

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

BUSINESS DEVELOPMENT BANK OF CANADA

Applicant

- and -

GREENHOUSES CANADA INC.

Respondent

FIRST AND FINAL REPORT OF THE RECEIVER

September 14, 2020

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I. INTRODUCTION

1. By Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated July 30, 2019 (the “**Appointment Order**”), RSM Canada Limited was appointed receiver and manager (the “**Receiver**”), without security, of real property municipally known as 37 and 85 Panache Lake Road, Espanola, Ontario (collectively, the “**Property**”) owned by Greenhouses Canada Inc. (“**Greenhouses**” or the “**Debtor**”). A copy of the Appointment Order is attached to this report as Appendix “**A**”.
2. The Appointment Order authorizes the Receiver to, among other things:
 - (a) take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
 - (b) receive, preserve and protect the Property, or any part or parts thereof, including but not limited to, the changing of locks and security codes, 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) market the Property, including advertising and soliciting offers in respect of the Property and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate; and
 - (d) sell, convey, transfer, lease or assign the Property with the approval of the Court.
3. Paragraph 20 of the Appointment Order authorizes the Receiver to borrow monies to fund the exercise of the powers and duties conferred upon the

Receiver by the Appointment Order from time to time, provided that the outstanding principal amount does not exceed \$75,000 (or such greater amount as the Court may by further order authorize). The Receiver's borrowings are secured by way of a fixed and specific charge over the Property 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 (as defined in the Appointment Order) and the charges as set out in sections 14.06(7), 81.4(4) and 81.6(2) of the *Bankruptcy and Insolvency Act*.

4. The Appointment Order referred to in this report, together with related Court documents, has been posted on the Receiver's website which can be found at rsmcanada.com/37-and-85-panache-lake-road.

Purpose of Report

5. The purpose of this first and final report of the Receiver (the "**Report**") is to:
 - (i) report to the Court on the activities of the Receiver since the date of the Appointment Order to September 11, 2020;
 - (ii) provide the Court with a summary of the Receiver's cash receipts and disbursements for the period July 30, 2019 to August 31, 2020 (the "**R&D**");
 - (iii) provide the Court with information with respect to the amount of protective disbursements paid in respect of the Property;

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- (iv) inform the Court of a settlement reached between the Applicant, Business Development Bank of Canada (“**BDC**”), and the Debtor, one of the terms of which is for BDC to seek the discharge of the Receiver; and
 - (v) seek an Order:
 - i) approving the Report and the Receiver’s conduct and activities to September 11, 2020; and
 - ii) discharging the Receiver upon the Receiver filing a certificate with the Court confirming that the Receiver has completed the Remaining Activities (as defined later herein) (the “**Receiver’s Discharge Certificate**”), and authorizing the Receiver to complete certain administrative matters following the discharge of the Receiver.

Terms of Reference

- 6. In preparing the Report and making the comments herein, the Receiver has relied upon information from third-party sources (collectively, the “**Information**”). Certain of the information contained in the Report may refer to, or is based on, the Information. As the Information has been provided by other parties, or obtained from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the CPA

Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.

7. Unless otherwise stated, all dollar amounts contained in the Report are expressed in Canadian dollars.

II. BACKGROUND

The Parties

8. Greenhouses is a company incorporated in Ontario on August 14, 2014 under the name 1916438 Ontario Limited. The company's name was changed to Greenhouses on April 19, 2016.
9. Greenhouses is the owner of 37 Panache Lake Road ("**37 Panache**") and 85 Panache Lake Road ("**85 Panache**") located in Espanola, Ontario.
10. According to a Corporation Profile Report issued by the Province of Ontario Ministry of Government Services ("**CP Report**") dated July 8, 2019, Joel Tarvudd is president and director while Andrew Nootchtai is treasurer, secretary and director of Greenhouses. The registered head office of Greenhouses is located in Lively, Ontario (although the CP Report sets out the head office as being in Lively, Ontario). A copy of the CP Report is attached hereto as Appendix "**B**".
11. Located on 37 Panache are three buildings. The main and largest building is an industrial building under construction for a cannabis growth operation. The main building is approximately 8,100 S.F. (to be 17,800 S.F. upon the completion of construction) and is open to the elements as no doors or windows have been installed. The other two buildings are smaller and secured under lock and key.
12. 85 Panache is a vacant, undeveloped property.

Appointment of the Receiver

13. For the reasons set out in BDC's Notice of Application dated July 19, 2019, BDC sought the appointment of the Receiver. On July 30, 2019, Justice Dietrich issued the Appointment Order appointing the Receiver over the Property.

III. RECEIVER'S ACTIVITIES TO DATE

14. The Receiver has undertaken the activities set out below since the date of its appointment.

Property Manager

15. In order to minimize the day-to-day costs associated with overseeing the Property, the Receiver entered into an agreement with Richmond Advisory Services Inc. ("**RAS**") to provide property management services for the Property.
16. As BDC is seeking the discharge of the Receiver, on September 9, 2020, the Receiver provided to RAS the 30-day termination notice required under the property management agreement.

Possession and Control

17. On July 31, 2019, RAS attended at 37 Panache and 85 Panache to inspect the Property. RAS arranged for the existing locks and padlocks at the Property to be changed.
18. In addition, the following actions were taken by the Receiver to address potentially hazardous conditions at 37 Panache and to meet the requirements of its insurer:

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- (a) barricades were erected to bar access to two external staircases at the main building;
 - (b) metal that was strewn about the Property was moved to inside or outside the main building;
 - (c) wood that was lying about the Property was gathered to one location and then disposed of after it was determined that it was weathered and not re-useable;
 - (d) a temporary locked metal fence was installed around the main building to prevent easy access to the building (the “**Fence**”); and
 - (e) “*No Trespassing*” signs were posted on the Property.

Insurance

- 19. Upon its appointment, the Receiver inquired of the Debtor whether it had insurance in place for the Property. As the Debtor did not respond, the Receiver arranged for property and liability coverage through its own broker.
- 20. As 37 Panache was in a state of partial construction and vacant, the insurer required that the Receiver take steps, as described above, to minimize potential liability hazards in respect of the external staircases, main building and materials strewn about the Property. The insurer also required that site inspections be scheduled once every 72 hours and those inspections are being carried out by RAS.
- 21. On August 16, 2019, counsel for the Debtor forwarded to the Receiver a copy of the Debtor’s commercial insurance policy for 37 Panache. As the Receiver had concerns that the Debtor may have been in breach of certain policy conditions

thereby voiding coverage under that policy, and as the Receiver had already arranged for its own coverage, the Receiver did not take any action in connection with the Debtor's insurance policy.

Solar Panels at the Property

22. Upon the Receiver's appointment, there were certain solar panels located at the Property.
23. On August 19, 2020, the Receiver was informed by RAS that certain of the panels were missing. RAS contacted the Ontario Provincial Police and a police report was filed. On August 21, 2020, the Receiver notified Mr. Tarvudd of the missing panels.
24. On August 24, 2020, the Receiver was advised that the panels belonged to a third party.

Statutory Notices and Reports

25. Attached to this report as **Appendix "C"** is the Amended Notice and Statement of Receiver prepared pursuant to Sections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act* in respect of the Property.

IV. PROPERTY TAXES

26. The Receiver has not paid any property taxes since its appointment. The Receiver has not made any enquiries as to whether property taxes are currently outstanding in connection with the Property.

V. MARKETING AND SALES ACTIVITIES

27. The Receiver invited five realtors, Avison Young (“**Avison**”), CBRE Limited (“**CBRE**”), Colliers International (“**Colliers**”), Royal LePage North Heritage Realty (“**Royal LePage**”) and Mallette-Goring Inc. (“**Mallette**”) to each submit listing proposals for the marketing and sale of the Property. Listing proposals were received from Royal LePage and a joint proposal was received from Colliers and Mallette. Avison and CBRE informed the Receiver that they would not be submitting a listing proposal. After considering the Royal LePage and Colliers-Mallette listing proposals, including the commission rates proposed by each realtor, on August 29, 2019, the Receiver, with BDC’s concurrence, executed a listing agreement with Royal LePage to market the Property for sale.
28. The steps taken by Royal LePage to market the Property include the following:
- (a) on September 3, 2019, three listings were posted to MLS (the “**MLS Postings**”):
 - 37 and 85 Panache for \$1,890,000;
 - 37 Panache for \$1,695,000; and
 - 85 Panache for \$195,000;
 - (b) the MLS postings were auto-emailed to clients of realtors on the Sudbury Real Estate Board;
 - (c) the listing was posted on several online sites including realtor.ca, royallepage.ca, National Post, Facebook, Kijiji, Sudbury.com, Instagram and LinkedIn;

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- (d) a marketing flyer (the “Flyer”) was sent to approximately 3,000 realtors, investors and various other professionals from Royal LePage’s head office;
- (e) during the week of September 16 to 20, 2019, the Flyer was sent to hydroponic store owners as well as dispensaries across Northern Ontario;
- (f) the listing was featured in Royal LePage’s Fall Newsletter which was sent to Royal LePage’s client database on September 20, 2019;
- (g) an advertisement was placed in the National Post on September 24 and 26, 2019; and
- (h) an “Investment Opportunity” brochure was sent out to parties that responded to the Flyer.
29. In response to the lack of offers received, on October 7, 2019 and January 10, 2020, the Receiver, with BDC’s concurrence, instructed Royal LePage to reduce the listing prices for the Property.
30. As of March 27, 2020, no offers for the Property were received. The listing agreement with Royal LePage expired on March 31, 2020 and was not renewed.
31. On June 22, 2020, the Receiver, with BDC’s concurrence, entered into a listing agreement with Royal LePage in which the Property was to be listed for sale as follows:
- 37 and 85 Panache at \$985,000;
 - 37 Panache at \$920,000; and
 - 85 Panache at \$65,000.
32. On July 24, 2020, the Receiver informed Royal LePage that the Receiver wished to increase the commissions that would be payable upon the sale of the Property.

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33. On August 20, 2020, Royal LePage received an offer for 85 Panache from a prospective purchaser (the "**Purchaser**"). As the Purchaser indicated it would not submit an offer on 37 Panache until it obtained copies of permits/drawings, for that property, the Receiver informed Royal LePage that the Receiver would not be responding to the Purchaser's offer for 85 Panache pending receipt of an offer for 37 Panache.
 34. As of September 8, 2020, no offer for 37 Panache was received.
 35. On September 8, 2020, the Receiver notified Royal LePage that counsel to BDC had advised the Receiver that a Court date had been scheduled for September 18, 2020 at which time BDC would be seeking the discharge of the Receiver and, as a result, pursuant to the terms of the listing agreement, the listing agreement would be terminated effective that day.

VI. CANADA REVENUE AGENCY

36. Canada Revenue Agency ("**CRA**") wrote to the Receiver on July 10, 2020 and advised that CRA had a claim of \$24,651.96 against Greenhouses for source deductions, of which \$15,559.82 constituted a deemed trust against the Property.
37. In view of BDC's application for the discharge of the Receiver, and since the Receiver has not had any realizations from the Property, the Receiver has not addressed CRA's claim.

VII. DISCHARGE OF THE RECEIVER

38. On September 2, 2020, counsel for BDC advised the Receiver that BDC was in the process of finalizing a settlement with the Debtor and that BDC would be preparing documents to seek the discharge of the Receiver.
39. On September 8, 2020, counsel to BDC advised that the settlement agreement had been executed and that the discharge motion was scheduled for September 18, 2020.
40. If the Court agrees to make an Order discharging the Receiver (the “**Discharge Order**”), the Receiver will need to attend to the following matters following the issuance of the Order (the “**Remaining Activities**”):
- i) informing Royal LePage of the Receiver’s discharge and the termination of the listing agreement;
 - ii) arranging for final bills to be rendered and processed for payment;
 - iii) arranging for removal on or about September 21, 2020 of the Fence; and
 - iv) filing with the Office of the Superintendent of Bankruptcy the report pursuant to Section 246(3) of the *Bankruptcy and insolvency Act*.
41. In view of the above, the Receiver proposes that the discharge become effective upon the filing by the Receiver of the Receiver’s Discharge Certificate confirming that the Receiver has completed the Remaining Activities, with the proviso that RSM may perform such incidental duties as may be required by it to complete its obligations pursuant to its appointment as Receiver.

VIII. RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

42. Attached to this report as **Appendix "D"** is the R&D.
43. As set out in the R&D, BDC advanced \$46,438.45 (the "**Advance**") to the Receiver to enable the Receiver to pay certain expenses. While a Receiver's Certificate was not issued to BDC in respect of the amount advanced, BDC has informed the Receiver that BDC does not require the Receiver to repay the advance.
44. As of August 31, 2020, the balance in the Receiver's bank account is \$419, which the Receiver proposes to return to BDC.
45. In addition to the amounts set out on the R&D, the ongoing carrying costs for the Property have been paid directly by BDC as protective disbursements and are not reflected in the R&D. To date, the protective disbursements paid directly by BDC total approximately \$127,900 and include the cost of property and liability insurance, property management fees, and other expenses to secure the Property, and fees of the Receiver and its independent legal counsel, Miller Thomson LLP ("**Miller Thomson**").

IX. PROFESSIONAL FEES

46. In its application for the discharge of the Receiver, BDC is requesting that the requirement for the Receiver and its counsel to pass their respective accounts pursuant to paragraph 18 of the Appointment Order be dispensed with. The Receiver is therefore not seeking the Court's approval of the Receiver's and Miller Thomson's fees and disbursements incurred during the receivership administration.

47. In the event that the Court does not dispense with the aforementioned requirement, the Receiver will seek the Court's approval of its and Miller Thomson's fees and disbursements.

X. CONCLUSION AND REQUEST OF THE COURT

48. The Receiver respectfully requests that the Court grant an Order which provides for the following:

(a) approving the Report and the Receiver's conduct and activities therein;

(b) approving the R&D; and

(c) terminating these proceedings and discharging the Receiver from the powers, duties and obligations attendant to its appointment as Receiver upon the filing of the Receiver's Discharge Certificate.

All of which is respectfully submitted to this Court as of this 14th day of September, 2020.

RSM CANADA LIMITED

In its capacity as Court Appointed Receiver and Manager of
37 and 85 Panache Lake Road, Espanola, Ontario
and not in its personal capacity



Per: Daniel Weisz, CPA, CA, CFF, CIRP, LIT
Senior Vice President

APPENDIX A

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

THE HONOURABLE *MADAM*)
JUSTICE *DIETRICH*)

TUESDAY, THE 30th
DAY OF JULY, 2019



BUSINESS DEVELOPMENT BANK OF CANADA

Applicant

- and -

GREENHOUSES CANADA INC.

Respondent

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

**ORDER
(appointing Receiver)**

THIS APPLICATION made by 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 RSM Canada Limited as receiver and manager (in such capacities, the "**Receiver**") without security, of real property municipally known as 37 and 85 Panache Lake Road, Espanola, Ontario and legally

described as set out on **Schedule "A"** hereto (the "**Property**") owned by Greenhouses Canada Inc. (the "**Debtor**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Dodie Ballesteros sworn July 22, 2019 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and such other parties listed on the Counsel Slip, no one else appearing for any party served as appears from the affidavits of service of Lynda Christodoulou sworn July 23, 2019 and the affidavit of service of Vanessa Kohan sworn July 25 2019, and on reading the consent of RSM Canada Limited to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service 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, RSM Canada Limited is hereby appointed Receiver, without security, of 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;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, 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 engage 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;
- (d) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor with respect to the Property and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (e) to settle, extend or compromise any indebtedness owing to the Debtor with respect to the Property;
- (f) to execute, assign, issue and endorse documents of whatever nature in respect of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (g) 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 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;

- (h) to market the Property, including advertising and soliciting offers in respect of the Property and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (i) to sell, convey, transfer, lease or assign the Property with the approval of this Court, and notice under section 31 of the Ontario *Mortgages Act* shall not be required;
- (j) to apply for any vesting order or other orders necessary to convey the Property to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting the Property;
- (k) 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 receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (l) to register a copy of this Order and any other Orders in respect of the Property against title to the Property;
- (m) to apply for any permits, licences, approvals or permissions with respect to the Property 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 the Debtor;

(n) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor; and

(o) 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 Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith 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 books, documents, securities, contracts, orders, corporate and accounting

records, and any other papers, records and information of any kind related to the Property, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the 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 6 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 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.

NO PROCEEDINGS AGAINST THE RECEIVER

7. **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 PROPERTY

8. **THIS COURT ORDERS** that no Proceeding against or in respect of 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 the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. **THIS COURT ORDERS** that all rights and remedies against 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 the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor 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, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

10. **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 the Debtor in connection with or relating to the Property, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor in connection with or relating to the Property 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, payroll services, insurance, transportation services, utility or other services to the Debtor in connection with or relating to the Property 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.

RECEIVER TO HOLD FUNDS

12. **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 the Property and the collection of any accounts receivable in whole or in part in connection with or relating to the Property, 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

13. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor. 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

14. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, 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.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. **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 the 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 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 the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. **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

17. **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.

18. **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.

19. **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

20. **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

\$75,000 (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.

21. **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.

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

23. **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

24. **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. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: rsmcanada.com/37-and-85-panache-lake-road

25. **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 Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor 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.

26. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel 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 the Debtor's creditors or 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 (SOR/DORS).

GENERAL

27. **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.

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

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

30. **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.

31. **THIS COURT ORDERS** that the Applicant shall have its costs of this motion, 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 Debtor's estate with such priority and at such time as this Court may determine.

32. **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.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JUL 30 2019

PER / PAR: 

SCHEDULE "A"

LEGAL DESCRIPTION OF THE PROPERTY

PIN 73405-0155 (LT)

Property Description:

Part Lot 6 Concession 4 Merritt Part 1, 2, 3, 4, 5 & 6 53R19368;
Subject to an easement in gross over Parts 1, 3 & 5 53R19368 as in
SD185945; Town of Espanola

PIN 73405-0157 (LT)

Property Description:

Part Lot 6 Concession 4 Merritt being Part 8 53R19737; Town of
Espanola

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that RSM Canada Limited, the receiver and manager (the "**Receiver**") of the real property municipally known as 37 and 85 Panache Lake Road, Espanola, Ontario owned by Greenhouses Canada Inc. (the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 30th day of July, 2019 (the "**Order**") made in an application having Court file number CV-19-624071-00CL, 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, 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.

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 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 _____, 20__.

RSM CANADA LIMITED,
solely in its capacity as Receiver of the Property,
and not in its personal capacity

Per: _____

Name:

Title:

BUSINESS DEVELOPMENT BANK OF CANADA
Applicant

-and-

GREENHOUSES CANADA INC.
Respondent
Court File No. CV-19-624071-00CL

ONTARIO
**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
PROCEEDING COMMENCED AT
TORONTO

ORDER

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

Sam Rappos
Tel: (416) 218-1137
Fax: (416) 218-1837
E-mail: samr@chaitons.com

Lawyers for the Applicant

APPENDIX B

Request ID: 023308384
 Transaction ID: 72346449
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/07/08
 Time Report Produced: 14:11:32
 Page: 1

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
1916438	GREENHOUSES CANADA INC.	2014/08/14
		Jurisdiction
		ONTARIO
Corporation Type	Corporation Status	Former Jurisdiction
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
Registered Office Address		Date Amalgamated
5 WESTVIEW CRESCENT		NOT APPLICABLE
		Amalgamation Ind.
		NOT APPLICABLE
		New Amal. Number
		NOT APPLICABLE
		Notice Date
		NOT APPLICABLE
		Letter Date
		NOT APPLICABLE
Mailing Address		Revival Date
5 WESTVIEW CRESCENT		NOT APPLICABLE
		Continuation Date
		NOT APPLICABLE
		Transferred Out Date
		NOT APPLICABLE
		Cancel/Inactive Date
		NOT APPLICABLE
		EP Licence Eff.Date
		NOT APPLICABLE
		EP Licence Term.Date
		NOT APPLICABLE
		Date Commenced in Ontario
		NOT APPLICABLE
		Date Ceased in Ontario
		NOT APPLICABLE
		Number of Directors
		Minimum
		Maximum
	00001	00010
Activity Classification		
NOT AVAILABLE		

Request ID: 023308384
 Transaction ID: 72346449
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/07/08
 Time Report Produced: 14:11:32
 Page: 2

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
1916438	GREENHOUSES CANADA INC.

Corporate Name History	Effective Date
GREENHOUSES CANADA INC.	2016/04/19
1916438 ONTARIO LIMITED	2014/08/14

Current Business Name(s) Exist:	YES
Expired Business Name(s) Exist:	NO

Administrator: Name (Individual / Corporation)	Address
ANDREW G. NOOTCHTAI	206 MAANI STREET ATIKAMEKSHENG ANISHNAWBEK NAUGHTON ONTARIO CANADA P0M 2M0

Date Began	First Director	
2014/08/14	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
DIRECTOR		Y

Request ID: 023308384
 Transaction ID: 72346449
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/07/08
 Time Report Produced: 14:11:32
 Page: 3

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
1916438	GREENHOUSES CANADA INC.

Administrator: Name (Individual / Corporation)	Address
ANDREW G. NOOTCHTAI	206 MAANI STREET ATIKAMEKSHENG ANISHNAWBEK NAUGHTON ONTARIO CANADA P0M 2M0

Date Began	First Director	Resident Canadian
2014/08/14	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
OFFICER	SECRETARY	Y

Administrator: Name (Individual / Corporation)	Address
ANDREW G. NOOTCHTAI	206 MAANI STREET ATIKAMEKSHENG ANISHNAWBEK NAUGHTON ONTARIO CANADA P0M 2M0

Date Began	First Director	Resident Canadian
2016/11/01	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
OFFICER	TREASURER	Y

Request ID: 023308384
 Transaction ID: 72346449
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/07/08
 Time Report Produced: 14:11:32
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CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
1916438	GREENHOUSES CANADA INC.

Administrator: Name (Individual / Corporation)	Address
JOEL TARVUDD	125 MAGILL STREET LIVELY ONTARIO CANADA P3Y 1K6

Date Began	First Director	Resident Canadian
2014/08/14	NOT APPLICABLE	
Designation	Officer Type	
OFFICER	PRESIDENT	

Administrator: Name (Individual / Corporation)	Address
JOEL TARVUDD	125 MAGILL STREET LIVELY ONTARIO CANADA P3Y 1K6

Date Began	First Director	Resident Canadian
2014/08/14	NOT APPLICABLE	
Designation	Officer Type	
DIRECTOR		Y

Request ID: 023308384
Transaction ID: 72346449
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/07/08
Time Report Produced: 14:11:32
Page: 5

CORPORATION PROFILE REPORT

Ontario Corp Number

1916438

Corporation Name

GREENHOUSES CANADA INC.

Last Document Recorded

Act/Code	Description	Form	Date
CIA	CHANGE NOTICE	1	2019/06/06 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

APPENDIX C



RSM Canada Limited
Licensed Insolvency Trustee

11 King St W
Suite 700, Box 27
Toronto, ON M5H 4C7

T +1 416 480 0160
F +1 416 480 2646

www.rsmcanada.com

**AMENDED NOTICE AND STATEMENT OF RECEIVER
(SECTION 245(1) AND 246(1) OF THE ACT)**

In the matter of the receivership of the property defined below.

The receiver gives notice and declares that:

1. On the 30th day of July, 2019, the undersigned RSM Canada Limited was appointed as receiver and manager (the **"Receiver"**) without security, of real property municipally known as 37 and 85 Panache Lake Road, Espanola, Ontario (the **"Properties"**), owned by Greenhouses Canada Inc.
2. The undersigned became a receiver in respect of the Properties by virtue of being appointed by order of the Ontario Superior Court of Justice dated July 30, 2019.
3. The undersigned commenced the exercise of its powers in respect of that appointment on the 30th day of July, 2019.
4. The following information relates to the receivership:

a) Registered Office Address of the Properties: not applicable

b) Principal line of business of the Properties:

37 Panache Lake Road - industrial building under construction
85 Panache Lake Road – vacant land

c) The amounts owed to creditors who appear to hold a security interest against the Properties described above include:

Business Development Bank of Canada	\$1,125,993.73
Canada Revenue Agency	Unknown
Her Majesty in Right of Ontario by the Minister of Finance	\$3,408.32
Kamich Steel Systems Inc.	\$115,482.00
Workplace Safety and Insurance Board	\$16,345.45
Town of Espanola	\$12,938.56

d) The Receiver is not aware of any other parties which may have a security interest against the Properties. Attached as Schedule "A" is a list of creditors which may have a claim against the Properties and other parties to which this notice is being sent. The list of creditors has been compiled based on information available or provided to the Receiver and has not been audited or verified by the Receiver. The fact that persons are receiving this notice or are included on

THE POWER OF BEING UNDERSTOOD
AUDIT | TAX | CONSULTING

the creditors list does not mean that it has been determined that they are a creditor or that if they are a creditor, that their claim is admitted in the amount set out on that list.

5. The plan of the Receiver is to market and sell the Properties.
6. Contact person for the Receiver:

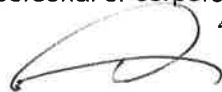
Brenda Wong
RSM Canada Limited
11 King Street West
Suite 700, PO Box 27
Toronto, Ontario M5H 4C7
Telephone: (647) 727-3621
Facsimile: (416) 480-2646
E-mail: brenda.wong@rsmcanada.com

7. Additional information: A copy of the receivership order will be posted on the Receiver's website at rsmcanada.com/37-and-85-panache-lake-road. Other pertinent public information will be posted to the website as that information becomes available.

Dated at Toronto this 9th day of August, 2019.

RSM CANADA LIMITED

In its capacity as Court Appointed receiver and manager of
37 and 85 Panache Lake Road, Espanola, Ontario, and not
in its personal or corporate capacity



Per: Daniel Weisz, CPA, CA, CFF, CIRP, LIT
Senior Vice-President

SCHEDULE A

RSM Canada Limited
In the Matter of the Receivership of
37 and 85 Panache Lake Road, Espanola, Ontario

LIST OF CREDITORS

Business Development Bank of Canada	\$ 1,125,993.73
Canada Revenue Agency	Unknown
Her Majesty in Right of Ontario Represented by the Minister of Finance	3,408.32
Kamich Steel Systems Inc.	115,482.00
Town of Espanola	12,938.56
Workplace Safety and Insurance Board	16,345.45
	<hr/>
	\$ 1,274,168.06

Supplementary Mailing List

Greenhouses Canada Inc.
Department of Justice Canada, Attn: Diane Winters
Office of the Superintendent of Bankruptcy
Bodkin Capital Corporation
Ford Credit Canada Limited
Sudbury Credit Union Limited

APPENDIX D

RSM Canada Limited
Court-Appointed Receiver and Manager of
37 and 85 Panache Lake Road, Espanola, Ontario
Interim Statement of Receipts and Disbursements
For the period July 30, 2019 to August 31, 2020

Receipts		
Advance from secured lender (Note 1)	\$	46,438
Other		419
Total receipts	\$	<u>46,857</u>
Disbursements (Note 2)		
Miscellaneous	\$	345
Receiver's fees		40,759
HST/PST paid		5,334
Total disbursements	\$	<u>46,438</u>
Net funds on hand	\$	<u>419</u>

Notes:

- (1) The amount of \$46,438 was advanced by Business Development Bank of Canada ("BDC").
- (2) Disbursements do not include protective disbursements billed to the Receiver that were paid directly by BDC in respect of the Property. These disbursements include property and liability insurance, hydro charges, snow clearing and security-related costs.

This Appendix forms part of the First Report of the Receiver dated September 14, 2020 and should only be read in conjunction therewith.