Order in respect of such Consent Required Agreement, such Assignment Order shall be in form and substance acceptable to the Buyer in its sole discretion, and such Assignment Order shall have become final and shall not have been appealed, vacated, stayed, varied or amended without the consent of the Buyer.

The conditions in this Section 7.1 are for the exclusive benefit of the Buyer. Any condition in this Section 7.1 may be waived by the Buyer 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.

## 7.2 Conditions for The Benefit of The Receiver

The obligation of the Receiver to complete the Transaction is subject to the following conditions to be fulfilled or performed at or prior to the Closing:

- (a) **Truth of Representation and Warranties.** The representations and warranties of the Buyer contained in this Agreement shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties had been made on and of such date (except for those representations and warranties that are made as of a specific time or date), which shall be certified by the Buyer pursuant to a certificate delivered to the Receiver at Closing;
- (b) **Performance of Covenants.** The Buyer must shall have performed, in all material respects, each of its covenants and agreements to be performed by it at or prior to the Closing, which shall be certified by the Buyer pursuant to a certificate delivered to the Receiver at Closing; and
- (c) **Deliverables.** The Buyer must have delivered to the Receiver the documents contemplated in Section 8.3, in each case in form and substance satisfactory to the Receiver, acting reasonably.

The conditions in this Section 7.2 are for the exclusive benefit of the Receiver. Any condition in this Section 7.2 may be waived by the Receiver 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.

## 7.3 Mutual Conditions

The obligation of the Buyer and the Receiver to complete the Transaction is subject to the following conditions to be fulfilled or performed at or prior to the Closing:

- (a) **No Legal Action.** No provision of any Applicable Laws and no judgment, injunction, order or decree by any Person that prohibits the consummation of the Transaction pursuant to and in accordance with this Agreement shall be in effect, pending or threatened;

- (b) **Appointment Order.** The Appointment Order shall have become final and shall not have been appealed, vacated, stayed, varied or amended without the consent of the Buyer;
- (c) **Successful Stalking Horse Bid.** The Transaction shall have been designated as the Successful Stalking Horse Bid pursuant to the Sale Procedures;
- (d) **Rekai Centres.** The Buyer agrees to provide the services listed in Schedule D hereto to the Rekai Centres which services shall form the Rekai Centre Contracts to be assigned and assumed by the Buyer; and
- (e) **Approval Order.** The Court shall have issued the Approval Order in form and substance acceptable to the Receiver and the Buyer, and such Approval Order shall have become final and shall not have been appealed, vacated, stayed, varied or amended without the consent of the Buyer.

The conditions in this Section 7.3 are for the mutual benefit of the Buyer and the Receiver. Any condition in this Section 7.3 may be waived jointly by the Buyer and the Receiver in whole or in part, without prejudice to any of their rights of termination in the event of non-fulfillment of any other condition in whole or in part.

## **ARTICLE 8 CLOSING**

### **8.1 Date, Time and Place of Closing**

The completion of the Transaction will take place at the offices of Weisz Fell Kour LLP, at Royal Bank Plaza, South Tower 200 Bay Street, Suite 2305, Toronto, Ontario M5J 2J3 at 10:00 a.m. (Toronto time) on the Closing Date, or at such other place (including virtually through electronic exchange of documents), on such other date and at such other time as may be agreed upon in writing by the Parties. Notwithstanding the foregoing, the Parties acknowledge and agree that the Transaction will be deemed to have closed effective as of the Closing Time.

### **8.2 Receiver Deliverables at Closing**

At Closing, the Receiver will deliver or cause to be delivered to the Buyer the following:

- (a) the General Conveyance and Assumption Agreement signed by the Receiver and the Company;
- (b) if applicable, the elections referred to in Section 2.8, in each case signed by the Receiver;
- (c) the certificate of the Receiver referred to in Section 7.1;
- (d) the Receiver's Vesting Certificate; and

- (e) all other documents reasonably requested by the Buyer to be entered into or delivered by the Receiver or the Company at Closing pursuant to the terms of this Agreement.

### 8.3 Buyer Deliverables at Closing

At Closing, the Buyer will deliver or cause to be delivered to the Receiver the following:

- (a) the payments contemplated by Section 2.4;
- (b) the General Conveyance and Assumption Agreement signed by the Buyer;
- (c) if applicable, the elections referred to in Section 2.8, in each case signed by the Buyer;
- (d) the certificates of the Buyer referred to in Section 7.2;
- (e) the Buyer's GST/HST registration number; and
- (f) all other documents reasonably requested by the Receiver to be entered into or delivered by the Buyer at Closing pursuant to the terms of this Agreement.

### 8.4 Possession of Assets

The Purchased Assets shall be and remain until Closing at the risk of the Company. On Closing, the Buyer shall take possession of the Purchased Assets where situate at Closing. The Buyer acknowledges that neither the Receiver nor the Company has any obligation to deliver physical possession of the Purchased Assets to the Buyer. If following the Closing Time, the Receiver or the Company comes into possession or control of a Purchased Asset, the Receiver or the Company, as applicable, shall promptly notify the Buyer and release the Purchased Asset to the Buyer or as the Buyer may direct. If following the Closing Time, the Buyer comes into possession or control of an Excluded Asset, the Buyer shall promptly notify the Receiver and release the Excluded Asset to the Receiver or as the Receiver may direct and, for greater certainty, no right, title or interest in and to such Excluded Asset shall, or shall be deemed to, vest in the Buyer.

## ARTICLE 9 EMPLOYEES

### 9.1 Employees

- (a) At least five days prior to the Closing Date, the Buyer shall make a written offer of employment, effective as of the Closing Date and contingent upon the Closing, to such Employees as the Buyer shall determine in its sole discretion (the "**Offered Employees**") on terms and conditions determined by the Buyer in its sole discretion. Notwithstanding the foregoing, nothing herein shall be construed as to prevent the Buyer, at its sole responsibility, liability and obligation, from terminating the employment of any Transferred Employee, consistent with Applicable Law, at any time following the Closing Date.

- (b) Each Transferred Employee shall be given credit by the Buyer for all service with the Company and its predecessors solely to the extent as is required by statute, but not for common law purposes.
- (c) The Parties agree that nothing in this Section 9.1, whether express or implied, is intended to create any third-party beneficiary rights in any Transferred Employee.

## 9.2 Assumed Employee Obligations

The Buyer will assume and be responsible for the following obligations and liabilities in respect of Transferred Employees (collectively, the “**Assumed Employee Obligations**”):

- (a) all liabilities for salary, wages, commissions, vacation pay, and other compensation and benefits (including accrued vacation and sick days, as well as any other benefits and other similar arrangements) relating to the employment of all Transferred Employees from and after the Closing Date;
- (b) all liabilities for vacation pay entitlement in respect of Transferred Employees accrued or payable prior to and after the Closing Date; and
- (c) all liabilities for claims for injury, disability, death or workers’ compensation arising from or related to employment of the Transferred Employees from and after the Closing Date, but excluding any claims arising from and after the Closing Date but related to the employment of the Transferred Employees by the Company prior to the Closing Date.

For greater certainty, the Buyer shall not assume any liabilities with respect to the Employees other than the Assumed Employee Obligations.

## ARTICLE 10 TERMINATION

### 10.1 Termination

This Agreement may be terminated at any time prior to Closing as follows:

- (a) by mutual written consent of the Receiver and the Buyer;
- (b) by the Receiver or the Buyer, if a transaction other than the Transaction is designated by the Receiver as the Successful Stalking Horse Bid pursuant to the Sale Procedures, in which case, upon closing of the transaction that is subject to the Successful Stalking Horse Bid, the Break Fee and Expense Reimbursement Amount will be forthwith payable by the Receiver to the Buyer;
- (c) by the Receiver or the Buyer, if the Closing has not occurred on or before the Outside Date; provided, however, that if the Closing shall not have occurred on or before the Outside Date due to a material breach by a Party of any representation, warranty, covenant or agreement contained in this Agreement, then the breaching



Party may not terminate this Agreement pursuant to this Section 10.1(c);

- (d) by the Receiver, if there has been a material violation or breach by the Buyer of any covenant, representation or warranty and such violation or breach has not been waived by the Receiver or cured within five Business Days after written notice thereof from the Receiver to the Buyer, unless the Receiver is in material breach of its obligations under this Agreement; and
- (e) by the Buyer, if there has been a material violation or breach by the Receiver or the Company of any covenant, representation or warranty and such violation or breach has not been waived by the Buyer or cured within five Business Days after written notice thereof from the Buyer to the Receiver or the Company, unless the Buyer is in material breach of its obligations under this Agreement.

## **10.2 Effect of Termination**

In the event of termination of this Agreement in accordance with its terms, this Agreement shall become void and of no further force and effect, except for Section 1.10 (Governing Law, Jurisdiction and Venue), Section 2.5 (Deposit) and Article 11 (General Matters), each of which shall survive termination. Nothing in this Section 10.2 shall be deemed to relieve any Party from liability for any breach of this Agreement or to impair the right of any Party to compel specific performance by any other Party of its obligations under this Agreement.

## **ARTICLE 11 GENERAL MATTERS**

### **11.1 Further Assurances**

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other Parties such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

### **11.2 Structuring**

The Receiver shall consider and negotiate in good faith any proposed modifications to this Agreement and the structure of the Transaction requested by the Buyer to implement the Transaction in a tax efficient manner, including, where possible, to maximize the value and ability of the Buyer to obtain the benefit of any existing tax attributes of the Company.

### **11.3 Personal Information**

The Buyer acknowledges that it is aware, and it will advise its Representatives, that privacy legislation, including the *Personal Information Protection and Electronic Documents Act* (Canada), applies to certain information that may be disclosed to the Buyer and its Representatives pursuant to this Agreement and/or the Transaction. The Buyer agrees to comply, and cause its Representatives to comply, with such privacy legislation in connection with any such information disclosed to them.

#### 11.4 Survival

None of the representations, warranties, agreements or covenants of any of the Parties set forth in this Agreement shall survive Closing, except for Section 1.10 (Governing Law), Article 11 (General Matters) and any other covenant or agreement that by its express terms is to survive or to be performed after Closing, in each case solely to the extent they are to be performed or operate by their express terms after the Closing.

#### 11.5 Expenses

Each of the Receiver and the Buyer shall be responsible for the expenses (including fees and expenses of legal advisers, accountants and other professional advisers) incurred by them, respectively, in connection with the negotiation of this Agreement and the completion of the Transaction.

#### 11.6 Time of the Essence

Time will be of the essence in this Agreement.

#### 11.7 Successors and Assigns

This Agreement may not be assigned by the Receiver or the Company without the prior written consent of the Buyer. This Agreement may not be assigned by the Buyer without the prior written consent of the Receiver.

#### 11.8 Notices

Any notice or other communication under this Agreement shall be in writing and may be delivered personally, by courier or by email, addressed:

If to the Buyer at:     **CareRx Corporation**  
 20 Eglinton Avenue West, Suite 2100  
 Toronto, ON M4R 1K8

Attention:     Paul Rakowski  
 E-mail:        paul.rakowski@carerx.ca

with a copy to:       **Cappellacci DaRoza LLP**  
 462 Wellington Street West, Suite 500  
 Toronto, ON M5V 1E3

Attention:     Jeffrey D. Murray  
 E-mail:        jmurray@capplaw.ca

If to the Receiver or the Company at:

**MNP Ltd**

111 Richmond Street West, Suite 300  
Toronto, ON M5H 2G4

Attention: Sheldon Title  
E-mail: sheldon.title@mnp.ca

with a copy to:

**Weisz Fell Kour LLP**

Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2305, P.O. Box 120  
Toronto, ON M5J 2J3

Attention: Caitlin Fell  
E-mail: cfell@wfkllaw.ca

Any such notice of other communication, if given by personal delivery or by courier, will be deemed to have been given on the day of actual delivery thereof and, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day or on a day that is not a Business Day, will be deemed to have been given on the next Business Day after the date of the transmission.

**11.9 Amendment**

This Agreement may be amended as to all Parties by instrument in writing signed by the Buyer and the Receiver.

**11.10 Counterparts, Electronic Signatures**

This Agreement may be signed in any number of counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. Execution of this Agreement may be made by email, PDF or other electronic format or transmission which, for all purposes, shall be deemed to be an original signature.


**11.11 Receiver's Capacity**

It is acknowledged by the Buyer that the Receiver is entering into this Agreement solely in its capacity as Court-appointed Receiver and that the Receiver shall have no personal or corporate liability under or as a result of this Agreement. Any claim against the Receiver shall be limited to and only enforceable against the property and assets then held by or available to it in its capacity as Receiver of the Company and shall not apply to its personal property and other assets held by it in any other capacity.


*[The remainder of this page has been left intentionally blank.]*

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

**RECEIVER, MNP LTD, in its capacity as the court appointed receiver of PULSE RX, and not in its personal or corporate capacity**

Per:   
Name: Sheldon Title  
Title: Senior Vice-President

**CARERX PHARMACY CORP.**

Per:   
Name: Paul Rakowki  
Title: SVP, Corporate Development & General Counsel

**SCHEDULE A**  
**PURCHASED ASSETS SCHEDULE**

- (a) the Purchased Contracts, as follows:
  - (i) the Reikai Centre Contracts;
  - (ii) Service Agreement between the Company and Quad County Support Services dated June 1, 2015
  - (iii) Service Agreement between the Company and Garden Court Nursing Home dated April 1, 2011;
- (b) the Patient Records;
- (c) the Goodwill;
- (d) the Purchased Inventory and Supplies;
- (e) the Books and Records; and
- (f) the Authorizations,

but, for greater certainty, in each case excluding any Excluded Assets.

**SCHEDULE B**  
**EXCLUDED ASSETS SCHEDULE**

- (a) Cash;
- (b) the Receivables;
- (c) the Pulse Letters Patent and Articles of Incorporation;
- (d) the Excluded Contracts;
- (e) the Excluded Equipment;
- (f) the Real Property Leases;
- (g) the Personal Property Leases;
- (h) the Excluded Inventory and Supplies;
- (i) the Employee Plans;
- (j) Prepaid Expenses;
- (k) IT Systems;
- (l) the Insurance;
- (m) the Intellectual Property;
- (n) the Tax Refunds;
- (o) the original Tax records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Company, in each case that do not relate to the Business or the Purchased Assets;
- (p) all of the Company and Receiver's rights and benefits under this Agreement and the Transaction;
- (q) all shares, partnership or joint venture interests and any other securities of any Person owned or held by the Company or any of its Affiliates;
- (r) all minute books, share ledgers, corporate seals and stock certificates of the Company; and
- (s) any other assets as may be expressly designated by the Buyer in writing prior to closing.

**SCHEDULE C  
SALE PROCEDURES**

*[Attached]*

# **EXHIBIT “D”**



## AUCTION PROCEDURES – STALKING HORSE ASSETS

(November 16, 2021)

MNP Ltd., as receiver and receiver and manager (the “**Receiver**”), without security, of all of the assets, undertakings and properties of Pulse RX Inc. (“**Pulse**”) and Family Pharmacy Clinic Inc. have determined that an auction (the “**Auction**”) is prudent pursuant to and in accordance with the sale process conducted by the Receiver (the “**Sale Process**”, a copy of which is attached hereto as Schedule “A”). Pursuant to the Sale Process, an auction may be held by the Receiver if there are one or more Qualified Bidders for all the assets of Pulse other than the Pulse Charter (each as defined in the Sale Process).

The Receiver will conduct the Auction via Zoom Video Conference at ● a.m. (Eastern Time) on ●, 2021 or such other place and time as the Receiver may advise Qualified Bidders. All capitalized terms not otherwise defined herein shall have the meaning given to them in the Sale Process.

The Auction shall be conducted in accordance with the following procedures:

1. Participation at the Auction. Only a Qualified Bidder is eligible to participate in the Auction. The Receiver shall provide all Qualified Bidders with the amount of the bid that the Receiver has designated to be the highest and/or best bid that was received on or before the Bid Deadline (the “**Lead Bid**”) by 5:00 p.m. (Eastern Time) two (2) business days before the date of the Auction. Each Qualified Bidder must inform the Receiver whether it intends to participate in the Auction no later than 12:00 p.m. (Eastern Time) on the business day prior to the Auction (the “**Participation Deadline**”). Any Qualified Bidder who does not inform the Receiver of their intention to participate in the Auction by the Participation Deadline will not be entitled to participate in the Auction. Only the authorized representatives of each of the Qualified Bidders, the Receiver, and their respective counsel and other advisors shall be permitted to attend the Auction.
2. Bidding at the Auction. Bidding at the Auction shall be conducted in rounds. Bidding at the Auction shall include an opening bid (the “**Opening Bid**”). The Lead Bid shall constitute the Opening Bid for the first round and the best Overbid (as defined herein) at the end of each round shall constitute the Opening Bid for the following round. In each round, a Qualified Bidder may submit no more than one Overbid. Any Qualified Bidder who bids in a round (including the Qualified Bidder that submitted the Opening Bid for such round) shall be entitled to participate in the next round of bidding at the Auction.
3. Receiver Shall Conduct the Auction. The Receiver and its advisors shall direct and preside over the Auction. At the start of each round of the Auction, the Receiver shall provide the terms of the Opening Bid to all participating Qualified Bidders at the Auction.

All bids made after the Opening Bid shall be Overbids, and shall be made and received on an open basis, and all material terms of the highest and/or best Overbid shall be fully disclosed to all other Qualified Bidders that are participating in the Auction and have bid in a corresponding Auction round. The Receiver shall maintain a record of the Opening Bid and all Overbids made and announced at the Auction.

4. Terms of Overbids. An “**Overbid**” is any bid made at the Auction subsequent to the Receiver's announcement of the Opening Bid. To submit an Overbid, in any round of the Auction, a Qualified Bidder must comply with the following conditions:
- a. *Minimum Overbid Increment:* Any Overbid shall be made in minimum increments of \$15,000 above the Opening Bid, or such increments as the Receiver may determine in order to facilitate the Auction (the “**Minimum Overbid Increment**”). The amount of the cash purchase price consideration or value of any Overbid shall not be less than the cash purchase price consideration or value of the Opening Bid, plus the Minimum Overbid Increment.
  - b. *The Bid Requirements apply:* Except as modified herein, an Overbid must comply with the requirements outlined at paragraph 22 of the Sale Process (the “**Bid Requirements**”) provided, that any Overbid made by a Qualified Bidder remains irrevocable and binding on the Qualified Bidder and open for acceptance as the next highest and/or best bid, as determined by the Receiver (the “**Back-up Bid**”) until the closing of the bid accepted by the Receiver (the “**Successful Bid**”).
  - c. *Announcing Overbids:* At the end of each round of bidding, the Receiver shall announce the identity of the Qualified Bidder and the material terms of the then highest and/or best Overbid, including the assets proposed to be acquired and the obligations proposed to be assumed, and the basis for calculating the total consideration offered in such Overbid based on, among other things, the Bid Assessment Criteria.
  - d. *Consideration of Overbids:* The Receiver reserves the right to make one or more adjournments in the Auction to, among other things:
    - i. allow Qualified Bidders to consider how they wish to proceed during a bidding round;
    - ii. set the parameters, including mandating a time for the conclusion, of a round;
    - iii. consider and determine the current highest and/or best Overbid at any given time during the Auction; and
    - iv. give Qualified Bidders the opportunity to provide the Receiver with such additional evidence as it may require that the Qualified Bidder has obtained all required internal corporate approvals, has sufficient internal resources, or has received sufficient non-contingent funding commitments, to consummate the proposed transaction at the prevailing Overbid amount. The Receiver may have clarifying discussions with a Qualified Bidder, and the Receiver may allow a Qualified Bidder to make technical clarifying changes to its Overbid following such discussions as between them.
  - e. *Failure to Bid:* If at the end of any round of bidding a Qualified Bidder (other than the Qualified Bidder that submitted the Opening Bid), fails to submit an Overbid, then such Qualified Bidder shall not be entitled to continue to participate in the next round of the Auction.

5. Additional Procedures. The Receiver may adopt new rules or modify existing rules for the Auction at or prior to the Auction that will better promote the goals of the Auction, including rules pertaining to the structure of the Auction and rounds therein and the order of bidding provided that no such rules may change the requirement that all material terms of the then highest and/or best Overbid at the end of each round of bidding will be fully disclosed to all other Qualified Bidders.
6. Closing the Auction. The Auction shall be closed after the Receiver has: (i) reviewed the final Overbid of each Qualified Bidder; and (ii) identified the Successful Bid and the Back-Up Bid and advised the Qualified Bidders participating in the Auction of such determination.
7. Finalizing Documentation. Promptly following a bid of a Qualified Bidder being declared the Successful Bid or the Back-Up Bid, the Qualified Bidder shall provide the Receiver with such further deposit monies (as necessary), and shall execute and deliver such revised and updated definitive transaction agreements as may be required to reflect and evidence the Successful Bid or Back-Up Bid.
8. Completion of the Transaction. Following the selection of the Successful Bid, the Receiver shall bring an Approval Motion for an order (the “**Approval and Vesting Order**”) authorizing the Receiver to take such further actions as may be necessary or appropriate, to give effect to the Successful Bid and transaction, and vest in and to the Qualified Bidders the Stalking Horse Assets. Following the granting of any Approval and Vesting Order by the court, the Receiver shall take all reasonable steps necessary to complete the transaction set forth in the Successful Bid. The transaction shall be completed within five (5) business days following the granting of the Approval.

# **EXHIBIT “E”**

**ASSET PURCHASE AGREEMENT****MNP LTD.**

in its capacity as the court-appointed receiver of  
Pulse RX Inc. and Family Pharmacy Clinic Inc.,  
and not in its personal or corporate capacity  
as the Receiver

- and -

**20447944 Ontario Inc.**

as the Buyer

- and -

**Pulse RX Inc., and  
Family Pharmacy Clinic Inc.**

together, the Company

**Made as of November 25, 2021**

## TABLE OF CONTENTS

ARTICLE 1 INTERPRETATION.....	2
1.1 Definitions.....	2
1.2 Appendices and Schedules.....	9
1.3 Statutes.....	10
1.4 Headings and Table of Contents.....	10
1.5 Interpretations.....	10
1.6 Currency.....	10
1.7 Invalidity of Provisions.....	10
1.8 Entire Agreement.....	10
1.9 Waiver, Amendment.....	10
1.10 Governing Law, Jurisdiction and Venue.....	11
ARTICLE 2 PURCHASE AND SALE.....	11
2.1 Purchased Assets.....	11
2.2 Excluded Assets.....	11
2.3 As Is, Where Is.....	12
2.4 Purchase Price.....	13
2.5 Deposit.....	13
2.6 Satisfaction of Purchase Price.....	14
2.7 Purchase Price Allocation.....	14
2.8 Tax Matters.....	14
ARTICLE 3 ASSUMED LIABILITIES AND EXCLUDED LIABILITIES.....	15
3.1 Assumed Liabilities.....	15
3.2 Excluded Liabilities.....	15
3.3 Consent Required Agreements.....	16
3.4 Additions to Purchased Assets, Excluded Assets and Excluded Liabilities.....	17
ARTICLE 4 REPRESENTATIONS AND WARRANTIES.....	17
4.1 Existence.....	17
4.2 Corporate Power.....	17
4.3 Residence of the Receiver and Company.....	18
4.4 Due Authorization and Enforceability of Obligations.....	18
ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE BUYER.....	18
5.1 Corporate Power.....	18
5.2 Residence of The Buyer.....	18
5.3 Due Authorization and Enforceability of Obligations.....	18
5.4 GST/HST Legislation.....	18
5.5 Diligence.....	19
5.6 Adequate Funds.....	19
5.7 No Violation.....	19

ARTICLE 6 OTHER AGREEMENTS .....	19
6.1    Conduct Prior To Closing .....	19
6.2    Sale Procedures .....	20
6.3    Access to Information .....	20
6.4    Access to Third Parties .....	20
ARTICLE 7 CONDITIONS .....	21
7.1    Conditions for The Benefit of The Buyer .....	21
7.2    Conditions for The Benefit of The Receiver.....	21
7.3    Mutual Conditions .....	22
ARTICLE 8 CLOSING .....	23
8.1    Date, Time and Place of Closing .....	23
8.2    Receiver Deliverables at Closing.....	23
8.3    Buyer Deliverables at Closing .....	23
8.4    Possession of Assets .....	24
ARTICLE 9 EMPLOYEES .....	24
9.1    Employees.....	24
9.2    Assumed Employee Obligations.....	24
ARTICLE 10 TERMINATION.....	25
10.1  Termination.....	25
10.2  Effect of Termination.....	25
ARTICLE 11 GENERAL MATTERS .....	26
11.1  Further Assurances.....	26
11.2  Structuring.....	26
11.3  Personal Information.....	26
11.4  Survival.....	26
11.5  Expenses .....	26
11.6  Time of the Essence .....	26
11.7  Successors and Assigns.....	26
11.8  Notices .....	27
11.9  Amendment.....	27
11.10 Counterparts, Electronic Signatures.....	28
11.11 Receiver’s Capacity .....	28
SCHEDULE A PURCHASED ASSETS SCHEDULE.....	30
SCHEDULE B EXCLUDED ASSETS SCHEDULE .....	31
SCHEDULE C SALE PROCEDURES .....	32
SCHEDULE D REKAI SERVICES.....	33

## ASSET PURCHASE AGREEMENT

**THIS AGREEMENT** is made as of November 25, 2021 (the “**Execution Date**”).

### **B E T W E E N:**

**MNP Ltd.**, in its capacity as the court-appointed receiver of the Company (the “**Receiver**”), and not in its personal or corporate capacity

- and –

**2047944 Ontario Inc. .**, a corporation organized under the laws of the Province of Ontario (the “**Buyer**”)

### **RECITALS:**

- A. On June 10, 2021, pursuant to an order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), MNP Ltd. was appointed as receiver and receiver and manager without security, of all of the assets, undertakings and properties (collectively, the “**Property**”) of Pulse RX Inc. and Family Pharmacy Clinic Inc., (together, the “**Company**”) acquired for, or used in relation to a business carried on by the Company.
- B. Pursuant to the Appointment Order, the Receiver is authorized to market any or all of the Property, including advertising or soliciting offers in respect of any and all the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver, in its discretion, may deem appropriate.
- C. In connection with the sale and investment solicitation process commenced by the Receiver, the Buyer, wishes to purchase, and the Receiver has agreed to sell, the Purchased Assets pursuant to and in accordance with the terms of the Sale Procedures (as defined herein) and subject to and in accordance with the conditions of this Agreement.
- D. The transactions contemplated by this Agreement are subject to the approval of the Court and will be consummated only pursuant to the Approval Order (as defined herein) to be entered in the receivership proceedings.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confirmed, the Parties agree as follows:



## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement,

- (a) “**Actions**” means any claims, refunds, causes of action, rights of recovery, rights of set-off, subrogation and rights of recoupment of the Company related to the Business or any of the Purchased Assets or any of the Assumed Liabilities, and the interest of the Company in any litigation and in the proceeds of any judgment, order or decree issued or made in respect thereof in respect of occurrences, events, accidents or losses suffered by the Company prior to the Closing Time;
- (b) “**Affiliate**” has the same meaning as “affiliate” under the *Ontario Business Corporations Act*, R.S.O. 1990, c. B.16, as amended;
- (c) “**Agreement**” means this purchase agreement and all Appendices, Exhibits and Schedules attached hereto, in each case as the same may be supplemented, amended, restated or replaced from time to time; and the expressions “Article”, “Section”, “Schedule” and “Exhibit” followed by a number or letter mean and refer to the specified Article, Section, Schedule or Exhibit of this Agreement;
- (d) “**Applicable Law**” means any statute, law (including the common law), ordinance, rule, regulation, restriction, by-law (zoning or otherwise), order, or any consent, exemption, approval or licence of any Governmental Authority that applies in whole or in part to the Company, the Transaction, the Purchased Assets, the Receiver or the Buyer;
- (e) “**Appointment Order**” has the meaning given to it in the recitals of this Agreement;
- (f) “**Approval Order**” means an approval and vesting order of the Court, *inter alia*, approving the Transaction, and effective upon the delivery of the Receiver’s Vesting Certificate to the Buyer, vesting in the Buyer all of the right, title and interest in and to the Purchased Assets, free and clear of all Encumbrances other than Permitted Encumbrances, which order shall be in form and substance acceptable to the Receiver and the Buyer;
- (g) “**Assignment Order**” means an order of the Court authorizing and approving the assignment of a Consent Required Agreement, which order shall be in form and substance acceptable to the Receiver and the Buyer;
- (h) “**Assumed Employee Obligations**” has the meaning given to it in Section 9.2;
- (i) “**Assumed Liabilities**” has the meaning given to it in Section 3.1;

- (j) “**Authorizations**” means all orders, permits, approvals, waivers, licences or authorizations of any Governmental Authority issued to or in respect of the Purchased Assets other than the Pulse Letters Patent and Articles of Incorporation;
- (k) “**Books and Records**” means all customer and supplier lists, and export of the Company’s databases for the Purchased Assets, books of account, employee personal records of Transferred Employees, Tax records and books and other sales and business records relating or pertaining to the Purchased Assets;
- (l) “**Business**” means the business now carried on by the Company;
- (m) “**Business Day**” means any day of the year on which national banking institutions in Toronto, Ontario are open to the public for conducting business and are not required or authorized by Applicable Law to close;
- (n) “**Buyer**” has the meaning given to it in the preamble to this Agreement;
- (o) “**Cash**” means all cash and cash equivalents, bank accounts and bank balances, monies in possession of banks and other depositories, refunds or rebates, term deposits and similar cash property, in each case of the Company, and includes
  - (i) cash held by or for the benefit of the Company at the Closing Time, and
  - (ii) cash received by the Company, or held by or for the benefit of the Company, from and after the Closing Time that is received in respect of, or relates to, a Receivable in existence as of the Closing Time;
- (p) “**Closing**” means the completion of the Transaction pursuant to the terms and conditions of this Agreement at the time set forth in Section 8.1 and of all other transactions contemplated by this Agreement that are to occur concurrently with the sale and purchase of the Purchased Assets;
- (q) “**Closing Date**” means the date on which all of the conditions in Sections 7.1 to 7.3 have been satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date, but subject to the satisfaction and waiver of such conditions), or such other date as may be agreed upon by the Receiver and the Buyer, provided however that the Closing Date shall be no later than the Outside Date;
- (r) “**Closing Time**” means 12:01 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Receiver and the Buyer agree that the Closing Time shall take place;
- (s) “**Company**” has the meaning given to it in the preamble to this Agreement;
- (t) “**Consent Required Agreement**” has the meaning given to it in Section 3.3;

- (u) “**Contract**” means any contract, agreement, lease, sublease, licence, sublicense, sales order, purchase order, instrument, or other commitment, whether written or oral, that is binding on the Company or any part of its assets or property (personal, real, tangible, intangible or otherwise) under Applicable Law;
- (v) “**Court**” has the meaning given to it in the recitals to this Agreement;
- (w) “**Cure Costs**” means, in respect of a Consent Required Agreement, the amount that the Buyer agrees to pay in satisfaction of any monetary defaults thereunder;
- (x) “**Deposit**” means a deposit in an amount equal to \$ [REDACTED];
- (y) “**Employee**” means all individuals who are employed by the Company, whether on a full- time or a part-time basis as of the Closing Date;
- (z) “**Employee Plans**” means all the employee benefit, fringe benefit, supplemental unemployment benefit, bonus, incentive, profit sharing, termination, change of control, retirement, pension, registered retirement savings, health, welfare, medical, dental, disability, life insurance and similar plans, programmes, arrangements or practices relating to the current or former directors, officers or Employees of the Company maintained, sponsored or funded by the Company, whether written or oral, funded or unfunded, insured or self-insured, registered or unregistered;
- (aa) “**Encumbrance**” means any security interest, lien, prior claim, charge, hypothec, hypothecation, reservation of ownership, pledge, encumbrance, trust (including any statutory, constructive or deemed trust), mortgage or adverse claim of any nature or kind whatsoever;
- (bb) “**Excluded Assets**” has the meaning given to it in Section 2.2;
- (cc) “**Excluded Assets Schedule**” means Schedule B to this Agreement;
- (dd) “**Excluded Contracts**” means all Contracts of the Company that are not Purchased Contracts;
- (ee) “**Excluded Equipment**” means all equipment and personal property, including fixed and tangible assets, machinery, chattels, furniture, computer hardware and other tangible assets listed on the Excluded Assets Schedule;
- (ff) “**Excluded Inventory and Supplies**” means any inventories of products and medications including raw materials, supplies, packaging, work in process and finished goods related to the Business which (a) are sold or otherwise disposed of during the Interim Period in the Ordinary Course, (b) are listed on the Excluded Assets Schedule, or (c) are expired or otherwise unusable, obsolete, damaged, worn, defective or unsaleable goods, broken as of the Closing Date or packages and Rx (prescription) merchandise with an expiry date less of than six months after the Closing Date or that are liquid and contained in an open vial or bottles;

- (gg) “**Excluded Liabilities**” has the meaning given to it in Section 3.2;
- (hh) “**Execution Date**” means the date noted on page 1 of this Agreement;
- (ii) “**General Conveyance and Assumption Agreement**” means a general conveyance and assumption agreement with respect to the Purchased Assets and the Assumed Liabilities in form and substance acceptable to the Receiver and the Buyer, acting reasonably;
- (jj) “**Goodwill**” means the goodwill of the Business, including the right of the Buyer to represent itself as carrying on the Business in continuation of and in succession to the Company;
- (kk) “**Governmental Authority**” means: (i) any national, federal, provincial, state, municipal, local or other governmental or public department, court, commission, board, bureau, agency or instrumentality; (ii) any subdivision or authority of any of the foregoing; or (iii) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of or in lieu of any of the above;
- (ll) “**GST/HST**” means goods and services tax payable under the GST/HST Legislation, including “harmonized sales tax”;
- (mm) “**GST/HST Legislation**” means Part IX of the *Excise Tax Act* (Canada);
- (nn) “**Insurance**” means (i) Contracts of insurance, insurance policies and insurance plans of the Company, to the extent transferable; (ii) any insurance proceeds net of any deductibles and retention recovered by the Company under all other Contracts of insurance, insurance policies (excluding proceeds paid directly by the insurer to or on behalf of directors and officers under director and officer policies) and insurance plans during the Interim Period; and (iii) the full benefit of the Company’s rights to insurance claims (excluding proceeds paid directly by the insurer to or on behalf of directors and officers under director and officer policies) relating to the Business and amounts recoverable in respect thereof net of any deductible;
- (oo) “**Intellectual Property**” means all rights, interests and benefits of the Company, through ownership, licensing or otherwise, in (i) any trademarks, trade names, business names, brand names, services marks, copyrights, trade secrets, industrial designs, inventions, patents, formulas, processes, know how, technology, manufacturing, engineering and other technical drawings and manuals, blue prints, research and development reports, technical information, technical assistance, engineering data, design and engineering specifications, telephone numbers, domain names, domain name registrations, website names and worldwide web addresses, social media accounts and social media handles and other communication addresses, and related goodwill, and (ii) any applications or registrations of the foregoing, issued patents, continuations in part, divisional

applications or analogous rights therefor, in each case whether registered or not, including the Intellectual Property listed on the Purchased Assets Schedule;

- (pp) “**Interim Period**” means the period from date of the execution by the Parties of this Agreement to and including the Closing Date;
- (qq) “**Inventory**” means all merchantable inventories of branded Rx (prescription) pharmaceuticals and OTC Products held for sale in good and saleable condition in connection with the Business and for which title is legally and beneficially held by the Company, subject to confirmation by a physical inventory count (as provided in the definition of “**Inventory Amount**” below) and provided that all non-liquid Rx (prescription) pharmaceuticals contained in open vials or bottles shall be deemed to be half full;
- (rr) “**Inventory Amount**” means the 75% of the invoice price of the Inventory paid for by Pulse at the time of purchase with an inventory amount to be completed at such discounted cost value by Western Inventory Services, or alternative third-party inventory counting service agreed upon by the Receiver and the Buyer, after the close of business on the evening prior to the Closing Date or such earlier date as agreed upon by the Receiver and the Buyer. The costs of such count shall be split between the Receiver and the Buyer on a 50/50 basis;
- (ss) “**IT Systems**” means all software (including source code and object code form), computer hardware, licenses, and documentation therefor and rights therein owned by the Company, and any other information technology systems owned or used by the Company, including, all electronic data processing systems, cloud services, program specifications, source codes, object code, input data, report layouts, formats, algorithms, record file layouts, diagrams, functional specifications, narrative descriptions, flow charts, operating manuals, training manuals and other related material;
- (tt) “**Offered Employees**” has the meaning given to it in Section 9.1(a);
- (uu) “**Ordinary Course**” means, with respect to an action taken or omitted to be taken by a Person, that such action is reasonably practicable and generally consistent with the recent past practices of the Person having regard to the recent circumstances leading up to and including the transactions contemplated by this Agreement and, as applicable, subject to the Appointment Order;
- (vv) “**OTC Products**” means all products recognized as having therapeutic or prophylactic properties when applied to or taken into the human body which are available for sale in Canada without prescription, including, but not limited to, analgesics, cough and cold remedies, infant formula, diabetic care products, homeopathic products, eye and ear care products, skin care products including acne care and lip balms, internal remedies including antacids, laxatives, sedatives, stimulants and anti-nausea products, and which are commonly referred to as over-the-counter products;

- (ww) “**Outside Date**” means December 31, 2021 or such later date as may be agreed by the Buyer and the Receiver;
- (xx) “**Parties**” means, collectively, the Receiver and the Buyer and “**Party**” means any of them;
- (yy) “**Patient Records**” means all prescription files, patient record files, and sales records of the Business including all digital back-up tapes and/or disks and the customer list showing each customer’s name, address, telephone number, patient history and third-party drug information;
- (zz) “**Permitted Encumbrances**” means the Encumbrances expressly listed as permitted Encumbrances in the Approval Order;
- (aaa) “**Person**” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, co-operative, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted;
- (bbb) “**Personal Property Leases**” means all leases of personal or moveable property of the Company listed on the Purchased Assets Schedule;
- (ccc) “**Premises**” means the premises leased and occupied by the Company located at 111 Zenway Blvd., Units 2 and 3, Woodbridge, Ontario;
- (ddd) “**Prepaid Expenses**” means all prepaid expenses, including *ad valorem* Taxes, of the Company, and all deposits of the Company with any Person, including any supplier, public utility, lessor under any Personal Property Lease or Real Property Lease, or Governmental Authority;
- (eee) “**Pulse Letters Patent and Articles of Incorporation**” means the pre-1954 charter of Pulse RX Inc., including the Letters Patent Dated December 6, 1967 and the Articles of Amendment dated June 13, 2005;
- (fff) “**Purchase Price**” has the meaning given to it in Section 2.4;
- (ggg) “**Purchased Assets**” has the meaning given to it in Section 2.1;
- (hhh) “**Purchased Assets Schedule**” means Schedule A to this Agreement;
- (iii) “**Purchased Contracts**” means the Contracts listed on the Purchased Assets Schedule;
- (jjj) “**Purchased Equipment**” means all equipment and personal property owned by the Company wherever located, including all fixed and tangible assets, machinery, chattels, tooling, furniture, computer hardware and other tangible assets, but excluding Excluded Equipment;

- (kkk) **“Purchased Inventory and Supplies”** means all of the Company’s Inventory, merchandise, samples and supplies, including raw materials, work in process, finished goods, and packaging and shipping supplies, but excluding Excluded Inventory and Supplies;
- (lll) **“Real Property Leases”** means the Company’s leasehold interest in the leases, agreements to lease, subleases or licences listed on the Purchased Assets Schedule;
- (mmm) **“Receivables”** means all future payments made by Cash, cheque, automatic clearing houses, direct or pre-authorized debit, wire transfer, electronic money transfers or other forms of payment related to the Business, including for goods, services or facilities provided by the Company but excluding, for greater certainty, Related Party Amounts;
- (nnn) **“Receiver”** has the meaning given to it in the recitals to this Agreement;
- (ooo) **“Receiver’s Vesting Certificate”** means the Receiver’s certificate contemplated by the Approval Order;
- (ppp) **“Receivership Proceedings”** means the proceedings in respect of the Company commenced pursuant to the Appointment Order;
- (qqq) **“Rekai Centre Contracts”** means, collectively: (i) the Service Agreement as between Pulse Rx Inc. and the Rekai Centre at Sherbourne Place dated April 1, 2015, and (ii) the Service Agreement as between Pulse Rx Inc. and the Rekai Centre at Wellesley Place dated April 1, 2015, as may be amended;
- (rrr) **“Rekai Centres”** means the Rekai Centre at Sherbourne Place and the Rekai Centre at Wellesley Central Place;
- (sss) **“Related Party Amounts”** means any indebtedness, liabilities or other amounts owed or payable to the Company from current or former directors, officers, employees or shareholders of the Company;
- (ttt) **“Representatives”** means, in respect of any Party, its and its Affiliates’ directors, officers, employees, agents and advisors (including financial and legal advisors);
- (uuu) **“Sale Procedures”** means the procedures for the conduct of a sale process in respect of the Purchased Assets approved by the Court, which procedures shall be in substantially the form attached hereto as Schedule C;
- (vvv) **“Successful Stalking Horse Bid”** has the meaning given to it in the Sale Procedures;
- (www) **“Tax”** and **“Taxes”** means all taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever imposed by any Governmental Authority, together with all interest, penalties, fines, additions to tax or other additional amounts imposed in respect thereof, including (a) those levied on, or



measured by, or referred to as income, gross receipts, earnings, profits, capital, corporate, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, license, franchising, real or personal property, payroll, employment, wage, employer health, social services, severance, utility, occupation, premium, windfall, education and social security taxes, all surtaxes, all custom duties and import and export taxes, all license, franchise and registration fees and all employment and unemployment insurance, health insurance and Canada and other government pension plan premiums, workers' compensation levies, and retirement contributions, including those imposed by any Governmental Authority, and (b) any liability for the payment of any amount of the type described in the immediately preceding clause (a) as a result of being a "transferee" (within the meaning of section 160 of the Tax Act or any other Applicable Laws) of another taxpayer or entity or a member of a related, non-arm's length, affiliated or combined group;

- (xxx) "**Tax Act**" means the *Income Tax Act* (Canada), as amended from time to time;
- (yyy) "**Tax Refunds**" means the benefit of the Company to any Tax refunds (including in respect of any overpayment of Taxes), rebates or credits (including refundable credits) payable or paid to the Company, net of any amounts withheld by any Governmental Authority having jurisdiction over the assessment, determination, collection, or other imposition of any Tax, and the benefit of the Company to any claim or right of the Company to any such refund, rebate, or credit in respect of Taxes, including in any case any interest thereon received or receivable from any Governmental Authority, but for greater certainty, only to the extent that such refund, rebate or credit relates to a taxable period ending on or before the Closing Date or, in respect of a taxable period that includes but does not end on the Closing Date, the portion thereof up to and including the Closing Date;
- (zzz) "**Transaction**" means the purchase of the Purchased Assets and the assumption of the Assumed Liabilities contemplated by this Agreement and any of the other transactions contemplated by this Agreement;
- (aaaa) "**Transferred Employees**" means solely those Offered Employees who accept the offer of employment made by the Buyer or its Affiliate(s) pursuant to Section 9.1 and who actually commence employment with the Buyer or its Affiliates on their first scheduled shift after Closing; and
- (bbbb) "**Transfer Taxes**" has the meaning given to it in Section 2.8(a).

## 1.2 Appendices and Schedules

The following Schedules form part of this Agreement:

Schedule A	Purchased Assets Schedule
Schedule B	Excluded Assets Schedule
Schedule C	Sale Procedures
Schedule D	Rekai Services



### **1.3 Statutes**

Unless specified otherwise, reference in this Agreement to a statute refers to that statute as it may be amended, or to any restated or successor legislation of comparable effect.

### **1.4 Headings and Table of Contents**

The inclusion of headings and a table of contents in this Agreement is for convenience of reference only and shall not affect the construction or interpretation hereof.

### **1.5 Interpretations**

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders. In addition, every use of the words “including” or “includes” in this Agreement is to be construed as meaning “including, without limitation” or “includes, without limitation”, respectively.

### **1.6 Currency**

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in Canadian dollars.

### **1.7 Invalidity of Provisions**

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.

### **1.8 Entire Agreement**

This Agreement and the agreements and other documents required to be delivered pursuant to this Agreement constitute the entire agreement between the Parties and set out all the covenants, promises, warranties, representations, conditions and agreements between the Parties in connection with the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement and any document required to be delivered pursuant to this Agreement.

### **1.9 Waiver, Amendment**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by the Receiver and the Buyer. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

## 1.10 Governing Law, Jurisdiction and Venue

This Agreement, the rights and obligations of the Parties under this Agreement, and any claim or controversy directly or indirectly based upon or arising out of or in connection with this Agreement or the Transaction or any part thereof, including all matters of construction, validity and performance, as well as the rights and obligations of the Parties hereunder or thereunder, shall in all respects be governed by, and interpreted, construed and determined in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to the conflicts of law principles thereof. The Parties consent to the exclusive jurisdiction and venue of the courts of the Court for the resolution of any such disputes arising under or in connection with this Agreement. Each Party agrees that service of process on such Party as provided in Section 11.8 shall be deemed effective service of process on such Party.

## ARTICLE 2 PURCHASE AND SALE

### 2.1 Purchased Assets

Subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time and the Receiver agrees to sell, assign, transfer and convey to the Buyer, and the Buyer agrees to purchase, assume and accept from the Receiver and the Company, free and clear of all Encumbrances other than Permitted Encumbrances, all of the right, title, benefit and interest of the Receiver and the Company, if any, in, to and under, or relating to, the assets, property and undertaking owned or used or held for use in connection with the Business (the “**Purchased Assets**”), including the following properties, assets and rights:

- (a) the Purchased Contracts;
- (b) the Patient Records;
- (c) the Goodwill;
- (d) the Purchased Inventory and Supplies;
- (e) the Books and Records; and
- (f) the Authorizations,

but, for greater certainty, in each case excluding any Excluded Assets.

### 2.2 Excluded Assets

Notwithstanding any provision of this Agreement, the Purchased Assets shall not, and will not be deemed to, include any of the following assets of the Company (collectively, the “**Excluded Assets**”):

- (a) Cash;

- (b) the Receivables;
- (c) the Pulse Letters Patent and Articles of Incorporation;
- (d) the Excluded Contracts;
- (e) the Excluded Equipment;
- (f) the Real Property Leases;
- (g) the Personal Property Leases;
- (h) the Excluded Inventory and Supplies;
- (i) the Employee Plans;
- (j) Prepaid Expenses;
- (k) IT Systems;
- (l) the Insurance;
- (m) the Intellectual Property;
- (n) the Tax Refunds;
- (o) the original Tax records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Company, in each case that do not relate to the Business or the Purchased Assets;
- (p) all of the Company and Receiver's rights and benefits under this Agreement and the Transaction;
- (q) all shares, partnership or joint venture interests and any other securities of any Person owned or held by the Company or any of its Affiliates;
- (r) all minute books, share ledgers, corporate seals and stock certificates of the Company; or
- (s) any other assets as may be expressly designated by the Buyer in writing prior to Closing.

### **2.3 As Is, Where Is**

THE BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE PURCHASED ASSETS AND THE BUSINESS RELATED THERETO ARE PURCHASED AND THE ASSUMED LIABILITIES ARE ASSUMED BY THE BUYER ON AN "AS IS, WHERE IS" BASIS AS THEY SHALL EXIST AT THE CLOSING DATE

WITH ALL FAULTS AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, IN FACT OR BY LAW WITH RESPECT TO THE PURCHASED ASSETS, THE BUSINESS AND THE ASSUMED LIABILITIES, AND WITHOUT ANY RECOURSE TO THE RECEIVER OR ANY OF ITS DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, REPRESENTATIVES, AGENTS OR ADVISORS. THE BUYER AGREES TO ACCEPT THE PURCHASED ASSETS, THE BUSINESS RELATED THERETO AND THE ASSUMED LIABILITIES IN THE CONDITION, STATE AND LOCATION THEY ARE IN ON THE CLOSING DATE BASED ON THE BUYER'S OWN INSPECTION, EXAMINATION AND DETERMINATION WITH RESPECT TO ALL MATTERS AND WITHOUT RELIANCE UPON ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF ANY NATURE MADE BY OR ON BEHALF OF OR IMPUTED TO THE RECEIVER, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT. Unless specifically stated in this Agreement, the Buyer acknowledges and agrees that no representation, warranty, term or condition, understanding or collateral agreement, whether statutory, express or implied, oral or written, legal, equitable, conventional, collateral or otherwise, is being given by the Receiver in this Agreement or in any instrument furnished in connection with this Agreement, as to description, fitness for purpose, sufficiency to carry on any business, merchantability, quantity, condition, latent defects, quality, value, suitability, durability, environmental condition, assignability or marketability thereof, or in respect of any other matter or thing whatsoever, and all of the same are expressly excluded. The provisions of this Section 2.3 shall survive and not merge on Closing.

#### **2.4 Purchase Price**

The Purchase Price payable by the Buyer to the Receiver for the Purchased Assets shall be:

- (a) the sum of \$ [REDACTED]
- (b) the sum of the amount of all Cure Costs (if any); and
- (c) the sum of the Inventory Amount (if any).

(collectively, the "**Purchase Price**").

#### **2.5 Deposit**

Within two Business Days after the Execution Date, the Buyer shall pay the Deposit to the Receiver's solicitors. The Deposit shall be held, pending Closing, by the Receiver's solicitors in a non-interest-bearing trust account at one of the five (5) largest Schedule I Canadian chartered banks. The Deposit shall be dealt with in the following manner:

- (a) if the Transaction is completed, the Deposit will be applied against the Purchase Price payable on the Closing Date;
- (b) if the Transaction is not completed due to (i) the failure of the Receiver to complete any of its obligations as set out in the Agreement, or (ii) if any of the conditions for the benefit of the Buyer (including those conditions for the mutual benefit of the Receiver and Buyer) as set out in this Agreement have not been met and are not

waived by the Outside Date, or (iii) if this Agreement is terminated under Subsection 10.1 (a), (b), or (c) provided that the Buyer is not in material breach of this Agreement, or Subsection 10.1(e), then the Deposit will be released from trust and returned to the Buyer or the Buyer's Counsel via wire transfer on the earlier of the Outside Date and the date of the termination of the Agreement;

- (c) if the Transaction is not completed for any reason other than as set out in Subsection 2.5(b), then the Deposit will be released from trust and forfeited and paid to the Receiver, or as the Receiver may otherwise direct, as liquidated damages. The Receiver retains its right to claim any additional damages and/or pursue all other available remedies arising from the Transaction not being completed for such reason.

## **2.6 Satisfaction of Purchase Price**

The Buyer shall pay and satisfy the Purchase Price on the Closing Date as follows:

- (a) the Buyer shall pay in Cash the Cure Costs, if any; and
- (b) the Buyer shall pay the balance of the Purchase Price less the Deposit in Cash in immediately available funds by way of wire transfer to the Receiver.

## **2.7 Purchase Price Allocation**

The Buyer shall, acting reasonably, prepare and deliver to the Receiver an allocation of Purchase Price among the Purchased Assets within 120 days following Closing. Such allocation shall be binding on the Buyer, the Receiver and the Company, and the Buyer, the Receiver and the Company will file all Tax returns in a manner consistent with such allocation.

## **2.8 Tax Matters**

- (a) All amounts payable by the Buyer pursuant to this Agreement are exclusive of any GST/HST and all transfer, documentary, sales, use, registration and provincial sales Taxes arising in connection with the sale, conveyance, assignment and transfer of the Purchased Assets to the Buyer (collectively, "**Transfer Taxes**"). The Buyer will be solely liable and responsible for and will pay, if required by Applicable Law, all Transfer Taxes (and within the time periods required thereunder). The Parties will cooperate with each other in good faith and will use commercially reasonable efforts to assist the Buyer in mitigating such Taxes. If the Receiver is required by any Applicable Law or by administration thereof to collect any applicable Transfer Taxes from the Buyer, the Buyer will pay such amounts to the Receiver concurrent with the payment of any consideration payable pursuant to this Agreement or, if arising after Closing, forthwith, and the Receiver will pay such amounts to the applicable Governmental Authority on a timely basis and otherwise in accordance with Applicable Laws.
- (b) The Buyer agrees to indemnify and save the Receiver harmless from and against all claims and demands for payment of all Transfer Taxes payable by the Buyer in

connection with the purchase of the Purchased Assets, including penalties and interest thereon and any liability or costs incurred as a result of any failure by the Buyer to pay such Taxes when due.

- (c) The Parties agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax return, claim for refund or other required filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution of any suit or other proceedings relating to Tax matters and for the answer to any inquiry of any Governmental Authority relating to Tax matters.

### **ARTICLE 3**

#### **ASSUMED LIABILITIES AND EXCLUDED LIABILITIES**

##### **3.1 Assumed Liabilities**

Subject to Closing, the Buyer agrees to assume, pay, discharge, perform, as the case may be, from and after the Closing Time, the following obligations and liabilities of the Company with respect to the Purchased Assets (collectively, the “**Assumed Liabilities**”), which Assumed Liabilities shall exclude the Excluded Liabilities and shall consist solely of:

- (a) all obligations and liabilities under the Purchased Contracts to the extent arising and relating to the period on or after the Closing Date;
- (b) all obligations and liabilities related to the operation of the Purchased Assets on or after the Closing Date; and
- (c) the Assumed Employee Obligations (if any).

##### **3.2 Excluded Liabilities**

Except as expressly assumed by the Buyer pursuant to Section 3.1, the Buyer shall not assume, accept or undertake any debt, obligation, duty or liability of the Company of any kind or nature whatsoever, whether accrued, contingent, known or unknown, express or implied, direct or indirect, liquidated or unliquidated, contingent or otherwise, and whether due or to become due (the “**Excluded Liabilities**”), which Excluded Liabilities, without limitation, shall include the following liabilities or obligations:

- (a) all liabilities, obligations, present and future actions, causes of action, lawsuits, damages, judgements, executions or claims relating to or arising out of the conduct or operation of the Business or the Purchased Assets prior to the Closing Date, including all liabilities, obligations, claims and causes of action relating to or arising from breaches of contract, violations of Applicable Law, product liability, warranties, or tortious or illegal conduct;
- (b) all liabilities and obligations relating to the Excluded Assets;

- (c) all liabilities and obligations for (i) all Taxes of the Company for any Tax period; all Taxes relating to the Purchased Assets for periods (or any portion thereof) ending on or prior to the Closing Date, including any Taxes based upon operation, possession, use or ownership of the Purchased Assets, (ii) any Taxes in respect of any payments to Persons employed or retained in connection with the Business in respect of any period prior, and any related obligation to withhold or remit Taxes, even though a claim may be made after the Closing Date, and (iii) any Taxes relating to the Excluded Assets;
- (d) other than the Assumed Employee Obligations, all liabilities and obligations relating to the employment or the termination of the employment of the Employees (including Transferred Employees), including termination and severance obligations; and
- (e) all liabilities of the Company to its debtholders and other creditors.

### 3.3 Consent Required Agreements

In the event that there are any Assigned Agreements or Authorizations that are not assignable in whole or in part to the Buyer without the consent, approval or waiver of any counterparty to such Assigned Agreement or issuer of such Authorization (each, a “**Consent Required Agreement**”):

- (a) the Parties shall, at the direction of the Buyer, use commercially reasonable efforts to obtain any such consent, approval or waiver in respect of a Consent Required Agreement;
- (b) if any consent, approval or waiver is not obtained for any Consent Required Agreement, the Receiver, if requested by the Buyer in its sole discretion, shall as soon as reasonably practicable bring a motion before the Court seeking the issuance of an Assignment Order with respect to each such Consent Required Agreement;
- (c) the determination as to whether to pay Cure Costs in order to obtain any required consent, approval or waiver, and the determination as to whether to seek an Assignment Order in respect of a Consent Required Agreement that, if granted, will necessitate the payment of Cure Costs, shall be made by the Buyer in its sole discretion;
- (d) the payment of any Cure Costs payable to obtain the consent, approval or waiver of any counterparty to an Assigned Agreement or as a condition to obtaining an Assignment Order in respect of any Consent Required Agreement shall be the responsibility of the Buyer; and
- (e) where any required consent, approval or waiver in respect of a Consent Required Agreement or, in the alternative, an Assignment Order in respect of such Consent Required Agreement, has not been obtained as of the Closing Time, nothing in this Agreement shall be construed as an assignment of such Consent Required Agreement, the Buyer shall have no responsibility whatsoever in respect of such

Consent Required Agreement, and such Consent Required Agreement shall constitute an Excluded Asset for purposes of this Agreement.

### **3.4 Additions to Purchased Assets, Excluded Assets and Excluded Liabilities**

- (a) Notwithstanding anything to the contrary herein, the Buyer shall have the right, at any time prior to the Closing Time, by notice in writing to the Receiver and without any adjustment to the Purchase Price, to deem:
  - (i) (a) any asset or agreement of the Company (including any asset or agreement that is otherwise identified herein as a Purchased Asset) to be an Excluded Asset, and (b) any liability or obligation of the Company (including any liability or obligation that is otherwise identified herein as an Assumed Liability) to be an Excluded Liability, in each case for all purposes of this Agreement, in which case such Excluded Asset or Excluded Liability, as the case may be, shall not be assigned or transferred to or assumed by, and shall not vest in, the Buyer at Closing; and
  - (ii) any asset or agreement of the Company (including any asset or agreement that is otherwise identified herein as an Excluded Asset) to be a Purchased Asset for all purposes of this Agreement.
- (b) The Schedules to this Agreement may be updated by the Buyer at any time prior to the Closing Time to reflect any actions taken by the Buyer pursuant to this Section 3.4. There shall be no adjustment to the Purchase Price as a result of any designation or modification of Purchased Assets, Excluded Assets, Assumed Liabilities or Excluded Liabilities pursuant to this Section 3.4.

## **ARTICLE 4 REPRESENTATIONS AND WARRANTIES**

The Receiver and the Company, as applicable, represent and warrant as follows to the Buyer as of the date hereof and acknowledge and confirm that the Buyer is relying upon the following representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

### **4.1 Existence**

The Receiver has been appointed as the receiver of the assets and property of the Company pursuant to the Appointment Order.

### **4.2 Corporate Power**

- (a) The Receiver is duly organized and validly existing under the laws of its jurisdiction of organization.



- (b) Subject to the issuance and entry of the Approval Order, the Receiver has the power, authority and capacity to enter into and perform its obligations under this Agreement.
- (c) Subject to the issuance and entry of the Approval Order, the Company has the power to enter into and perform its obligations under this Agreement.

#### **4.3 Residence of the Receiver and Company**

Neither the Receiver nor the Company is a non-resident of Canada for the purposes of the Tax Act.

#### **4.4 Due Authorization and Enforceability of Obligations**

Pursuant to the Appointment Order, and subject to the issuance of the Approval Order, this Agreement has been duly and validly executed by the Receiver and constitutes a valid and binding obligation of the Receiver and the Company enforceable against such parties in accordance with its terms.

### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE BUYER**

The Buyer represents and warrants to the Receiver as follows, and acknowledges that the Receiver is relying upon the following representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

#### **5.1 Corporate Power**

The Buyer:

- (a) is a corporation duly organized and validly existing and in good standing under the Applicable Laws of its jurisdiction of formation; and
- (b) has the power, capacity and authority to enter into and perform its obligations under this Agreement and carry on business.

#### **5.2 Residence of The Buyer**

The Buyer is not a non-resident of Canada for the purposes of the Tax Act.

#### **5.3 Due Authorization and Enforceability of Obligations**

The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary corporate action of the Buyer. This Agreement has been duly and validly executed by the Buyer and constitutes a valid and binding obligation of the Buyer enforceable against it in accordance with its terms.

#### **5.4 GST/HST Legislation**

The Buyer will be registered for purposes of the GST/HST Legislation prior to Closing and shall

provide the Receiver with its registration number prior to Closing.

### **5.5 Diligence**

The Buyer acknowledges and agrees that: (a) it is purchasing the Purchased Assets and assuming the Assumed Liabilities on an “as is, where is” basis; (b) it has relied upon its own independent review, investigation and inspection of the documents and information made available by or on behalf of the Receiver or the Company for the purpose of the Transaction; (c) except as expressly set forth in this Agreement, it is not relying upon any written or oral statements, documents, information, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Purchased Assets, the Business or the Assumed Liabilities; and (d) the obligations of the Buyer under this Agreement are not conditional upon any additional due diligence.

### **5.6 Adequate Funds**

The Buyer has adequate funds available in an aggregate amount sufficient to pay: (a) all amounts required to be paid by the Buyer under this Agreement; and (b) all expenses which have been or will be incurred by the Buyer in connection with this Agreement and the Transaction.

### **5.7 No Violation**

The execution and delivery of this Agreement by the Buyer and the consummation of the Transactions herein provided for will not result in the violation of, or constitute a default under, or conflict with or cause the acceleration of any obligation of the Buyer under:

- (a) any Contract to which the Buyer is a party or by which it is bound;
- (b) any judgment, decree, order or award of any court, governmental body or arbitrator having jurisdiction over the Buyer; or
- (c) any Applicable Law, save and except for those matters set out as conditions to Closing.

## **ARTICLE 6 OTHER AGREEMENTS**

### **6.1 Conduct Prior To Closing**

During the Interim Period, the Company shall conduct the Business in the Ordinary Course, except to the extent required to allow the Receiver and the Company to comply with their obligations under this Agreement or as may be permitted with the written consent of the Buyer, subject in all cases to the Appointment Order and any other Court orders granted in the Receivership Proceedings. Without limiting the generality of the foregoing, the Company shall:

- (a) maintain, preserve and protect the Purchased Assets in the condition in which they exist on the date hereof, other than ordinary wear and tear and other than replacements, dispositions, modifications or maintenance in the Ordinary Course;

- (b) preserve intact the Goodwill and maintain satisfactory relationships with suppliers, customers, landlords, Governmental Authorities, and all other Persons with whom the Company has a business relationship;
- (c) not amend any Purchased Contract without the consent of the Buyer;
- (d) continue and keep in full force and effect all Insurance currently held by the Company; and
- (e) comply in all material respects with all Applicable Laws relating to the conduct of the Business and the ownership and use of the Purchased Assets.

## **6.2 Sale Procedures**

- (a) The Receiver shall conduct the Sale Procedures in respect of the business and assets of the Company in accordance with the Sale Procedures and shall not seek any material amendment or modification to the Sale Procedures without the prior consent of the Buyer or further order of the Court.
- (b) If the Transaction is designated as the Successful Stalking Horse Bid pursuant to the Sale Procedures, the Receiver shall as soon as reasonably practicable serve and file a motion, on notice to the service list in the Receivership Proceedings and any other Person reasonably requested by the Buyer, seeking the Approval Order.
- (c) All motion materials of the Receiver in respect of the Approval Order and the Assignment Order, if applicable, shall be in form and substance acceptable to the Buyer and provided sufficiently in advance to the Buyer for review and comment.

## **6.3 Access to Information**

Until the Closing and to the extent permitted by Applicable Law, the Receiver shall provide the Buyer and its Representatives, during normal business hours and upon reasonable advance notice, reasonable access to the Premises and shall furnish them with all such information relating to the Business and the Purchased Assets as the Buyer may reasonably request in connection with the Transaction.

## **6.4 Access to Third Parties**

The Receiver shall co-operate with the Buyer in arranging any such meetings or discussions as the Buyer or its Representatives may reasonably request with employees, customers, suppliers, lessors or other Persons having a business relationship with the Company, and the Company shall provide the Buyer with such assistance, documentation and materials as the Buyer may reasonably request in connection with the preparation for and participation in such meetings and discussions. Such co-operation shall include, but shall not be limited to, the Receiver facilitating meetings and discussions between the Buyer and the relevant representative or representatives of the counterparties to each of the Purchased Contracts within 10 Business Days of this Agreement. The Receiver shall be entitled to have a Representative present in connection with any such meetings or discussions.

## ARTICLE 7 CONDITIONS

### 7.1 Conditions for The Benefit of The Buyer

The obligation of the Buyer to complete the Transaction is subject to the following conditions to be fulfilled or performed at or prior to the Closing:

- (a) **Truth of Representations and Warranties.** The respective representations and warranties of the Receiver and the Company contained in this Agreement shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of such date (except for those representations and warranties that are made as of a specific time or date), which shall be certified by the Receiver, as the case may be, pursuant to the certificate delivered by the Receiver to the Buyer at Closing;
- (b) **Performance of Covenants.** The Receiver and the Company shall have performed, in all material respects, each of their covenants and agreements to be performed by them at or prior to the Closing, which shall be certified by the Receiver and the Company, as the case may be, pursuant to certificates delivered by each of the Receiver and the Company to the Buyer at Closing;
- (c) **Deliverables.** The Receiver must have delivered to the Buyer the documents contemplated in Section 8.2, in each case in form and substance satisfactory to the Buyer, acting reasonably; and
- (d) **Assignment Order.** If requested by the Buyer to cause the assignment of a Consent Required Agreement, the Court shall have issued an Assignment Order in respect of such Consent Required Agreement, such Assignment Order shall be in form and substance acceptable to the Buyer in its sole discretion, and such Assignment Order shall have become final and shall not have been appealed, vacated, stayed, varied or amended without the consent of the Buyer.

The conditions in this Section 7.1 are for the exclusive benefit of the Buyer. Any condition in this Section 7.1 may be waived by the Buyer 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.

### 7.2 Conditions for The Benefit of The Receiver

The obligation of the Receiver to complete the Transaction is subject to the following conditions to be fulfilled or performed at or prior to the Closing:

- (a) **Truth of Representation and Warranties.** The representations and warranties of the Buyer contained in this Agreement shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties had been made on and of such date (except for those representations and warranties that are made as of a specific time or date), which shall be certified by the Buyer pursuant to a certificate delivered to the Receiver at Closing;

- (b) **Performance of Covenants.** The Buyer must shall have performed, in all material respects, each of its covenants and agreements to be performed by it at or prior to the Closing, which shall be certified by the Buyer pursuant to a certificate delivered to the Receiver at Closing; and
- (c) **Deliverables.** The Buyer must have delivered to the Receiver the documents contemplated in Section 8.3, in each case in form and substance satisfactory to the Receiver, acting reasonably.

The conditions in this Section 7.2 are for the exclusive benefit of the Receiver. Any condition in this Section 7.2 may be waived by the Receiver 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.

### 7.3 Mutual Conditions

The obligation of the Buyer and the Receiver to complete the Transaction is subject to the following conditions to be fulfilled or performed at or prior to the Closing:

- (a) **No Legal Action.** No provision of any Applicable Laws and no judgment, injunction, order or decree by any Person that prohibits the consummation of the Transaction pursuant to and in accordance with this Agreement shall be in effect, pending or threatened;
- (b) **Appointment Order.** The Appointment Order shall have become final and shall not have been appealed, vacated, stayed, varied or amended without the consent of the Buyer;
- (c) **Successful Stalking Horse Bid.** The Transaction shall have been designated as the Successful Stalking Horse Bid pursuant to the Sale Procedures;
- (d) **Rekai Centres.** The Buyer agrees to provide the services listed in Schedule D hereto to the Rekai Centres which services shall form the Rekai Centre Contracts to be assigned and assumed by the Buyer; and
- (e) **Approval Order.** The Court shall have issued the Approval Order in form and substance acceptable to the Receiver and the Buyer, and such Approval Order shall have become final and shall not have been appealed, vacated, stayed, varied or amended without the consent of the Buyer.

The conditions in this Section 7.3 are for the mutual benefit of the Buyer and the Receiver. Any condition in this Section 7.3 may be waived jointly by the Buyer and the Receiver in whole or in part, without prejudice to any of their rights of termination in the event of non-fulfillment of any other condition in whole or in part.

## **ARTICLE 8 CLOSING**

### **8.1 Date, Time and Place of Closing**

The completion of the Transaction will take place at the offices of Weisz Fell Kour LLP, at Royal Bank Plaza, South Tower 200 Bay Street, Suite 2305, Toronto, Ontario M5J 2J3 at 10:00 a.m. (Toronto time) on the Closing Date, or at such other place (including virtually through electronic exchange of documents), on such other date and at such other time as may be agreed upon in writing by the Parties. Notwithstanding the foregoing, the Parties acknowledge and agree that the Transaction will be deemed to have closed effective as of the Closing Time.

### **8.2 Receiver Deliverables at Closing**

At Closing, the Receiver will deliver or cause to be delivered to the Buyer the following:

- (a) the General Conveyance and Assumption Agreement signed by the Receiver and the Company;
- (b) if applicable, the elections referred to in Section 2.8, in each case signed by the Receiver;
- (c) the certificate of the Receiver referred to in Section 7.1;
- (d) the Receiver's Vesting Certificate; and
- (e) all other documents reasonably requested by the Buyer to be entered into or delivered by the Receiver or the Company at Closing pursuant to the terms of this Agreement.

### **8.3 Buyer Deliverables at Closing**

At Closing, the Buyer will deliver or cause to be delivered to the Receiver the following:

- (a) the payments contemplated by Section 2.4;
- (b) the General Conveyance and Assumption Agreement signed by the Buyer;
- (c) if applicable, the elections referred to in Section 2.8, in each case signed by the Buyer;
- (d) the certificates of the Buyer referred to in Section 7.2;
- (e) the Buyer's GST/HST registration number; and
- (f) all other documents reasonably requested by the Receiver to be entered into or delivered by the Buyer at Closing pursuant to the terms of this Agreement.

## 8.4 Possession of Assets

The Purchased Assets shall be and remain until Closing at the risk of the Company. On Closing, the Buyer shall take possession of the Purchased Assets where situate at Closing. The Buyer acknowledges that neither the Receiver nor the Company has any obligation to deliver physical possession of the Purchased Assets to the Buyer. If following the Closing Time, the Receiver or the Company comes into possession or control of a Purchased Asset, the Receiver or the Company, as applicable, shall promptly notify the Buyer and release the Purchased Asset to the Buyer or as the Buyer may direct. If following the Closing Time, the Buyer comes into possession or control of an Excluded Asset, the Buyer shall promptly notify the Receiver and release the Excluded Asset to the Receiver or as the Receiver may direct and, for greater certainty, no right, title or interest in and to such Excluded Asset shall, or shall be deemed to, vest in the Buyer.

## ARTICLE 9 EMPLOYEES

### 9.1 Employees

- (a) At least five days prior to the Closing Date, the Buyer shall make a written offer of employment, effective as of the Closing Date and contingent upon the Closing, to such Employees as the Buyer shall determine in its sole discretion (the “**Offered Employees**”) on terms and conditions determined by the Buyer in its sole discretion. Notwithstanding the foregoing, nothing herein shall be construed as to prevent the Buyer, at its sole responsibility, liability and obligation, from terminating the employment of any Transferred Employee, consistent with Applicable Law, at any time following the Closing Date.
- (b) Each Transferred Employee shall be given credit by the Buyer for all service with the Company and its predecessors solely to the extent as is required by statute, but not for common law purposes.
- (c) The Parties agree that nothing in this Section 9.1, whether express or implied, is intended to create any third-party beneficiary rights in any Transferred Employee.

### 9.2 Assumed Employee Obligations

The Buyer will assume and be responsible for the following obligations and liabilities in respect of Transferred Employees (collectively, the “**Assumed Employee Obligations**”):

- (a) all liabilities for salary, wages, commissions, vacation pay, and other compensation and benefits (including accrued vacation and sick days, as well as any other benefits and other similar arrangements) relating to the employment of all Transferred Employees from and after the Closing Date;
- (b) all liabilities for vacation pay entitlement in respect of Transferred Employees accrued or payable prior to and after the Closing Date; and

- (c) all liabilities for claims for injury, disability, death or workers' compensation arising from or related to employment of the Transferred Employees from and after the Closing Date, but excluding any claims arising from and after the Closing Date but related to the employment of the Transferred Employees by the Company prior to the Closing Date.

For greater certainty, the Buyer shall not assume any liabilities with respect to the Employees other than the Assumed Employee Obligations.

## **ARTICLE 10 TERMINATION**

### **10.1 Termination**

This Agreement may be terminated at any time prior to Closing as follows:

- (a) by mutual written consent of the Receiver and the Buyer;
- (b) by the Receiver or the Buyer, if the Closing has not occurred on or before the Outside Date; provided, however, that if the Closing shall not have occurred on or before the Outside Date due to a material breach by a Party of any representation, warranty, covenant or agreement contained in this Agreement, then the breaching Party may not terminate this Agreement pursuant to this Section 10.1(c);
- (c) by the Receiver, if there has been a material violation or breach by the Buyer of any covenant, representation or warranty and such violation or breach has not been waived by the Receiver or cured within five Business Days after written notice thereof from the Receiver to the Buyer, unless the Receiver is in material breach of its obligations under this Agreement; and
- (d) by the Buyer, if there has been a material violation or breach by the Receiver or the Company of any covenant, representation or warranty and such violation or breach has not been waived by the Buyer or cured within five Business Days after written notice thereof from the Buyer to the Receiver or the Company, unless the Buyer is in material breach of its obligations under this Agreement.

### **10.2 Effect of Termination**

In the event of termination of this Agreement in accordance with its terms, this Agreement shall become void and of no further force and effect, except for Section 1.10 (Governing Law, Jurisdiction and Venue), Section 2.5 (Deposit) and Article 11 (General Matters), each of which shall survive termination. Nothing in this Section 10.2 shall be deemed to relieve any Party from liability for any breach of this Agreement or to impair the right of any Party to compel specific performance by any other Party of its obligations under this Agreement.



## **ARTICLE 11 GENERAL MATTERS**

### **11.1 Further Assurances**

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other Parties such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

### **11.2 Structuring**

The Receiver shall consider and negotiate in good faith any proposed modifications to this Agreement and the structure of the Transaction requested by the Buyer to implement the Transaction in a tax efficient manner, including, where possible, to maximize the value and ability of the Buyer to obtain the benefit of any existing tax attributes of the Company.

### **11.3 Personal Information**

The Buyer acknowledges that it is aware, and it will advise its Representatives, that privacy legislation, including the *Personal Information Protection and Electronic Documents Act* (Canada), applies to certain information that may be disclosed to the Buyer and its Representatives pursuant to this Agreement and/or the Transaction. The Buyer agrees to comply, and cause its Representatives to comply, with such privacy legislation in connection with any such information disclosed to them.

### **11.4 Survival**

None of the representations, warranties, agreements or covenants of any of the Parties set forth in this Agreement shall survive Closing, except for Section 1.10 (Governing Law), Article 11 (General Matters) and any other covenant or agreement that by its express terms is to survive or to be performed after Closing, in each case solely to the extent they are to be performed or operate by their express terms after the Closing.

### **11.5 Expenses**

Each of the Receiver and the Buyer shall be responsible for the expenses (including fees and expenses of legal advisers, accountants and other professional advisers) incurred by them, respectively, in connection with the negotiation of this Agreement and the completion of the Transaction.

### **11.6 Time of the Essence**

Time will be of the essence in this Agreement.

### **11.7 Successors and Assigns**

This Agreement may not be assigned by the Receiver or the Company without the prior written

consent of the Buyer. This Agreement may not be assigned by the Buyer without the prior written consent of the Receiver.

### 11.8 Notices

Any notice or other communication under this Agreement shall be in writing and may be delivered personally, by courier or by email, addressed:

If to the Buyer at:     **2047994 Ontario Inc.**  
                                   70 Melford Drive, Unit 7  
                                   Scarborough, Ontario M1B 1Y9

                                  Attention:     Sal Surani  
                                   E-mail:        [sal@nationalpharmacy.ca](mailto:sal@nationalpharmacy.ca)

with a copy to:         **McMillan LLP**  
                                   111 Richmond Street West Ste 300  
                                   Toronto, ON M5H2G4  
                                   Attention:     David Thring  
                                   E-mail:        david.thring@mcmillan.ca

If to the Receiver or the Company at:

**MNP Ltd**  
                                   111 Richmond Street West, Suite 300  
                                   Toronto, ON M5H 2G4

                                  Attention:     Sheldon Title  
                                   E-mail:        sheldon.title@mnp.ca

with a copy to:         **Weisz Fell Kour LLP**  
                                   Royal Bank Plaza, South Tower  
                                   200 Bay Street, Suite 2305, P.O. Box 120  
                                   Toronto, ON M5J 2J3

                                  Attention:     Caitlin Fell  
                                   E-mail:        cfell@wfkaw.ca

Any such notice of other communication, if given by personal delivery or by courier, will be deemed to have been given on the day of actual delivery thereof and, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day or on a day that is not a Business Day, will be deemed to have been given on the next Business Day after the date of the transmission.

### 11.9 Amendment

This Agreement may be amended as to all Parties by instrument in writing signed by the Buyer

and the Receiver.

#### **11.10 Counterparts, Electronic Signatures**

This Agreement may be signed in any number of counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. Execution of this Agreement may be made by email, PDF or other electronic format or transmission which, for all purposes, shall be deemed to be an original signature.

#### **11.11 Receiver's Capacity**

It is acknowledged by the Buyer that the Receiver is entering into this Agreement solely in its capacity as Court-appointed Receiver and that the Receiver shall have no personal or corporate liability under or as a result of this Agreement. Any claim against the Receiver shall be limited to and only enforceable against the property and assets then held by or available to it in its capacity as Receiver of the Company and shall not apply to its personal property and other assets held by it in any other capacity.


*[The remainder of this page has been left intentionally blank.]*

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

**RECEIVER, MNP LTD, in its capacity as the court appointed receiver of PULSE RX, and not in its personal or corporate capacity**

Per: \_\_\_\_\_  
Name: Sheldon Title  
Title: Senior Vice-President

**204944 ONTARIO INC.**

Per:  \_\_\_\_\_  
Name: Sal Surani  
Title: CEO

**SCHEDULE A**  
**PURCHASED ASSETS SCHEDULE**

- (a) the Purchased Contracts, as follows:
  - (i) the Reikai Centre Contracts;
  - (ii) Service Agreement between the Company and Quad County Support Services dated June 1, 2015
  - (iii) Service Agreement between the Company and Garden Court Nursing Home dated April 1, 2011;
- (b) the Patient Records;
- (c) the Goodwill;
- (d) the Purchased Inventory and Supplies;
- (e) the Books and Records; and
- (f) the Authorizations,

but, for greater certainty, in each case excluding any Excluded Assets.

**SCHEDULE B**  
**EXCLUDED ASSETS SCHEDULE**

- (a) Cash;
- (b) the Receivables;
- (c) the Pulse Letters Patent and Articles of Incorporation;
- (d) the Excluded Contracts;
- (e) the Excluded Equipment;
- (f) the Real Property Leases;
- (g) the Personal Property Leases;
- (h) the Excluded Inventory and Supplies;
- (i) the Employee Plans;
- (j) Prepaid Expenses;
- (k) IT Systems;
- (l) the Insurance;
- (m) the Intellectual Property;
- (n) the Tax Refunds;
- (o) the original Tax records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Company, in each case that do not relate to the Business or the Purchased Assets;
- (p) all of the Company and Receiver's rights and benefits under this Agreement and the Transaction;
- (q) all shares, partnership or joint venture interests and any other securities of any Person owned or held by the Company or any of its Affiliates;
- (r) all minute books, share ledgers, corporate seals and stock certificates of the Company; and
- (s) any other assets as may be expressly designated by the Buyer in writing prior to closing.

**SCHEDULE C  
SALE PROCEDURES**

*[Attached]*

**SCHEDULE D  
REKAI SERVICES**

**Services of the Pharmacy (the “Services”):**

The Pharmacy shall provide the following:

- a) maintain current medication profiles for each Resident;
- b) provide records for documentation of medication assessment and reassessment and medication administration (medication administration record (MAR) and treatment administration record (TAR)), if applicable, for each Resident;
- c) provide educational support to the Staff and Residents in relation to drugs and medication management programs;
- d) participate in risk management and quality improvement activities regarding medication use within the Home;
- e) as part of the evaluation of therapeutic outcomes of drugs for Residents, prepare and review a record of the drug regimen for the Residents’ as required by applicable provincial requirements medication review, and provide recommendations, when applicable. Medication reviews will be conducted and documented in the relevant Home by the pharmacist with a designate of the care team;
- f) participate in the interdisciplinary team within the Home as required by applicable provincial requirements to evaluate the effectiveness of the medication management system in the Home and make recommendations for changes and improvement as required;
- g) review the Residents’ profile for therapeutic and Resident appropriateness prior to dispensing prescriptions, communicating and resolving any concerns with the Home, and establish a process for notifying the Home of any change in physician orders;
- h) document all clinical consultations concerning a specific Resident’s therapy as required by Applicable Laws;
- i) provide a system to support the ordering and receiving of medications within the Home (Drug Record); report any irregularities or concerns about drug ordering or administration to the administrator, physician, or the director of nursing;
- j) provide or arrange for provision of pharmacy services 24 hours per day, 7 days a week by a pharmacy to the extent required under Applicable Laws;



- k) participate in quality assurance activities regarding medication use and distribution;
- l) provide all services of a pharmacy service provider as specified in Applicable Laws;
- m) provide accurate and safe acquisition and dispensing of medication for each Resident within a mutually agreed upon time, taking into account Resident needs, and Applicable Laws;
- n) participate in the destruction and disposal of medications within the Home as specified in Applicable Laws;
- o) provide the Reikai Centres with the support required to realize the goals and objectives as outlined by the Reikai Centres in their report to the Ministry of Long Term Care with respect to the Medication Safety Technology Fund;
- p) provide the Reikai Centres with the support required to achieve the goals and objectives as outlined in the Medication Safety Self Assessment report submitted to the Ministry of Long Term Care;
- q) communicate with clinical staff by secured email, phone, text with other communication devices such as fax and pager being used only in exceptional situations.

*A. Medication Services include:*

- a) To provide a licensed pharmacist as a member of the Interdisciplinary Team, who will attend meetings of this committee at least quarterly. The pharmacist will be involved in matters relating to the effectiveness of the medication management system which includes a review of the following:
  - i. drug utilization trends and patterns in the Home;
  - ii. reported medication incidents and adverse drug reactions;
  - iii. Summaries of the audits completed of the medication management system within the Home; and
  - iv. Best practice recommendations regarding Medication Management Systems in Long Term Care Environments, as applicable or in accordance with prevailing practices.
- b) To provide the Home Operator materials for the safe and efficient storage, administration, documentation and review of the medications used in the Home, including but not limited to, medication carts, medication administration records (MAR), treatment administration records (TAR), physician's reviews, and drug record books. To the extent that the Home Operator desires to utilize electronic medication administration records (eMAR), the Pharmacy will work with the

Home Operator to support such eMAR. The Pharmacy will also work with the Home Operator to support any new technologies adopted by the Home Operator under any Medication Safety Technology funding.

- c) To provide an emergency drug supply for the Home as agreed upon by the Medication Management committee; supply to be reviewed quarterly as required by Applicable Laws.

*B. Pharmacy Services include:*

- a) To provide to the Home access to a Pharmacy Procedure Manual, and to keep same updated from time-to-time as the Pharmacy deems necessary and appropriate.
- b) To perform medication audits of the Home(s) regularly, at intervals determined by a pharmacy team member and the Director of Nursing Services of the Home(s), according to Applicable Laws, with the purpose of ensuring the safety and well-being of the Residents of the Home(s). The audit will review storage, administration, documentation of medications and random review of patient medication profiles. The outcome and recommendations of the audit will be shared with the Director of Nursing Services or designate of the Home. The results of the audits, including any education provided regarding the audit findings, will be presented to the Interdisciplinary Team for discussion. Audits will be benchmarked against the both the Ontario and Toronto averages, which will help guide areas to focus on for improvements. In particular, audits for anti-psychotic medications will be benchmarked against Toronto-based long-term care homes.
- c) To provide a survey of Services provided to the Home(s), to be completed periodically, for the purposes of monitoring the quality of the Services provided by the Pharmacy and for the adherence to Applicable Laws.
- d) To participate in preparation for accreditation, and be available for discussion with the accreditation surveyor, as required.
- e) To provide a licensed pharmacist on site at the Home(s) at a minimum of (A) once per week for the first 6-12 weeks following onboarding of the Services (with the specific period of time to be agreed to by the Home Operator and the Pharmacy) to help implement best practices and (B) thereafter, once each month and to provide access to a pharmacist on an as needed basis by phone, text, fax, and email during regular business hours. An on-call pharmacist will also be available to the Home outside of regular pharmacy hours.

*C. Pharmacy Education Services include:*

- a) To provide a licensed pharmacist to conduct in-service education programs covering matters regarding medications agreed to by, and on a schedule agreed to by, by the Director of Nursing Services and the pharmacist.
- b) To provide a pharmacist and drug information resource to the Home, Residents, and family, as required, to provide information regarding medication therapies within the Home as per the Applicable Laws.

*D. Cannabis*

- a) The Home Operator shall also use the Pharmacy to provide consultative and support services provided to Residents in the Homes, which include (a) selecting and registering Residents with a licensed producer of cannabis products; (b) selecting and purchasing strains of medical cannabis; (c) maintaining and renewing the registration status of Residents with a licensed producer of cannabis; (d) and any other customary support services provided to residents in relation to disease and/or symptom management through the use of medical cannabis. For greater certainty, nothing herein shall prohibit any Residents in the Homes from procuring cannabis products on their own or otherwise than with the assistance of the Pharmacy. As is possible, the Pharmacy will provide education and trends analysis with respect to the appropriateness of moving residents from anti-psychotic medicines to cannabis.

*E. Equipment*

- a) In respect of any Home(s) to which the Pharmacy provides services similar to the Services as at the date of this Agreement under a previous agreement the Pharmacy shall continue to provide the equipment in place at the Home(s) on the date hereof if and to the extent same remains necessary to continue to provide the Services in accordance herewith. Without limiting the foregoing, the parties may agree mutually to refresh such legacy equipment in connection with the entering into of this Agreement in which case the parties shall be guided by the illustrative sampling of equipment to be provided, as set out in Appendix “1” hereto. For greater clarity, the Reikai Centres nursing team is seeking replacement of aged medication carts prior to December 31, 2021.
- b) For greater clarity, the Transition Care Unit operating in the physical environment of the Reikai Centre at Wellesley Central Place is not governed by the *Long Term Care Act* and therefore is not covered by this agreement.
- c) Without limiting (a) above, and for clarity, in respect of the Home(s) the Pharmacy shall provide the equipment necessary to continue to provide the Services in accordance herewith.

## Appendix “1”

### Illustrative Sampling of Equipment to be Provided

Equipment Item
Medication cart or storage cabinet (one per nursing area)
Medication bins (for strips within med cart)
Medication refrigerators (one per nursing area)
Documentation Needs (forms), Pharmacy Policy & Procedure Manual and User Guides*
Pill crusher/Pill Splitter (one per medication storage area)
Sharps and medication disposal services

\* Includes: Policy and Procedure Manuals, Physician Order Form Templates, Medication Reconciliation/ Admission Forms, Influenza Binders, Supporting forms: Resident Change of Status, Medication Destruction Record, Medication Incident, Satellite Pharmacy Sheets, After Hours Protocol, Drug Record Books, Narcotic Count Sheets

# **EXHIBIT “F”**

**In The Matter Of The Receiverships Of  
Pulse RX Inc. And Family Pharmacy Clinic Inc.**

**Interim Statement Of Receipts And Disbursements  
As At December 6, 2021**

<b>Receipts</b>	
Collections From Sales	\$ 689,551.17
<b>Total Receipts</b>	<u><b>689,551.17</b></u>
 <b>Disbursements</b>	
Inventory Purchases	386,956.95
Wages	120,563.31
Management Services	58,526.17
Rent For Premises	40,942.57
HST Paid on Disbursements	24,599.46
Other Operating Expenses	17,579.79
Utilities	11,677.31
Insurance	5,674.00
Advertising	3,450.00
Inventory Verification Costs	700.00
Provincial Sales Tax	453.92
Bank Charges	193.26
Filing Fees	145.94
Travel	107.10
<b>Total Disbursements</b>	<u><b>671,569.78</b></u>
 <b>Net Receipts</b>	 <u><u><b>\$ 17,981.39</b></u></u>

**Notes:**

1. The statement excludes amounts held by the Receiver with respect to deposits received from offerors relating to the purchase of assets.
2. Rent for the premises is paid through to December 31, 2021.

**TAB 3**

Court File No. CV-21-00661434-00CL

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

THE HONOURABLE MR.	)	TUESDAY, THE 14 <sup>th</sup>
	)	
JUSTICE PATTILLO	)	DAY OF DECEMBER, 2021

B E T W E E N:

**1951584 ONTARIO INC. DBA MAXIUM FINANCIAL SERVICES**

Applicant

- and -

**PULSE RX INC. AND FAMILY PHARMACY CLINIC INC.**

Respondents

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by **MNP LTD.**, in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of Pulse RX Inc. (“**Pulse**”) and Family Pharmacy Clinic Inc. (collectively, the “**Debtors**”) for an order, *inter alia*,: (i) approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Purchase Agreement**”) dated November 25, 2021 between the Receiver and 2047944 Ontario Inc. (the “**Purchaser**”) and appended as Appendix “E” and Confidential Appendix “B” to the First Report of the Receiver dated December 8, 2021 (the “**First Report**”); (ii) vesting in the Purchaser, Pulse’s right, title and interest in and to the assets described in the Purchase Agreement (the “**Purchased Assets**”); and (iii) approving the First Report and the activities of the Receiver as described therein, was heard by video conference due to the COVID-19 crisis in Toronto, Ontario.



**ON READING** the First Report and on hearing the submissions of counsel for the Receiver, and any other parties appearing listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ● sworn December ●, 2021 filed:

## **SERVICE**

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

## **APPROVAL OF SALE TRANSACTION**

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

3. **THIS COURT ORDERS 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 Pulse's right, title and interest in and to the Purchased Assets described in the Purchase Agreement and listed on **Schedule "B"** hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice McEwen dated June 10, 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 including those Claims listed on **Schedule "C"** hereto and, for greater

certainty, this Court orders that all of the Claims affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **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 (the “**Net Proceeds**”) 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 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.

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

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

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 Pulse and shall not be void or voidable by creditors of Pulse, 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.

**RECEIVER'S ACTIVITIES**

7. **THIS COURT ORDERS** that the First Report and the activities described therein are hereby approved.

**GENERAL**

8. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this Order is effective from the date that it is made, and is enforceable without any need for entry and filing.

9. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or in any other foreign jurisdiction to give effect to this Order and to assist the Debtors, the Purchaser, the Receiver 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 the Debtors, the Purchaser, and the Receiver, as an officer of this Court, as may be necessary or desirable to recognize and give effect to this Order and to assist the Debtors, the Purchaser, the Receiver and their respective agents in carrying out the terms of this Order.

---

**Schedule “A” – Form of Receiver’s Certificate**

Court File No. CV-21-00661434-00CL

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

B E T W E E N:

**1951584 ONTARIO INC. DBA MAXIUM FINANCIAL SERVICES.**

Applicant

- and -

**PULSE RX INC. AND FAMILY PHARMACY CLINIC INC.**

Respondents

**RECEIVER’S CERTIFICATE****RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice McEwen of the Ontario Superior Court of Justice (the “**Court**”) dated June 10, 2021, MNP Ltd. was appointed as the receiver and receiver and manager (the “**Receiver**”) of the undertaking, property and assets of Pulse RX Inc. (“**Pulse**”) and Family Pharmacy Clinic Inc.

B. Pursuant to an Order of the Court dated December 14, 2021, the Court approved the agreement of purchase and sale attached as Appendix “●” to the First Report of the Receiver dated December 8, 2021 (the “**Purchase Agreement**”) between the Receiver and 2047944 Ontario Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser of Pulse’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the transaction has been completed to the satisfaction of the Receiver.

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

**THE RECEIVER CERTIFIES** the following:

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

**MNP LTD, in its capacity as the court appointed receiver of PULSE RX and FAMILY PHARMACY CLINIC INC., and not in its personal or corporate capacity**

Per: \_\_\_\_\_  
Name:  
Title:

### Schedule “B” – the Purchased Assets

- the Purchased Contracts:
  - the Re kai Centre Contracts;
  - Service Agreement between the Company and Quad County Support Services dated June 1, 2015
  - Service Agreement between the Company and Garden Court Nursing Home dated April 1, 2011;
- the Patient Records;
- the Goodwill;
- the Purchased Inventory and Supplies;
- the Books and Records; and
- the Authorizations,

but, for greater certainty, in each case excluding any Excluded Assets. Each as defined in the Purchase Agreement.

**Schedule “C” – Claims to be deleted and expunged**

- Desante Financial Services Inc. security registered under the PPSA bearing File Number 628224138;
- McKesson Canada Corporation security registered under the PPSA bearing File Number 663756759;
- 2047944 Ontario Inc. security registered under the PPSA bearing File Number 701950401;
- Desante Financial Services Inc. security registered under the PPSA bearing File Number 708251193;
- LPG Pharmaceutical Advisors Inc. security registered under the PPSA bearing File Number 721571742;
- Erinwood Ford Sales Inc. security registered under the PPSA bearing File Number 732098079; and
- Desante Financial Services Inc. security registered under the PPSA bearing File Number 628224147.

1951584 ONTARIO INC. dba MAXIUM  
FINANCIAL SERVICES

and

PULSE RX INC. and FAMILY PHARMACY CLINIC  
INC.

Applicant

Respondents

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

Proceedings commenced at Toronto

**APPROVAL AND VESTING ORDER**

**WEISZ FELL KOUR LLP**

Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2305, P.O. Box 120  
Toronto, ON M5J 2J3

**Caitlin Fell** LSO No. 60091H

cfell@wfklaw.ca

Tel: 416.613.8282

**Shaun Parsons** LSO No. 81240A

sparsons@wfklaw.ca

Tel: 416.613.8284

Fax: 416.613.8290

**Lawyers for the Receiver, MNP LTD, in its  
capacity as the court appointed receiver of  
PULSE RX and FAMILY PHARMACY  
CLINIC INC.**



## TAB 4

Revised: January 21, 2014

Court File No. ~~\_\_\_\_\_~~ CV-21-00661434-00CL

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

THE HONOURABLE ~~\_\_\_\_\_~~ MR. ) ~~WEEKDAY~~ TUESDAY, THE # 14<sup>th</sup>  
 JUSTICE ~~\_\_\_\_\_~~ PATTILLO ) DAY OF ~~MONTH, 20YR~~ DECEMBER, 2021

~~BETWEEN:-~~~~PLAINTIFF~~

Plaintiff

BETWEEN:1951584 ONTARIO INC. DBA MAXIUM FINANCIAL SERVICES

Applicant

- and -

~~DEFENDANT~~

Defendant

PULSE RX INC. AND FAMILY PHARMACY CLINIC INC.

Respondents

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by ~~[RECEIVER'S NAME]~~ MNP LTD., in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR]~~ (Pulse RX Inc. ("Pulse") and Family Pharmacy Clinic Inc. (collectively, the "Debtor" "Debtors")) for an order, *inter alia*: (i) approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale" "Purchase

Agreement") dated November 25, 2021 between the Receiver and ~~[NAME OF PURCHASER]~~2047944 Ontario Inc. (the ~~"Purchaser"~~) ~~dated [DATE]~~ and appended as Appendix "E" and Confidential Appendix "B" to the First Report of the Receiver dated [DATE] December 8, 2021 (the "First Report"), and: (ii) vesting in the Purchaser ~~the Debtor,~~ Pulse's right, title and interest in and to the assets described in the SalePurchase Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue; and (iii) approving the First Report and the activities of the Receiver as described therein, was heard by video conference due to the COVID-19 crisis in Toronto, Ontario.

ON READING the First Report and on hearing the submissions of counsel for the Receiver, ~~[NAMES OF OTHER PARTIES APPEARING]~~ and any other parties appearing listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ sworn [DATE] December 8, 2021 filed<sup>1</sup>:

## SERVICE

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

## APPROVAL OF SALE TRANSACTION

2. ~~1.~~ THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, the implementation and process of the Receiver of the sale process is hereby approved, and the execution of the SalePurchase Agreement by the Receiver<sup>3</sup> 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

<sup>1</sup> ~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

<sup>2</sup> ~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

<sup>3</sup> ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. ~~2.~~ **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 Debtor Pulse's~~ right, title and interest in and to the Purchased Assets described in the **Sale Purchase Agreement** [and listed on **Schedule "B"** hereto]<sup>4</sup> 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"**)<sup>5</sup> including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice [NAME] **McEwen** dated [DATE] **June 10, 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) including~~ those Claims listed on **Schedule "C"** hereto ~~(all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D)~~ and, for greater certainty, this Court orders that all of the ~~Encumbrances~~ **Claims** affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

~~3. — THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]<sup>6</sup>, the Land Registrar is hereby directed to enter the~~

<sup>4</sup> To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.

<sup>5</sup> The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

<sup>6</sup> Elect the language appropriate to the land registry system (Registry vs. Land Titles).

~~Purchaser as the owner of the subject real property identified in Schedule B 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 C hereto.~~

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> from the sale of the Purchased Assets (the "Net Proceeds") 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~~ 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<sup>8</sup>, 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.

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

~~6. THIS COURT ORDERS that, pursuant to clause 7(3)(e) 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 Debtor's past and current employees, including personal information of those employees listed on Schedule "•" to the Sale Agreement. 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 Debtor.~~

6. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;

<sup>7</sup>~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

<sup>8</sup>~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

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

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 Debtor~~Pulse and shall not be void or voidable by creditors of ~~the Debtor~~Pulse, 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.

### RECEIVER'S ACTIVITIES

7. ~~8. THIS COURT ORDERS AND DECLARES~~ that the ~~Transaction is exempt from the application of the Bulk Sales Act (Ontario)~~First Report and the activities described therein are hereby approved.

### SEALING

8. **THIS COURT ORDERS** that the Confidential Appendix is sealed and shall not form part of the public record until further order of the Court to be sought following the conclusion of the Transaction.

### GENERAL

9. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this Order is effective from the date that it is made, and is enforceable without any need for entry and filing.

10. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

11. ~~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 or in any other foreign jurisdiction to give effect to this Order and to assist the Debtors, the Purchaser, the Receiver and ~~its~~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 Debtors, the Purchaser, and the Receiver, as an officer of this Court, as may be necessary or desirable to recognize and give effect to this Order ~~or~~and to assist the Debtors, the Purchaser, the Receiver and ~~its~~their respective agents in carrying out the terms of this Order.

---

Schedule ~~“A”~~ Form of Receiver’s Certificate

Court File No. ~~\_\_\_\_\_~~ CV-21-00661434-00CL

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

~~BETWEEN:~~

~~PLAINTIFF~~

Plaintiff

BETWEEN:

1951584 ONTARIO INC. DBA MAXIUM FINANCIAL SERVICES.

Applicant

- and -

~~DEFENDANT~~

Defendant

PULSE RX INC. AND FAMILY PHARMACY CLINIC INC.

Respondents

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Mr. Justice McEwen of the Ontario Superior Court of Justice (the ~~“Court”~~) dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ June 10, 2021, MNP Ltd. was appointed as the receiver and receiver and manager (the ~~“Receiver”~~) of the undertaking, property and assets of ~~[DEBTOR]~~ Pulse RX Inc. (~~the “Debtor”~~) Pulse”) and Family Pharmacy Clinic Inc.



B. Pursuant to an Order of the Court dated ~~[DATE]~~ December 14, 2021, the Court approved the agreement of purchase and sale ~~made attached~~ as ~~of [DATE OF AGREEMENT]~~ Appendix "●" to the First Report of the Receiver dated December 8, 2021 (the ~~"Sale"~~ "Purchase Agreement") between the Receiver ~~[Debtor]~~ and ~~[NAME OF PURCHASER]~~ 2047944 Ontario Inc. (the ~~"Purchaser"~~ "Purchaser") and provided for the vesting in the Purchaser of ~~the Debtor~~ Pulse's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in ~~section ● of~~ the SalePurchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the ~~Transaction~~ 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 SalePurchase Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the SalePurchase Agreement;
2. The conditions to Closing as set out in ~~section ● of~~ the SalePurchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

~~[NAME OF RECEIVER]~~MNP LTD, in its capacity as ~~Receiver of the undertaking, property and assets of [DEBTOR]~~court appointed receiver of PULSE RX and FAMILY PHARMACY CLINIC INC., and not in its personal or corporate capacity

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

Name:

Title:

**Schedule “B—” – the Purchased Assets**

- the Purchased Contracts:
  - the Rejai Centre Contracts;
  - Service Agreement between the Company and Quad County Support Services dated June 1, 2015
  - Service Agreement between the Company and Garden Court Nursing Home dated April 1, 2011;
- the Patient Records;
- the Goodwill;
- the Purchased Inventory and Supplies;
- the Books and Records; and
- the Authorizations.

but, for greater certainty, in each case excluding any Excluded Assets. Each as defined in the Purchase Agreement.



Schedule C ~~—~~ — Claims to be deleted and expunged ~~from title to Real Property~~

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

**(unaffected by the Vesting Order)**

- [Desante Financial Services Inc. security registered under the PPSA bearing File Number 628224138;](#)
- [McKesson Canada Corporation security registered under the PPSA bearing File Number 663756759;](#)
- [2047944 Ontario Inc. security registered under the PPSA bearing File Number 701950401;](#)
- [Desante Financial Services Inc. security registered under the PPSA bearing File Number 708251193;](#)
- [LPG Pharmaceutical Advisors Inc. security registered under the PPSA bearing File Number 721571742;](#)
- [Erinwood Ford Sales Inc. security registered under the PPSA bearing File Number 732098079;](#) and
- [Desante Financial Services Inc. security registered under the PPSA bearing File Number 628224147.](#)



Court File No. CV-21-00661434-00CL

1951584 ONTARIO INC. dba MAXIUM  
FINANCIAL SERVICES

and

PULSE RX INC. and FAMILY PHARMACY CLINIC INC.

Applicant

Respondents

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

WEISZ FELL KOUR LLP

Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2305, P.O. Box 120  
Toronto, ON M5J 2J3

Caitlin Fell LSO No. 60091H

cfell@wfklaw.ca

Tel: 416.613.8282

Shaun Parsons LSO No. 81240A

sparsons@wfklaw.ca

Tel: 416.613.8284

Fax: 416.613.8290

Lawyers for the Receiver, MNP LTD, in its  
capacity as the court appointed receiver of  
PULSE RX and FAMILY PHARMACY  
CLINIC INC.



Document comparison by Workshare 10.0 on Thursday, December 9, 2021 12:25:24 PM

Input:	
Document 1 ID	file://\\WFK-DC\UPM_FOLDERS\$\sparsons\Downloads\approval-and-vesting-order-EN (3).doc
Description	approval-and-vesting-order-EN (3)
Document 2 ID	file://C:\Users\sparsons\AppData\Local\Temp\2\WBGX\9212.0\DRAGDROP\Approval and Vesting Order (00032402-4xF8677).DOCX
Description	Approval and Vesting Order (00032402-4xF8677)
Rendering set	Standard

Legend:	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	

Padding cell	
--------------	--

Statistics:	
	Count
Insertions	212
Deletions	147
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	359

**1951584 ONTARIO INC. DBA MAXIUM  
FINANCIAL SERVICES**

**and**

**Court File No. CV-21-00661434-00CL  
PULSE RX INC. AND FAMILY PHARMACY  
CLINIC INC.**

Applicant

Respondents

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceedings commenced at Toronto

**MOTION RECORD**

**WEISZ FELL KOUR LLP**  
Royal Bank Plaza, South Tower  
200 Bay Street  
Suite 2305, P.O. Box 120  
Toronto, ON M5J 2J3

**Caitlin Fell (LSO No. 60091H)**  
Email: cfell@wfklaw.ca  
Tel: 416.613.8282

**Shaun Parsons (LSO No. 81240A)**  
Email: sparsons@wfklaw.ca  
Tel: 416.613.8284

Fax: 416.613.8290

**Lawyers for the Receiver, MNP Inc.**