

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

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

and

JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC.,
HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN
LOGISTICS INC., and HERITAGE WAREHOUSING & DISTRIBUTION INC.

Respondents

MOTION RECORD OF RECEIVER

(Returnable April 17, 2025)

April 7, 2025

HARRISON PENZA LLP

Barristers & Solicitors

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Solicitors for the Receiver,
BDO Canada Limited

TO: Service List

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Tab 1

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

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

**JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC.,
HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN
LOGISTICS INC., and HERITAGE WAREHOUSING & DISTRIBUTION INC.**

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 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**

**NOTICE OF MOTION
(Returnable April 17, 2025)**

BDO Canada Limited (“**BDO**”) in its capacity as court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all the assets, undertakings and properties (collectively, the “**Property**”) of the Respondents, including Heritage Warehousing & Distribution Inc. (“**HWD**”) appointed pursuant to the Order of the Honourable Justice Kimmel dated March 6, 2025 (the “**Appointment Order**”), will make a Motion to a Judge presiding over the Commercial List.

PROPOSED METHOD OF HEARING: The Motion is to be heard:

- ☐ In writing under subrule 37.12.1 (1) because it is on consent;
- ☐ In writing as an opposed motion under subrule 37.12.1 (4);
- ☐ In person;

☐ By telephone conference;

☒ By video conference.

at the following location:

On April 17, 2025, at 12:00 p.m., or as soon after that time as the Motion can be heard by judicial teleconference via Zoom at Toronto, Ontario.

THE MOTION IS FOR:

1. An Approval and Vesting Order, substantially in the form at Schedule "A" to this Notice of Motion, approving the transaction (the "**HWD Transaction**") contemplated by the Agreement of Purchase and Sale dated March 25, 2025 (the "**HWD Agreement**") contained in Receiver's First Report to the Court dated April 7, 2025 (the "**First Report**") and the Confidential Appendix "A", for the sale of the HWD Assets (as defined below) and vesting all of the right, title and interest in and to the HWD Assets absolutely in and to 1001172780 Ontario Ltd. (the "**Purchaser**"), free and clear of and from any security, charge or other encumbrance.
2. An Ancillary Order, substantially in the form at Schedule "B" to this Notice of Motion:
 - a) Abridging the time for service, filing and confirmation of the Notice of Motion and the Motion Record, and validating service so that this motion is properly returnable on April 17, 2025;
 - b) Approving First Report and the activities and conduct of the Receiver set out therein provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approval of the First Report; and,
 - c) Sealing the Confidential Appendices to the First Report (the "**Confidential Appendices**") until the completion of a sale of the HWD Transaction, or until a further order of this Court.
3. An Order, substantially in the form at Schedule "C" to this Notice of Motion amending the Appointment Order.

4. The costs of this motion on a substantial indemnity basis, if opposed; and,
5. Such further and other relief as counsel may request and this honourable court may permit.

THE GROUNDS FOR THE MOTION ARE:

The Debtors and the Appointment of the Receiver

1. Pursuant to the Appointment Order, BDO was appointed Receiver, without security, of the assets, undertakings and properties of JBT Transport Inc. ("**JBT**"), Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc. ("**HTL**"), Drumbo Transport Ltd. ("**Drumbo**"), Heritage Northern Logistics Inc. ("**HNL**"), and HWD (collectively, the "**JBT Group**" or the "**Debtors**").
2. The Debtors are a group of companies with common management and ownership that operate an integrated transportation and warehousing business, headquartered in Ayr, Ontario.
3. The Applicant creditor, The Toronto-Dominion Bank (hereinafter "**TD**") is a secured creditor of the Debtors. The Debtors were indebted to TD in the approximate sum of \$16,190,972.66 CAD and \$50,000 USD, exclusive of professional fees, as at January 15, 2025, with interest and legal costs continuing to accrue (the "**Indebtedness**"), pursuant to certain financing provided by TD to the Debtors.

The HWD Assets

4. JBT Group operated from leased premises located at 60 Steckle Place, Kitchener, Ontario ("**Steckle**") and owns real property located at 425 Melair Drive, Ayr, Ontario ("**Melair**" and together with Steckle, the "**Premises**"). HWD's warehousing operations are conducted from Steckle and all other operations were conducted from Melair.
5. HWD's assets and liabilities, as a warehouse and distributor, are comprised of:
 - a. Receivables;
 - b. Forklifts;

- c. Computers, furniture and fixtures;
- d. Employee liabilities;
- e. The Steckle lease; and
- f. Other liabilities, including utilities, software, cybersecurity services, etc.

(collectively, the “**HWD Assets**”).

The Receiver's Activities

6. The details of the Receiver's activities since the Appointment Order are provided in the First Report. The Receiver's activities have concentrated on, *inter alia*, the following:
 - a. Taking possession and control of the Melair Premises;
 - b. Dealing with the Purchaser to arrange for completion of the Sale Transaction;
 - c. Arranging the employment relationships, insurance, and mailing of all entities within the JBT Group, with the exception of those of HWD;
 - d. Corresponding with customers and carriers, third parties who have asserted an interest in property located on the Melair premises, auctioneers and prospective parties who have expressed an interest in the Property, as necessary;
 - e. Completing statutory reporting and notice requirements under the BIA; and
 - f. Preparing, reviewing, and finalizing the First Report.
7. The Receiver states that its actions, as outlined in the First Report, should be approved by this Honourable Court.

The HWD Agreement

8. As authorized by this Court pursuant to the Appointment Order, the Receiver has entered into the HWD Transaction for the sale of the HWD Assets to the Purchaser.

9. The details of the HWD Agreement are provided in the First Report. The Receiver recommends the approval and completion of the HWD Agreement for, *inter alia*, the following:
- a. The HWD Agreement provides certainty as to realizations, subject to the terms of the HWD Agreement, and preserves the employment of 13 employees;
 - b. The HWD Agreement avoids incurring the costs of vacating the Steckle premises and the costs of collection agencies, liquidators and the Receiver, thereby maximizing recoveries for stakeholders;
 - c. The HWD Agreement is pursuant to an unconditional all-cash offer, the Purchaser has paid the Purchase Price to the Receiver, and thereby eliminates any future risk to the Receiver as regards to market conditions;
 - d. The HWD Transaction pursuant to the HWD Agreement will be completed sooner than any potential sale by way of a sales process, which is beneficial to the stakeholders of the Debtors' estate;
 - e. The proposed selling price appears reasonable given the appraised value of the Assets;
 - f. HWD would continue to operate resulting in 13 individuals retaining their employment; and
 - g. TD Bank, the senior secured creditor, supports the HWD Transaction.
10. The Receiver is of the view that the HWD Agreement represents a commercially reasonable transaction which will maximize the recovery and is in the best interests of all stakeholders.

Sealing Order

11. The disclosure of the information contained in the Confidential Appendices could potentially impair the maximizing of a sale of the Assets, and the sealing order sought in

relation to the Confidential Appendices (i) aligns with the purpose of the Appointment Order and the interest promoted therein; (ii) is fair and reasonable in the circumstances; and (iii) will achieve the desired benefit without unduly impairing the openness of the Court's process.

12. Until such time as the Assets are sold, or until further order of this Court, the Receiver is of the view that the information and documentation contained in the Confidential Appendices should be sealed in order to avoid the negative impact that the dissemination of the confidential information contained therein would have.

Amending Order

13. The Receiver seeks an Order amending the Appointment Order.
14. The Receiver believes a Receivable Entitlement Process should be commenced which will provide customers direction as to whom payments should be made and provides comfort that the amounts are subsequently distributed to the appropriate party. Accordingly, the Receiver proposes that the Receivership Order be amended to incorporate similar language that was included in the CCAA Order. Specifically, the Receiver proposes the following provisions should be added to the Receivership Order:
 - a. THIS COURT ORDERS that all transportation carriers and owner operators that were engaged by the Applicants to provide carrier services (each, a “**Carrier**”, and collectively, the “**Carriers**”), be and are hereby stayed from contacting customers of the Debtors in respect to the business of the Debtors, including but not limited to, requiring customers to make payments to the Carriers, from taking any enforcement action with respect to the Carrier Trust Funds (as defined herein) or from holding or refusing to deliver the Debtors' load freight product on account of any outstanding indebtedness owing by the Debtors to Carriers prior to March 6, 2025 (the “**Date of Receivership**”).
 - b. THIS COURT ORDERS that all receivables received by the Debtors on or after the Date of Receivership shall be treated in accordance with the provisions of the Highway Traffic Act, RSO 1990, c. H. 8 (the “**HTA**”), including section 190.0.1(3) therein. Specifically, the Receiver shall confirm that funds impressed with a trust pursuant to section 191.0.1(3) of the HTA (“**Carrier Trust Funds**”) shall be held

in a segregated account and valid claims will be paid to the Carriers pursuant to and in accordance with the HTA.

- c. THE COURT ORDERS that customers shall pay the outstanding receivables owing to Debtors to the Receiver and that those payments be subject to review by the Receiver to determine the appropriate distribution of such amounts.

15. The CCAA-Professionals (as defined in the First Report) advise that they have unpaid professional fees associated with the failed CCAA proceedings of approximately \$71,000. The CCAA-Professionals are requesting an Administrative Charge in these Receivership proceedings in respect of their unpaid fees which would rank *pari passu* with the Receiver's charge.

16. Neither TD nor the Receiver oppose the CCAA-Professional's request provided that:

- a. the charge is limited to \$75,000;
- b. the charge pertains to professional time incurred prior to the Date of Receivership;
- c. the charge ranks *pari passu* with the Receiver's charge; and
- d. the CCAA-Professionals' accounts are subject to the customary review, taxation and approval of the Court.

17. Section 243 and 249 of the *Bankruptcy and Insolvency Act*.

18. Sections 100 and 137(2) of the *Courts of Justice Act*.

19. Rules 1.04, 2, 3, 37, 38, and 60.10 of the Rules of Civil Procedure.

20. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- 1. The Appointment Order

2. The First Report and the Appendices thereto; and,
3. Such materials as counsel may advise and this Honourable Court may permit.

April 7, 2025

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Solicitors for the Receiver,
BDO Canada Limited

TO: Service List

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Schedule "A" – Approval and Vesting Order

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	THURSDAY, THE 17 th
	)	
JUSTICE	)	DAY OF APRIL, 2025

THE TORONTO-DOMINION BANK

Plaintiff

- and –

JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC., HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN LOGISTICS INC., and HERITAGE WAREHOUSING & DISTRIBUTION INC.

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Heritage Warehousing & Distribution Inc. (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and 1001172780 Ontario Ltd. (the "**Purchaser**") dated March 25, 2025 and appended to the First Report of the Receiver dated April 4, 2025 (the "**Report**"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale

Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, all other parties in attendance, and no one appearing for any other person on the service list, although properly served as appears from the affidavit of Sydney Inghelbrecht sworn April 7, 2025 filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale 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.
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's right, title and interest in and to the Purchased Assets described in the Sale 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 Kimmel dated March 6, 2025; (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, 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.
3. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place

and instead 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.

4. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.
5. THIS COURT ORDERS that, notwithstanding:
 - (a) the pendency of these proceedings;
 - (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made in respect of the Debtor;

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

6. 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.

Justice, Ontario Superior Court of Justice
Commercial List

Schedule A – Form of Receiver’s Certificate

Court File No. CV-25-00737791-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE	)	THE [th]
	)	
JUSTICE []	)	DAY OF MONTH, 2025

THE TORONTO-DOMINION BANK

Plaintiff

- and -

JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC., HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN LOGISTICS INC., and HERITAGE WAREHOUSING & DISTRIBUTION INC.

Respondents

RECEIVER’S CERTIFICATE

RECITALS

- A. Pursuant to an Order of the Honourable Justice Kimmel of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated March 6, 2025, BDO Canada Limited was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of Heritage Warehousing & Distribution Inc. (the "**Debtor**").
- B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of MONTH, DAY, 2025 (the "**Sale Agreement**") between the Receiver and 1001172780 Ontario Ltd. (the "**Purchaser**"), and provided for the vesting in the

Purchaser of the Debtor'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 Sale 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 Sale 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 Sale Agreement;
2. The conditions to Closing as set out in the Sale 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].

**BDO CANADA LIMITED., in its capacity as
Receiver of the undertaking, property and
assets of Heritage Warehousing &
Distribution Inc., and not in its personal or
corporate capacity**

Per: _____

Name:

Title:

Schedule B – Purchased Assets

All Accounts Receivable, Forklifts and Pallet Racks, and Furniture and Computers of the Debtor, as such terms are defined and described in the Sale Agreement.

THE TORONTO-DOMINION BANK

and

JBT TRANSPORT INC., et al.

Applicant

Respondents

Court File No. CV-25-00737791-00CL

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

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

APPROVAL AND VESTING ORDER

HARRISON PENZA LLP

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Lawyers for the Receiver,
BDO Canada Limited

Schedule "B" – Ancillary Order

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

THE HONOURABLE
JUSTICE

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THURSDAY, THE 17TH
DAY OF APRIL, 2025

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Respondents

ANCILLARY ORDER

THIS MOTION, made by BDO Canada Limited in its capacity as the Court-appointed receiver (the "**Receiver**"), without security, of the assets, undertakings and properties of JBT Transport Inc. ("**JBT**"), Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc. ("**HTL**"), Drumbo Transport Ltd. ("Drumbo"), Heritage Northern Logistics Inc. ("**HNL**"), and Heritage Warehousing & Distribution Inc. ("**HWD**") (collectively, the "**Debtors**"), appointed pursuant to the Order of the Honourable Justice Kimmel dated March 6, 2025, for an order approving the Receiver's First Report to the Court dated April 4, 2025 (the "**First Report**") and the Confidential Appendices to the First Report (the "**Confidential Appendices**"), and the activities and conduct of the Receiver as detailed therein; Sealing the Confidential Appendices until the completion of the Sale Transaction (as defined in the First Report), or until further Order of this Court and for other associated relief was heard this day by judicial teleconference via Zoom at 330 University Avenue, Toronto, Ontario.

ON READING the First Report and the Confidential Appendices, and on hearing the submissions of counsel for the Receiver and all other counsel and parties present, no one else appearing for any other person on the service list, although properly served as appears from the affidavit of Sydney Inghelbrecht sworn April 7, 2025, filed;

1. **THIS COURT ORDERS** that the time for service, filing and confirmation of the Notice of Motion and the Motion Record be and is abridged so that this motion is properly returnable today and hereby dispenses with further service and confirmation hereof.
2. **THIS COURT ORDERS** that the First Report, and the Confidential Appendices, and the activities and conduct of the Receiver as detailed therein, be and are approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.
3. **THIS COURT ORDERS** that the Confidential Appendices be and is sealed until the completion of the Transaction, or until further Order of this Court.

Justice, Ontario Superior Court of Justice

(Commercial List)

THE TORONTO-DOMINION BANK
Applicant

-and- JBT TRANSPORT INC. et. al.
Respondents

Court File No. CV-25-00737791-00CL

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

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

ANCILLARY ORDER

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Lawyers for the Receiver,
BDO Canada Limited

Schedule "C" – Amending Order

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

THE HONOURABLE

)

THURSDAY, THE 17TH

JUSTICE

)

DAY OF APRIL, 2025

)

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

**JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT
INC., HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED,
HERITAGE NORTHERN LOGISTICS INC., and HERITAGE WAREHOUSING &
DISTRIBUTION INC.**

Respondents

ORDER

THIS MOTION, made by BDO Canada Limited (the “**Receiver**”), in its capacity as the Court-appointed receiver, without security, of all the assets, undertakings and properties (collectively, the “**Property**”) of the Respondents, including Heritage Warehousing & Distribution Inc., appointed pursuant to the Order of the Honourable Justice Kimmel dated March 6, 2025 (the “**Appointment Order**”), for an order amending the Appointment Order was heard this day via Zoom at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion dated April 7, 2025, the First Report of the Receiver to the Court dated April 4, 2025, and on hearing the submissions of counsel for the Receiver and all other counsel and parties present, as properly served as appears from the affidavit of Sydney Inghelbrecht sworn April 7, 2025, filed:

1. **THIS COURT ORDERS** that the Appointment Order is hereby amended substantially in the Form attached hereto at Schedule “A”.

Justice, Ontario Superior Court of Justice
Commercial List

SCHEDULE "A"

Court File No. CV-25-00737791-00CL

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

THE HONOURABLE

)

THURSDAY, THE

)

JUSTICE KIMMEL

)

6TH DAY OF MARCH, 2025

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

and

**JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC.,
HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE
NORTHERN LOGISTICS INC., and HERITAGE WAREHOUSING & DISTRIBUTION INC.**

Respondents

**AMENDED ORDER
(Appointing Receiver)**

THIS MOTION made by The Toronto-Dominion Bank (the “**Bank**”) 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 BDO Canada Limited (“**BDO**”) as receiver and manager (in such capacities, the “**Receiver**”) without security, of the Property (as defined below) of JBT Transport Inc., Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc., Drumbo Transport Ltd., Heritage Northern Logistics Inc., and Heritage Warehousing & Distribution Inc. (collectively, the “**Debtors**”) (the “**Debtors**”) was heard this day via Zoom videoconference.

ON READING the Affidavits of Daryl Coelho sworn February 7, 2025 and February 25, 2025, and the Exhibits thereto and on hearing the submissions of counsel for the Bank and the Receiver, and other counsel appearing on the Participant Information Form, no one appearing for any other party although duly served as appears from the Lawyer Certificate of Service signed February 8, 2025 and the affidavit of service of Maureen McLaren dated February 25, 2025, filed and on reading the consent of BDO 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 motion is properly returnable today and hereby dispenses with further service thereof.

LIFTING OF STAY AND CCAA TERMINATION

2. **THIS COURT ORDERS** that the stay of proceedings over the Debtors and the Property granted by Order of this Court dated February 10, 2025 (the “**February 10 Order**”) in proceedings commenced by the Debtors pursuant to the *Companies Creditors Arrangement Act* R.S.C. 1985 c. C-36, as amended, in Court File No. CV-25-00736572-00CL is hereby terminated, effective immediately, and is of no further force and effect.

3. **THIS COURT ORDERS** that Dodick Landau Inc. is hereby discharged from its duties as court-appointed monitor for the Debtors (in such capacity, the “**Monitor**”) and shall have no further duties, obligations or responsibilities as Monitor from and after the date hereof.

APPOINTMENT

4. **THIS COURT ORDERS** that that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof, which property includes, without limitation, the freehold interest in real property municipally known as 425 Melair Drive, Ayr, Ontario, N0B1E0, and bearing the legal description PIN 22714-0168 (LT) (the “**Property**”).

RECEIVER’S POWERS

5. **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 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 business 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 business, or cease to perform any contracts of the Debtors;

- (d) 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;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business 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 and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to 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 the Debtors, for any purpose pursuant to this Order;
- (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 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 \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; 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*, or section 31 of the Ontario *Mortgages Act*, as the case may be, 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 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;

- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) 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 the Debtors;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect 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 the Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (r) 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 Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

6. **THIS COURT ORDERS** that (i) the Debtors, (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 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.

7. **THIS COURT ORDERS** that all Persons including, for greater certainty, Solera Holdings Inc. and/or any other corporation or entity that licenses to the Debtors the use of the Omnitrac fleet-management software, 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 business or affairs 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 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.

8. **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.

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 DEBTORS OR THE PROPERTY

11. **THIS COURT ORDERS** that no Proceeding against or in respect 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 the Debtors or the Property 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 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, or (iv) prevent the registration of a claim for lien.

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 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 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, payroll services, insurance, transportation services, utility or other services to

the Debtors, including, for greater certainty, Solera Holdings Inc. and/or any other corporation or entity that licenses to the Debtors the use of the Omnitracs fleet-management software, 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 Debtors 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.

DEALINGS WITH CUSTOMERS OF THE DEBTORS AND CARRIERS

15. **THIS COURT ORDERS** that all transportation carriers and owner operators that were engaged by the Applicants to provide carrier services (each, a “**Carrier**”, and collectively, the “**Carriers**”), be and are hereby stayed from contacting customers of the Debtors in respect to the business of the Debtors, including but not limited to, requiring customers to make payments to the Carriers, from taking any enforcement action with respect to the Carrier Trust Funds (as defined herein) or from holding or refusing to deliver the Debtors' load freight product on account of any outstanding indebtedness owing by the Debtors to Carriers prior to March 6, 2025 (the “**Date of Receivership**”).

16. **THIS COURT ORDERS** that all receivables received by the Debtors on or after the Date of Receivership shall be treated in accordance with the provisions of the Highway Traffic Act, RSO 1990, c. H. 8 (the “HTA”), including section 190.0.1(3) therein. Specifically, the Receiver

shall confirm that funds impressed with a trust pursuant to section 191.0.1(3) of the HTA (“Carrier Trust Funds”) shall be held in a segregated account and valid claims will be paid to the Carriers pursuant to and in accordance with the HTA.

17. **THE COURT ORDERS** that customers shall pay the outstanding receivables owing to Debtors to the Receiver and that those payments be subject to review by the Receiver to determine the appropriate distribution of such amounts.

RECEIVER TO HOLD FUNDS

18. **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

19. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors’ 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

20. **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 Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

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 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 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 AND CCAA ADMINISTRATION CHARGE

23. **THIS COURT ORDERS** that, notwithstanding paragraphs 2 and 3 above, the administration charge as defined and granted in the February 10th Order (the “**CCAA Administration Charge**”) shall continue in full force and effect as against all the Property of the Debtors for professional fees and costs incurred up to the Date of Receivership, which Charge shall not exceed an aggregate amount of \$75,000 and shall rank *pari-passu* with the Receiver’s Charge (as defined below).

24. **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 and *pari-passu* with the CCAA Administration Charge.

25. **THIS COURT ORDERS** that the Receiver, the Monitor and their legal counsel and counsel to the Debtors in the CCAA proceedings shall pass their 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 Ontario Superior Court of Justice (Commercial List).

26. **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

27. **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 \$250,000

(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.

28. **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.

29. **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.

30. **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

31. **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: <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/JBT>.

32. **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 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

33. **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.

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

35. **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.

36. **THIS COURT ORDERS** that, upon receiving a request by the Receiver, the Ministry of Transportation, Service Ontario, and/or any other government department, ministry or agency responsible for vehicle registration in any other Province or Territory of Canada, are hereby directed to provide the Receiver with details relating to any transfer of ownership of any of the Property, including, without limitation, the identities of the parties to the transfer, the consideration paid and any other details reasonably incidental thereto.

37. **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.

38. **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' estate with such priority and at such time as this Court may determine.

39. **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.

40. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of today's time and is enforceable without the need for entry and filing.

SCHEDULE “A”
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that BDO Inc., the receiver (the “**Receiver**”) of the assets, undertakings and properties of JBT Transport Inc., Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc., Drumbo Transport Ltd., Heritage Northern Logistics Inc., and Heritage Warehousing & Distribution Inc. (collectively, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof, which property includes, without limitation, the freehold interest in real property municipally known as 425 Melair Drive, Ayr, Ontario, N0B1E0 (collectively, the “**Property**”) appointed by Order of the Ontario Superior Court of Justice (the “**Court**”) dated the ____ day of _____, 2025 (the “**Order**”) made in an action having Court file number _____, 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 The Toronto-Dominion Bank 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 February 2025.

BDO Canada Limited., solely in its capacity as
Receiver of the Property, and not in its personal
capacity

Per: _____

Name:

Title:

THE TORONTO-DOMINION BANK
Applicant

and

JBT TRANSPORT INC. et al. Court File No. CV-25-00737791-00CL
Respondent

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

Proceeding Commenced at TORONTO

AMENDED ORDER

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Lawyers for The Toronto-Dominion Bank

THE TORONTO-DOMINION BANK

and

JBT TRANSPORT INC., et al.

Applicant

Respondents

Court File No. CV-25-00737791-00CL

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

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

ORDER

HARRISON PENZA LLP

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BDO Canada Limited

THE TORONTO-DOMINION BANK

and

JBT TRANSPORT INC., et al.

Applicant

Respondents

Court File No. CV-25-00737791-00CL

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

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

NOTICE OF MOTION

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Tab 2

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

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

and

**JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC., HERITAGE
TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN LOGISTICS INC., and
HERITAGE WAREHOUSING & DISTRIBUTION INC.**

Respondents

**FIRST REPORT OF BDO CANADA LIMITED, IN ITS CAPACITY AS COURT APPOINTED RECEIVER
AND MANAGER OF JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR
MANAGEMENT INC., HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE
NORTHERN LOGISTICS INC., and HERITAGE WAREHOUSING & DISTRIBUTION INC.**

April 4, 2025

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INTRODUCTION AND BACKGROUND

1. JBT Transport Inc. ("**JBT**"), Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc. ("**HTL**"), Drumbo Transport Limited ("**Drumbo**"), Heritage Northern Logistics Inc. ("**HNL**"), and Heritage Warehousing & Distribution Inc. ("**HWD**") (collectively the "**JBT Group**" or the "**Companies**") was in the business of end-to-end supply chain services, transportation logistics and warehousing services for customers across North America.
2. The JBT Group operated from leased premises located at 60 Steckle Street ("**Steckle**") and owned premises at 425 Melair Dr. ("**Melair**" and together with Steckle, the "**Premises**"). HWD's warehousing operations are conducted from Steckle and all other operations were conducted from Melair.
3. In February 2022, the JBT Group commenced an expansion of its business including the purchase of Drumbo, HTL, HNL and HWD. Shortly after the expansion, market conditions declined and the JBT Group began experiencing financial difficulties.
4. On January 24, 2025 (the "**NOI Filing Date**"), each of the entities within the JBT Group filed a Notice of Intention to Make a proposal to its creditors under the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") (the "**NOI Proceedings**"). Dodick Landau Inc. ("**DLI**") was the proposal trustee. The motion material in respect of the NOI Proceedings indicated that the purposes of those proceedings were to allow the JBT Group to conduct a sale and investment solicitation process with a view to maximize recovery for the stakeholders while maintaining going concern operations to safeguard employment of the employees and preserve value for the stakeholders.
5. The JBT Group made application to the Court to convert the NOI Proceedings to proceedings under the *Companies' Creditors Arrangement Act* ("**CCAA**") (the "**CCAA Application**"). On February 8, 2025, DLI issued a pre-filing monitor's report in support of the conversion of the NOI Proceedings to CCAA proceedings. On February 10, 2025, the Court converted the NOI Proceedings to CCAA proceedings pursuant to an initial order ("**Initial Order**"), which, among other things, appointed DLI as the monitor of the Companies.
6. The Toronto-Dominion Bank ("**TD Bank**"), senior secured lender to the JBT Group, brought a concurrent application to appoint a receiver over the assets, properties and undertakings of the Applicants (the "**Receivership Application**").

7. Pursuant to the terms of the Initial Order, inter alia, the Court:

- a. granted a stay of proceedings in favour of each of the Applicants up to and including February 28, 2025;
- b. ordered that all receivables received by the Applicants on or after the NOI Filing Date shall be treated in accordance with the provisions of the Highway Traffic Act, RSO 1990, c. H. 8 (the “**HTA**”), including section 190.0.1(3) therein;
- c. stayed all Carriers (as defined in the HTA) from contacting customers of the Applicants in respect to the business of the Applicants, including but not limited to, requiring customers to make payments to the Carriers, soliciting business from such customers, from taking any enforcement action with respect to the amounts owed to them or from holding and refusing to deliver the Applicants’ load freight product on account of any outstanding indebtedness owed by the Applicants to the Carriers prior to the Filing Date;
- d. granted the following charges:
 - i. a charge securing Carrier’s right to payment for the supply of services rendered to the Applicants in respect of shipments in connection with which such Carrier was engaged by the Applicants for the carriage of goods on or subsequent to the NOI Filing Date (the “**Carrier Charge**”). The Carrier Charge was granted on the applicable receivable associated with such shipment received by the Applicants or any of them, from and after the NOI Filing Date, and the charge on the applicable receivable was in the amount owing to the respective Carrier; and
 - ii. the Administration Charge in the amount of \$150,000 on all of the Applicants’ current and future assets, property and undertaking (collectively, the “**Property**”) to secure the fees and disbursements of the Applicants’ legal counsel, as well as the fees and disbursements of the Monitor and its independent legal counsel.

8. The comeback date was set for February 27, 2025 (the “**Comeback Date**”). The Court issued its endorsement dated March 4, 2025 (the “**March 4 Endorsement**”) granting the Receivership Application and dismissing the CCAA Application. A copy of the March 4 Endorsement is attached hereto as **Appendix “A”**.

9. Paragraph 70 of the March 4 Endorsement provided that if there was no agreement as to the for of Receivership Order by March 6, 2025 (the expiration of the stay period then in place), then the Court

would sign the originally proposed form of Receivership Order.

10. No agreement was reached between counsel as to the form of Receivership Order. On March 7, 2025, the Court issued a supplemental endorsement specific to the Receivership Order, a copy of which is attached as **Appendix “B”**.
11. On March 6, 2025 (the **“Date of Receivership”**), the Court granted the receivership order, appointing BDO Canada Limited (**“BDO”** or the **“Receiver”**) as the Receiver (the **“Receivership Order”**). A copy of the Receivership Order is attached hereto as **Appendix “C”**. All other information regarding the receivership proceedings can be accessed on the Receiver’s website at <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/jbt>

PURPOSE OF REPORT

12. This report constitutes the first report of the Receiver (the **“First Report”**), and is filed in support of the Receiver’s motion to this Honourable Court, seeking an order(s):
 - a. approving this First Report and the reported actions of the Receiver since the Date of Receivership in respect of administering these receivership proceedings;
 - b. approving the HWD Transaction (as defined herein) as between the Receiver as vendor and 1001172780 Ontario Limited as purchaser (the **“Purchaser”**);
 - c. amending the Receivership Order to include:
 - i. the Receivables Entitlement Process (as defined herein) in respect of shipments delivered by third party carriers and payments received from customers;
 - ii. expanding the administrative charge to include the unpaid professional fees of DLI, its counsel and the Applicants’ counsel (the **“CCAA-Professionals”**) incurred prior to the granting of the Receivership Order. Such charge is to rank pari passu with the Receiver’s administrative charge, is limited to \$75,000, pertains to unpaid fees incurred prior to the granting of the Receivership Order and is subject to customary review and taxation by the Court; and
 - d. sealing the Confidential Appendices to this First Report until the closing of the Transaction, or further order of this Court.

TERMS OF REFERENCE

13. In preparing this First Report, the Receiver has relied upon unaudited financial information, the books and records of the Companies, and discussions with former management of the Companies (**"Management"**) and the stakeholders of the Company.
14. The financial information of the Companies has not been audited, reviewed or otherwise verified by the Receiver as to its accuracy or completeness, nor has it necessarily been prepared in accordance with generally accepted accounting principles and the reader is cautioned that this First Report may not disclose all significant matters about the Companies. Additionally, none of the Receiver's procedures were intended to disclose defalcations or other irregularities. If the Receiver were to perform additional procedures or to undertake an audit examination of the financial statements in accordance with generally accepted auditing standards, additional matters may have come to the Receiver's attention. Accordingly, the Receiver does not express an opinion, nor does it provide any other form of assurance on the financial or other information presented herein. The Receiver may refine or alter its observations as further information is obtained or brought to its attention after the date of this First Report.
15. Unless otherwise stated, all monetary amounts contained in this First Report are expressed in Canadian dollars.

ACTIVITIES OF THE RECEIVER

16. Since the Date of Receivership, the Receiver has undertaken the following activities with respect to the Companies and their property (the **"Property"**):
 - a. attended onsite at the Premises on the Date of Receivership and met with Mr. Denis Mederios (**"Mederios"**), Mr. Kyle Mederios, Mr. Randy Bowman and various accounting personnel (collectively **"Management"**);
 - b. took possession and control of the Melair premises;
 - c. Arranged for locks to be changed at Melair;
 - d. Arranged for security at Melair;
 - e. engaged in discussions with Mederios who expressed an interest in purchasing the HWD business and assets through a newly incorporated entity;
 - f. reviewed the proposed agreement of purchase and sale between the Receiver and the

Purchaser;

- g. entered into an operating agreement with the Purchaser and finalized the agreement on April 4, 2025;
- h. terminated the employees of all entities within the JBT Group with the exception of those employed by HWD as at March 7, 2025, and made arrangements with certain former employees to assist the Receiver on an as needed basis including a limited number of truck drivers;
- i. arranged from insurance over all assets with the exception of those used in HWD's operations;
- j. arranged for the redirection of mail for all entities other than HWD;
- k. arranged for the transfer of funds from the Companies accounts at Royal Bank of Canada to the Receiver's trust accounts;
- l. completed the statutory reporting and notice requirements under the BIA;
- m. engaged in discussions with the JBT Group's customers and carriers, excluding customers of the warehouse business, as necessary;
- n. corresponded with third parties who asserted an interest in certain property located on the Melair premises;
- o. corresponded with auctioneers and prospective parties who expressed an interest in the Property;
- p. contacted various liquidators and invited them to view the Debtor's assets and submit either offers to purchase or liquidation proposals;
- q. requested equipment financiers to provide their financing or leasing agreements together with their pay-out statements (the "**Security Documents**");
- r. requested legal counsel to review the Security Documents and engage in discussions with the financiers as appropriate;
- s. registered the Receivership Order on title to Melair; and
- t. prepared, reviewed, and finalized this First Report.

JBT GROUP'S OPERATIONS

17. On the Date of Receivership, the Receiver together with its counsel, Harrison Pensa LLP ("**HP**") held discussions with JBT Group's counsel, Reconstruct LLP ("**Reconstruct**") who advised that except for HWD's operations, essentially all operations had ceased. Reconstruct also advised that the Companies' insurance policies including fleet, brokerage and liability had expired on March 1, 2025 and that at the Date of Receivership the Companies' Property was not insured. Given the nature of Companies' primary operations, transporting goods using tractors and trailers on highways, the Receiver could not continue operations without adequate insurance.
18. Discussions with Management on or about the Date of Receivership indicated that the JBT Group was completing a limited number of shipments with its own fleet and was engaged in recovering and returning trucks and trailers which were on the road or at customer locations to the Melair premises. Management advised that the transport operations had been negatively impacted by the non-payment of carriers and the insolvency proceedings which led customers to transition their transportation needs to other carriers due to concerns regarding interrupted supply and third-party carriers potentially demanding payment from the customers or holding goods hostage.
19. In addition, the Receiver engaged in discussions with the Companies' insurer and attempted to arrange insurance. The insurance cost for limited operations, liability and property insurance was cost prohibitive (i.e. ~\$180,000 per month). The cost of insurance, together with the loss of the transportation customer base, led the Receiver to immediately cease the transport operations of JBT, HTL and Drumbo.
20. The Receiver worked with the insurer and arranged property insurance which covered the Melair buildings and premises and the fleet of trucks and trailers. Other insurance was arranged by the Receiver to permit a limited number of vehicles to be used to recover off-site trucks and trailers.
21. The Receiver did not consider a sale of the JBT Group transportation operations as a going concern appropriate as the majority of the operations had ceased, customers had switched to new carriers and third party carriers were reluctant to continue to work with the JBT Group.

HERITAGE WAREHOUSE & DISTRIBUTING TRANSACTION

22. HWD provides warehousing and third-party logistics services to its customers. HWD does not use third party carriers in its business and does not have the same carrier issues as the other entities within the JBT Group.
23. The Receiver did not take possession of either HWD or the Steckle facility.

24. On Date of Receivership, Mederios through its counsel advised the Receiver that he was interested in purchasing HWD's operations and submitted an offer to purchase the assets (the "**HWD Transaction**"). Mederios holds the controlling interest in 1001172780 Ontario Limited, the purchaser in the HWD Transaction. The offer is comprised of:
- a. Receivables – payment of 90% of the Canadian dollar equivalent of the accounts receivables (A/R) as detailed in the March 14, 2025 A/R listing.
 - b. Forklifts – payment of the appraised value for 10 forklifts. The appraisal was prepared by a third-party appraiser.
 - c. Computers, furniture and fixtures –\$1,500 for the computers, furniture and fixtures.
 - d. Employee liabilities – assumption of the 13 employees including their respective wages, vacation pay, benefits and pension contributions (the "**Employee Costs**").
 - e. Steckle lease – assumption of the Steckle lease.
 - f. Other Liabilities – assumption of certain liabilities including utilities, software, cybersecurity services, etc.
25. The HWD Transaction is an all-cash offer and subject only to an approval and vesting order. A copy of the redacted HWD agreement of purchase and sale (the "**HWD APA**") is attached hereto as **Appendix "D"**. The unredacted HWD APA is attached hereto as Confidential **Appendix "A"**.
26. A summary of the appraised values for the Forklifts is attached hereto as Confidential **Appendix "B"**.
27. The Receiver recommends the HWD Transaction for the following reasons:
- a. HWD's customers had expressed their intention to switch warehouses given the insolvency proceedings without immediate certainty of the stability and continuation of the warehouse business. Absent certainty that the warehouse customers would continue with HWD, the Receiver could not operate the warehouse business given the costs and risks (no insurance, and *Occupational Health and Safety Act* concerns) associated with this business line which also prevented the Receiver from conducting a protracted sale process. The immediate closure of the warehouse business would erode any going-concern value and would likely lead to set-offs of the existing warehouse accounts receivable.
 - b. the aggregate consideration of the HWD Transaction is likely to achieve the highest

realization for the HWD assets while also preserving the employment of 13 employees. The Receiver's view is based upon the fact that it will not have to pay commissions to a collection's agent or to a liquidator to monetize the HWD receivables and fixed assets;

- c. commissions rates for collection agencies and liquidators have ranged between 20% to 30% and 6 to 12%, respectively. These costs and the associated Receiver costs will be avoided as a result of the Court's approval of the HWD Transaction, thereby maximizing recoveries for stakeholders, including the HWD creditors whose liabilities will be assumed;
 - d. the Receiver's costs or the costs of employing a collection agency to collect the HWD receivables would erode the cash collections and would likely result in an amount lower than a 90% recovery rate on the HWD accounts receivable.
 - e. the sale of the forklifts at or around their appraised value is reasonable and would be expected from any purchaser;
 - f. HWD would continue to operate resulting in 13 individuals retaining their employment;
 - g. approval of the HWD Transaction will avoid the costs of vacating the Steckle premises and disrupting customers warehousing needs;
 - h. the HWD Transaction is an unconditional all-cash offer and subject only to an approval and vesting order; and
 - i. TD Bank, the senior secured creditor, supports the HWD Transaction.
28. The Receiver entered into an operating agreement with the Purchaser dated March 28, 2025. A copy of which is attached hereto as **Appendix "E"**.
29. Section 5 of the Receivership Order empowers and authorizes the Receiver to:
- a. 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 \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; 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,

- b. 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 the Property.

As such, the Receiver seeks the approval of the HWD Transaction as the purchase price exceeds \$100,000.

- 30. The Purchaser has agreed to pay for the ongoing HWD Employee Costs and other operating costs from the Date of Receivership. The Receiver has placed the Steckle landlord on notice of the HWD Transaction and the Purchaser has engaged in discussions with the Steckle landlord for the assumption of the Steckle lease.

SECURED CLAIMS - HWD

- 31. Attached hereto as **Appendix "F"** is a summary of registrations made under the *Personal Property Security Act* ("**PPSA**") as against HWD. All secured creditors with registrations as against HWD under the PPSA have been served with this motion.
- 32. The HWD Transaction includes 10 forklifts. Of these 10 forklifts, TD is the only secured creditor with asset/VIN specific registrations over the following forklifts:
 - a) 2019 CROWN ENCORE RM6025-45 (VIN: 1A550423)
 - b) 2015 CROWN ENCORE SC5245-40 (VIN: 9A219585)
 - c) 2013CROWNENCORESC5245-40(VIN: 9A198864)

CARRIER TRUST OBLIGATIONS

- 33. As more fully described in the Proposed Monitor's Pre-Filing Report, the JBT Group coordinated customer shipments using a variety of independent carriers throughout North America. These were carrier lanes which the JBT Group did not service with its own fleet, but to service its customers trucking needs it contracted third-party carriers that serviced those particular geographies. The customer then paid the JBT Group, JBT Group retained a commission (which averaged 15%) and paid the balance (85% on average) to the carrier ("**Carrier Arrangements**").
- 34. Under the Highway Traffic Act, where Carrier Arrangements are contracted, the JBT Group is obligated to hold customer payments in trust until the underlying carrier has been paid. Prior to the NOI Filing Date, these customer payments were not held in a separate trust bank account and were comingled with operating funds. The Proposed Monitor's Pre-filing Report states that, after

the NOI Filing Date and resulting stay of proceedings, certain carriers were not paid and became unsecured creditors in the NOI proceedings and questioned how payment will be protected going forward.

35. Management advised the Receiver and the Proposed Monitor reported that after the NOI Filing Date, the JBT Group created separate trust accounts by legal entity to deposit all customer payments in respect of receipts associated with the carrier broker business (“**Receivable Trust Account(s)**”). The customer payments were then released only as payment to the carrier account relating to the shipment for which payment was received, and the associated JBT Group commission was transferred to the JBT Group operating account.
36. Discussions with JBT Group’s accounting personnel indicated that they developed a tracking sheet which identified customer shipments by carrier to enable them to identify which customer payments should be deposited into the Receivable Trust Account and the quantum of the receivable which would be paid to carriers (the “**Carrier Tracking Sheet**”). Based upon a review of the Carrier Tracking Sheet and discussions with JBT Group’s accounting personnel, it appears the tracking sheet was last updated in mid-February, 2025.
37. The Receiver understands that just prior to the Date of Receivership, the JBT Group made payments to carriers in respect of Carrier Arrangements leaving approximately \$173,000 in the Receivable Trust Accounts.
38. Since its appointment, customers have engaged in discussions with the Receiver and have requested direction on how to make payment of their outstanding accounts. The customers have expressed concern that they are uncertain whether they should pay the receivables to the Receiver or to the carriers who are contacting them directly for payment.
39. The Receiver’s discussions with two customers with outstanding receivables totaling in excess of \$1 million, indicated that they are hesitant to pay their outstanding receivable balances as they are uncertain who to pay and are concerned that they may have to pay the accounts twice, once to the Receiver and a second time to the carrier who may hold shipments hostage in exchange of payment. In addition, these customers have expressed concern regarding uncertainty whether carriers have been previously paid by the JBT Group and do not want to be responsible to make a decision as to who to pay and if they pay the carriers, the amount they should be paying carriers.
40. The Receiver believes a Receivable Entitlement Process should be commenced which will provide customers direction as to whom payments should be made and provides comfort that the amounts are subsequently distributed to the appropriate party. Accordingly, the Receiver proposes that the Receivership Order be amended to incorporate similar language that was included in the CCAA

Order. Specifically, the Receiver proposes the following provisions should be added to the Receivership Order:

- a. THIS COURT ORDERS that all transportation carriers and owner operators that were engaged by the Applicants to provide carrier services (each, a “**Carrier**”, and collectively, the “**Carriers**”), be and are hereby stayed from contacting customers of the Debtors in respect to the business of the Debtors, including but not limited to, requiring customers to make payments to the Carriers, from taking any enforcement action with respect to the Carrier Trust Funds (as defined herein) or from holding or refusing to deliver the Debtors’ load freight product on account of any outstanding indebtedness owing by the Debtors to Carriers prior to March 6, 2025, the Date of Receivership.
 - b. THIS COURT ORDERS that all receivables received by the Debtors on or after the Date of Receivership shall be treated in accordance with the provisions of the Highway Traffic Act, RSO 1990, c. H. 8 (the “**HTA**”), including section 190.0.1(3) therein. Specifically, the Receiver shall confirm that funds impressed with a trust pursuant to section 191.0.1(3) of the HTA (“**Carrier Trust Funds**”) shall be held in a segregated account and valid claims will be paid to the Carriers pursuant to and in accordance with the HTA.
 - c. THE COURT ORDERS that customers shall pay r outstanding receivables owing to Debtors to the Receiver and that those payments be subject to review by the Receiver to determine the appropriate distribution of such amounts.
41. This trust mechanism will allow the Receiver to manage the JBT Group carrier trust obligations, thereby protecting the contract carriers and providing direction to customers to pay their outstanding accounts to the Receiver.
 42. The Receiver also requests that it only be responsible to reconcile the funds remaining in the Receivable Trust Accounts at the Date of the Receivership and for any payments paid to the Receiver after the Date of Receivership. Specifically, the Receiver should not be obligated to investigate any customer payments prior the NOI Filing Date.
 43. The Receiver also requests the amended order include provisions directing customers to make payments to the Receiver as opposed to carriers in order to permit the Receiver to control the process and ensure all carriers are similarly and equitably treated. Absent the Receivable Entitlement Process, customers will be hesitant to make payments to the Receiver which will negatively impact recoveries of receivables and prejudice carriers who are entitled to their trust amounts pursuant to the HTA.

ADMINISTRATIVE CHARGE

44. The CCAA-Professionals advised that they have unpaid professional fees associated with the failed CCAA proceedings of approximately \$71,000. The CCAA-Professionals are requesting an Administrative Charge in these Receivership proceedings in respect of their unpaid fees which would rank pari passu with the Receiver's charge.
45. Neither TD nor the Receiver oppose the CCAA-Professional's request provided that:
- a. the charge is limited to \$75,000;
 - b. the charge pertains to professional time incurred prior to the Date of Receivership;
 - c. the charge ranks pari passu with the Receiver's charge; and
 - d. the CCAA-Professionals' accounts are subject to the customary review, taxation and approval of the Court.

CONCLUSION

46. Based on the foregoing, the Receiver recommends and respectfully requests that this Honourable Court make the Orders as requested in paragraph 12 above.

All of which is respectfully submitted this 4th day of April 2025

BDO CANADA LIMITED
in its capacity as Court-Appointed Receiver
of the JBT Group and without personal
or corporate liability



Name: Josie Parisi, CPA, CA, CBV, CIRP, LIT
Title: Senior Vice President

APPENDIX A

CITATION: JBT Transport Inc.(Re), 2025 ONSC 1436
COURT FILE NO.: CV-25-00736572-00CL and CV-25-00737791-00CL
DATE: 20250304

SUPERIOR COURT OF JUSTICE – ONTARIO (COMMERCIAL LIST)

RE: IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR
MANAGEMENT INC., HERITAGE TRUCK LINES INC., DRUMBO
TRANSPORT LIMITED, HERITAGE NORTHERN LOGISTICS INC., AND
HERITAGE WAREHOUSING & DISTRIBUTION INC.

AND RE:

THE TORONTO-DOMINION BANK

Applicant

AND:

JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR
MANAGEMENT INC., HERITAGE TRUCK LINES INC., DRUMBO
TRANSPORT LIMITED, HERITAGE NORTHERN LOGISTICS INC., and
HERITAGE WAREHOUSING & DISTRIBUTION INC.

Respondents

BEFORE: KIMMEL J.

COUNSEL: *Brendan Bissell/Caitlin Fell/Jessica Wuthmann*, for the JBT Group of Debtors

Craig A. Mills /Matthew Cressatti, for the Creditor Toronto-Dominion Bank

Graham Phoenix/Shahrzad Hamraz, for the Proposed Monitor, Dodick Landau Inc.

Nabiel Dawood, for lien creditors with a separate ongoing action, Trade-Mark
Industrial Inc., Trade-Crete Ltd., and Comtrade Ltd.

Phil Turner, for R& S Trailer Leasing Limited

HEARD: February 27, 2025

ENDORSEMENT
(COMPETING CCAA AND RECEIVERSHIP APPLICATIONS)

[1] The court has been asked to decide between the debtors' CCAA Application and the Receivership Application by the Toronto-Dominion Bank. For the reasons that follow, I have

concluded that it is most just and convenient to appoint a receiver. This decision is context and fact specific.

[2] Accordingly, the Receivership Application is granted and the CCAA Application is dismissed.

The Competing Proceedings

The Debtors' NOI Proceedings and CCAA Application

[3] JBT Transport Inc., Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc. ("HTL"), Drumbo Transport Limited ("Drumbo"), Heritage Northern Logistics Inc. ("HNL"), and Heritage Warehousing & Distribution Inc. ("HWD") (each individually, a "Debtor" and collectively, the "JBT Group" or "Debtors") brought an application for protection under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (the "CCAA") on February 6, 2025 (the "CCAA Application"). The first hearing before this court with respect to that application was on February 10, 2025.

[4] Prior to the CCAA Application, the Debtors had each filed a Notice of Intention to Make a Proposal ("NOI") under the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the "BIA"). Dodick Landau Inc. ("DLI") was appointed as proposal trustee under each NOI proceeding (collectively, the "NOI Proceedings"). The NOI's were filed after the JBT Group's senior secured lender, Toronto-Dominion Bank ("TD Bank"), served demands for the approximately \$16.2 million debt owed by the JBT Group to TD Bank (the "Demands"). The automatic stay in the NOI Proceedings would have expired on February 24, 2025.

[5] The Debtors pivoted to a CCAA Application after commencing the NOI Proceedings because they claimed to be facing an urgent liquidity and operational crisis that had been exacerbated by prejudicial self-help remedies that were being taken by transport carriers who they relied upon to continue to carry on their business (the "Critical Suppliers").

[6] As part of the CCAA Application, the Debtors sought an order staying such carriers from contacting customers of the JBT Group directly, and from otherwise interfering with the JBT Group's arrangements with their customers. They sought a Critical Suppliers Charge attached to the receivables associated with the shipments that they were each, respectively, the carriers of subsequent to the CCAA filing date and a corresponding direction under s. 11.4 of the CCAA for the continued supply of goods and services by the Critical Suppliers, with discretion to pay pre-filing obligations to these creditors to ensure their continued supply during the stay period. The ability of transport carriers to enforce their right to payment of the Carrier Trust Funds directly from the customer who receives and pays for the goods, instead of that payment going to the broker, was also preserved under the Initial Order.

[7] Beyond the need for stability and for the continuing supply of services by the transport carriers (Critical Suppliers) to keep a going concern restructuring option open for the Debtors, the court's decision to grant the Interim Order also took into account the fact that during the initial Stay Period (defined below), there would be far less of a learning curve for the proposed Monitor and counsel for the Debtors and the Monitor than for TD Bank and its proposed Receiver who did

not have the same background regarding the business and operations of the JBT Group. This would also serve to minimize costs during that initial Stay Period.

[8] An Initial Order dated February 10, 2025 was granted under the CCAA (the “Initial Order”) without prejudice to all issues raised or to be raised at this *de novo* comeback hearing. The Initial Order included a stay of proceedings (the “Stay”) until February 28, 2025 (the initial “Stay Period”). The CCAA Initial Order that was granted only contained the essential terms for the continued operation of the Debtors’ business to maintain the *status quo* pending the outcome of the come-back hearing.

[9] Since the initial Stay Period was expiring the day after the comeback hearing, by a preliminary endorsement dated February 28, 2025 the Stay Period was extended until March 6, 2025 pending the release of this endorsement.

The Debtors’ Arguments in Favour of Continuing the CCAA Proceeding

[10] The JBT Group has over 58 trucks, 162 dry vans and refrigerated units, and over 100,000 square feet of state-of-the-art, GDP Gold-certified food storage and warehouse spaces. They employ more than 80 full-time employees and have contracts with more than 20 independent owner-operators. They regularly service 187 customers, and deal with 125 carriers and suppliers.

[11] Through the CCAA Proceeding, the JBT Group seeks to continue their end-to-end supply chain services, transportation logistics and warehousing services (the “Business”) as a going concern for the benefit of all stakeholders. They seek to do so through an amended and restated initial order (“ARIO”) that includes debtor in possession (“DIP”) financing, and customary DIP and Administration Charges as well as preserving the Carrier Trust Fund and Critical Suppliers’ Charge. The DIP Lender will rank behind the Critical Suppliers Charge and the Administration Charge. It would also be subordinate to TD Bank’s first ranking security on the one remaining property owned by the Debtors, municipally known as 425 Melair Drive, Ayr, Ontario (the “Melair Property”).

[12] The Debtors maintain that a debtor-in-possession restructuring that permits the JBT Group to continue their operations in the normal course will better preserve value for stakeholders. By contrast, the Debtors believe a receivership will put their Business at risk, as they have the familiarity with their own operations, suppliers, customers, employees and other stakeholders that are needed to maintain the business.

[13] At the core of the Debtors’ position is their desire to preserve a going concern option while they run a sale and investment solicitation process (“SISP”). Through that process, they propose to try to sell their Business as a going concern, but also propose to solicit a wide range of possible transactions including refinancing, sale transactions, or liquidations, with the backstop of a management backed stalking horse agreement (the “Stalking Horse Agreement”). They say they are looking for a means to avoid what they believe will be devastating social and economic effects of bankruptcy or creditor initiated termination of their ongoing business operations.

[14] The shared conclusion of the JBT Group, their financial advisor Grant Thornton (“GT”) and the Monitor, is that a liquidation will produce a worse result (based on either a forced liquidation value or an orderly liquidation value) than a going concern sale. The financial analysis

of the JBT Group and the Monitor is that the Stalking Horse Agreement represents a superior financial result for creditors, including TD Bank, relative to a liquidation because they predict that a liquidation will result in both a lower anticipated sale price as well as higher costs to the estate including as a result of occupation rent, employee WEPPA claims, and liquidator sales commissions.

[15] The Monitor assisted the JBT Group in developing the SISP and was involved in vetting and improving the terms of the stalking horse bid that is reflected in the Stalking Horse Agreement. The Monitor will lead and oversee the SISP process because of management's involvement in the Stalking Horse Agreement. The JBT Group seeks approval to commence the SISP and to accept a stalking horse bid from management as part of the SISP if no superior bid is received (the "SISP Approval Order").

[16] The Monitor provided an update at the hearing about some of the terms of the SISP. The stalking horse bidder will now be required to provide proof of binding commitments from lenders and evidence of available cash to make up the balance of the purchase price under the stalking horse bid by March 31, 2025 to maintain its status as a binding bid. The stalking horse bidder was also asked, and agreed, to provide an increased cash deposit (beyond the \$250,000 already provided for) by March 15, 2025 (the start of the SISP process). The stalking horse bidder's entire deposit will be forfeited and there will be no repayment of the DIP loan (being advanced by a party related to the stalking horse bidder) if the March 31, 2025 conditions are not satisfied. Conversely, if the conditions are met and a superior bid comes in and is accepted, the stalking horse bidder will be paid a \$65,000 break fee in addition to being repaid the deposit amounts and the DIP loan will have to be repaid.

[17] The stalking horse bid involves a transaction that is predicated upon a reverse vesting order that will still require future court approval (although the reverse vesting order structure is not mandated under the SISP for other bidders). At the February 27, 2025 come-back hearing, the court confirmed that if the stalking horse bid (and SISP) are approved now, the court is not being asked, and will not be taken, to approve an RVO structure for any transaction that emerges from the SISP, including the Stalking Horse Agreement. The requesting parties would still have to satisfy the court that an RVO is appropriate if and when approval is sought for any RVO based transaction.

[18] The stalking horse bid does not include the Melair Property, but interested parties will have the option to make an offer to purchase that property as part of a purchase of the Business (including other assets) or on its own. The Melair Property is estimated to be worth approximately 50% of the JBT Group's Indebtedness to the TD Bank, although efforts to date to sell that property have not been successful.

[19] The Monitor supports the request by the JBT Group for both the ARIO and the SISP Approval Order, for reasons detailed in the Monitor's First Report dated February 26, 2025. The Monitor has reviewed the cash flows prepared by JBT Group management and is satisfied that with the proposed DIP financing of \$250,000, the JBT Group will have sufficient liquidity to continue its business operations until May 31, 2025, which would be after the expiry of the extended Stay Period under the ARIO (proposed to expire on May 16, 2025). Under the SISP,

binding bids are to be submitted by April 18, 2025 and the successful bidder is to be selected on April 25, 2025.

The Arguments in Favour of TD Bank's Receivership Application

[20] TD Bank is the Debtors' senior secured and largest creditor.

[21] The Debtors have been in default of their various loan agreements and credit facilities with TD Bank (the "Credit Facilities") since in or about June of 2023. The Bank informally agreed to forbear from enforcing on its security for almost a year. This agreement to forbear was formalized in a forbearance agreement dated April 13, 2024, and renewed on June 26, 2024 and December 13, 2024 (collectively, the "Forbearance Agreement"). During this period the Debtors continued to be in default of the Credit Facilities and were often in default of their obligations under the Forbearance Agreement.

[22] During the forbearance period, and in consultation with TD Bank, the JBT Group engaged a financial advisor, effected the sale of a real property and other assets, and implemented an operational restructuring to decrease operating costs and enhance the JBT Group's market position. The JBT Group's efforts resulted in a reduction of the indebtedness owed to TD Bank from approximately \$25 million in January of 2024 to \$16.2 million in December of 2024.

[23] Despite a lengthy period of forbearance by TD Bank, and the reduction of the indebtedness owed to TD Bank to \$16.2 million by December of 2024, the JBT Group were unable to come up with a refinancing proposal or restructuring plan that was acceptable to TD Bank, and they missed critical milestones in January of 2025 that resulted in TD Bank's Demands.

[24] The February 6, 2025 CCAA Application was met with a draft Notice of Application for the appointment of a receiver by TD Bank dated February 7, 2025 (the "Receivership Application"). The receivership application seeks to lift the NOI stay of proceedings and the appointment of BDO Canada Limited ("BDO") as receiver (the "Receiver"), without security, of all of the current and future assets, undertakings, and properties (the "Property") pursuant to s. 243(1) of the BIA and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43, as amended (the "CJA").

[25] When the two applications came before the court on February 10, 2025, the court was concerned with preserving a *status quo* pending a proper hearing of both the CCAA Application and the Receivership Application. This was achieved through the granting of the limited CCAA Initial Order. The Receivership Application was adjourned to February 27, 2025 at the return of the comeback hearing in the CCAA Application to keep the options for both manner of proceedings open and available for the court's consideration.

[26] TD Bank has the right under its security documents to appoint a receiver. The JBT Group also consented to the appointment of a receiver under the terms of the Forbearance Agreement.

[27] The Debtors continue to access their line of credit with TD Bank, forcing TD to effectively assume the role of a *de facto* interim lender and bear the burden of CCAA-related costs. At the heart of TD Bank's position are its concerns about the erosion of its security and its increasing debt. TD Bank is not prepared to continue financing, through its outstanding Loan Facilities, the

going concern business of the JBT Group while its indebtedness increases and its security is primed by the proposed charges under the ARIO and continues to be eroded. The Debtors' cash flow projections do not forecast any payments under TD Bank's Credit Facilities during the extended Stay Period under the CCAA scenario.

[28] The CCAA Application proposes DIP Charges, Administration Charges for the professional fees of the Debtors and DLI (the Proposal Trustee and proposed Monitor) and possibly certain thus far unspecified non-trust priority payments for pre-filing debt to Critical Suppliers in excess of \$500,000. It does not propose to pay anything to TD Bank until there are distributions to creditors or there is a refinancing, in circumstances where TD Bank already anticipates that it will suffer a shortfall on its outstanding indebtedness.

[29] TD Bank's position is that the Debtors have already spent more than a year trying to refinance or sell their Business, with limited success (the sale of one property). The proposed SISP does not introduce anything new to entice third party interest; all it does is provide management with the ability to buy the Business and rid themselves of the burden of the TD Bank indebtedness through a stalking horse agreement that introduces uncertainty into the sale process and may, if anything, serve as a disincentive to potentially interested third parties.

[30] Given the history of this matter, TD Bank no longer has confidence in management's ability to successfully achieve a sale or refinancing of the Business to a third party and it wants to take control of the sale process now, particularly since its security has eroded to the point that there is likely to be a deficiency in TD Bank's recoveries.

Analysis

The Threshold Requirements Are Not in Dispute

[31] Neither the JBT Group nor TD Bank contest the ability of the other to satisfy the basic threshold requirements for the orders they seek: for the appointment of the proposed Monitor under the CCAA or Receiver under the BIA, respectively. They both agree that it is appropriate for one of the orders to be made (perhaps with some tweaking of the specific terms). However, they disagree about which of the orders is the more appropriate order to be made at this time and in the specific circumstances of the JBT Group.

[32] In deciding whether the appointment of a receiver is just or convenient, the court "must have regard to all of the circumstances but in particular the nature of the property and the rights and interests of all parties in relation thereto," which includes the rights of the secured creditor under its security: see *Bank of Nova Scotia v. Freure Village of Clair Creek* (1996), 40 C.B.R. (3d) 274 (Ont. Gen. Div.), at para. 10. Various factors may be considered by the court in making this determination: see *Kingsett Mortgage Corp. v. Maplevue Developments Ltd., et al.*, 2024 ONSC 1983, at paras. 24-25. The applicable factors, many of which are also relevant to the court's consideration of whether to grant an order under the CCAA, are present in this case..

[33] Conversely, to grant an initial order under the CCAA, there are basic statutory requirements that are satisfied in this case (and were found to have been at the time the Initial Order was made). To extend the CCAA Stay Period, the JBT Group must demonstrate under s. 11.02 (2) and (3) of the CCAA that, (1) circumstances exist to make the order appropriate, and (2) they have acted and

are acting in good faith and with due diligence. The good faith and due diligence of the JBT Group are not being challenged at this time.

[34] Either one of the requested orders could be justified. The question to be decided is which one is more appropriate, just and convenient in the circumstances of this case.

CCAA vs. Receivership

[35] Where there are competing applications for a continued insolvency proceeding under the CCAA, or the appointment of a receiver under the BIA, "the court must consider all of the relevant factors in the exercise of its discretion to determine the most appropriate path forward": see *Antibe Therapeutics Inc. (Re)*, CV-24-00717410-00CL, Unreported Endorsement of Osborne J., 22 April 2024, at para. 59.

[36] The JBT Group focuses on the importance of the remedial purposes of the CCAA, as set out by the Supreme Court of Canada in *Century Services Inc v. Canada (Attorney General)*, 2010 SCC 60, [2010] 3 SCR 379, emphasizing the importance of encouraging rehabilitation and allowing the debtor companies to carry on business to avoid the devastating effects of a bankruptcy or liquidation where possible, see *Century Services*, at paras. 15, 17-18, 59, and 70.

[37] However, courts have also held that it is just and convenient to appoint a receiver where:

- (i) The lender's security is at risk of deteriorating;
- (ii) There is a loss of confidence in the debtors' management;
- (iii) There is a need to stabilize and preserve the debtors' business; and
- (iv) The positions and interests of other creditors militate in favour of appointing a receiver.

See *BCIMC Construction Fund Corporation et al. v. The Clover on Yonge Inc.*, 2020 ONSC 1953, 78 CBR (6th) 299, at para. 45.

[38] In this case, all of the above four factors are engaged, although the third and fourth could support both the Receivership and the CCAA Application.

[39] The jurisprudence suggests that a receivership is generally more appropriate where:

- (i) The debtor is not operating an active business: see *AFC Mortgage Administrative Inc v. Sunrise Acquisitions (Stayner) Inc et al*, CV-23-00710361-00CL, Unreported decision of Black J. dated February 29, 2024, at paras. 63-66; *Ashcroft Urban Developments Inc. (Re)*, 2024 ONSC 7192, at para. 70; *Antibe*, at paras. 70-71; and *Callidus v. Callcap*, 2012 ONSC 163, at para. 52;
- (ii) The debtor has acted in a manner to ground an objective basis for a loss of confidence in management: see *Antibe*, at para. 85; *Ashcroft* at paras. 104-106; and *Callidus*, at para. 51;

- (iii) There is no germ of a plan such that a stay is merely an attempt to postpone an inevitable liquidation: see *Industrial Properties Regina Limited v. Copper Sands Land Corp.*, 2018 SKCA 36, at paras. 20-21; *Ashcroft*, at paras. 99-100; *Antibe* at para. 70; *AFC Mortgage*, at paras. 55-57; and
- (iv) The secured creditors will face prejudice as a result of a significant erosion of their security/collateral from the debtor's ongoing operations: see *Callidus*, at para. 53.

See also, *BCIMC*, at para 45.

[40] In *Ashcroft*, this court had to choose between competing CCAA and Receivership Applications involving businesses with over 200 employees that owned and operated various residential properties, and chose to appoint a receiver and terminate the CCAA proceedings, noting (at para. 113) that:

... the receivership remedy gives effect to the bargain made between the secured lenders and the applicants, and transfers control of the process from debtors in whom confidence has been lost to creditors who should be entitled to make good on their security while there are still good prospects of them being made whole.

[41] The JBT Group seeks to distinguish *Ashcroft* on three primary grounds.

[42] First, the JBT Group suggests that there is a recognized preference for a receivership over CCAA in situations where the debtor's primary asset is real estate (and is a holding company rather than active operating company). In contrast, relief under the CCAA may be more appropriate than a receivership where there is an operating going-concern business: see, for example: *Pacific Shores Resort & Spa Ltd. (Re)*, 2011 BCSC 1775; and *Plan of Compromise or Arrangement of 2039882 Ontario Ltd. o/a Shelter Cove*, CV-24-00713069-00CL, Unreported Decision of Conway J. dated January 18, 2024.

[43] The business in *Ashcroft* was the management of already developed real estate holdings. In that sense, the JBT Group argues that its Business is different and more conducive to a debtor-led CCAA process. However, *Ashcroft* employed 200 people so it cannot be characterized as an entirely passive real estate holding business. Similarly, while the primary asset of the JBT Group is its transport and logistics Business, one of its highest valued assets is the Melair Property which is, at least according to the stalking horse bidder, not essential to the operation of the Business since it is not part of the management led stalking horse bid¹.

¹ Given this, TD Bank asked the court, in the alternative to appointing the Receiver over all of the Debtors' Property, to appoint the Receiver at least over the Melair Property since the stalking horse agreement does not include this property. I do not need to consider this alternative position in light of the decision to grant the Receivership Application and appoint the Receiver over all of the Debtors' Property, including but not limited to the Melair Property.

[44] Like in *Ashcroft*, this case is not clearly in either category. Further, it has been made clear that in a CCAA scenario, the focus will be on selling the Business, rather than a more traditional restructuring of an operating business. In other words, this would be a liquidating CCAA. While recognized in appropriate cases, the fact that this is a liquidating CCAA detracts somewhat from the underlying rationale of utilizing the CCAA over the BIA to preserve a going concern business. Further, there is nothing to prevent the stalking horse bidder from presenting its bid to the Receiver. TD Bank has not foreclosed the possibility of a going concern sale within the receivership.

[45] Second, the JBT Group contends that, where a debtor has been working cooperatively to resolve its issues, and management has been working in good faith and with due diligence, courts have not placed a lot of weight on blanket statements by creditors that they have lost confidence in management of the debtor. In these circumstances, the generic assertion of a loss of faith in management should be viewed in the broader context of the dispute over the appropriate manner of proceeding and not taken at face value without probing for further objective grounds for the loss of confidence: see *Pacific Shores*, at paras. 25-33.

[46] The type of loss of confidence in management that has supported creditor led, as opposed to debtor led, restructurings often involves some type of lack of co-operation, lack of candour or non-disclosure (see *Ashcroft* at paras. 104-106 and *Antibe* at para. 85). These reflect concerns that go beyond the obvious and always present circumstance of the debtor being in breach of its loan obligations and having been unable to repay the outstanding indebtedness through refinancing or other means prior to the commencement of the proceeding.

[47] However, here the loss of confidence of TD Bank in management of the JBT Group is not generic. It is specific and there is an objective basis for it: TD Bank has lost confidence in management's ability to do that which they say they are trying to do under the CCAA process, namely to sell or refinance the Business on a going concern basis. This is what management has been trying to do since at least October 2023 if not longer, with the benefit of TD Bank's forbearance.

[48] Yet, Debtors now propose to go to market the Business under a proposed SISP, burdened by a stalking horse agreement that would require other bidders to over bid by at least \$125,000 plus \$65,000 for the break fee to be economically superior to the stalking horse bid, and they would have to separately negotiate for the Melair Property if they wanted it for the operation of the Business. Furthermore, the continued existence of the stalking horse agreement will itself be uncertain until March 31, 2025 (the deadline for proof of binding commitments from lenders), so that may deter interested parties from even committing to doing any due diligence before then, which will significantly reduce their ability to make a qualified bid within the prescribed time line.

[49] The fact that management is behind the stalking horse bid that introduces uncertainty and complications into the SISP is a further ground for TD Bank's loss of confidence in management's ability to fulfill their professed CCAA objectives. This leads TD Bank to be skeptical about the SISP and to view the CCAA process as a means for management to buy back the Business and force TD Bank to accept reduced recoveries on its debt without having to put forward a plan of arrangement to a creditor vote.

[50] The Debtors have shared with TD Bank their analysis and view that the value of the cash component of the stalking horse bid will likely be greater than the proceeds received under a liquidation scenario. This did not persuade TD Bank to go along with the CCAA scenario and proposed SISP and with the backstop Stalking Horse Agreement.

[51] Overall, even though it is not suggested that the Debtors have acted in bad faith, the TD Bank's expressed lack of confidence in management is understandable and justified in the circumstances and given the history of dealings between the parties in this case. It is not just a bald assertion.

[52] Third, the JBT Group emphasizes that a specific contractual right to appoint a receiver merely relaxes the burden on the applicant seeking what is otherwise considered to be extraordinary relief, since it involves enforcing a term of a bargain that the parties have already agreed to: see *Elleway Acquisitions Ltd. v. Cruise Professionals Ltd.*, 2013 ONSC 6866, at para. 27. An agreement that a creditor may ask the court to appoint a receiver upon default, and even a specific agreement consenting to the appointment of a receiver if certain conditions or milestones are not met, does not dictate the outcome and does not necessarily mean that a receiver will be appointed: see, for example, *Bank of Montreal v. Maple City Ford Sales (1986) Ltd.*, 2002 CanLII 23166 (ON SC), at para. 142; *Callidus*, at paras. 29 and 31; and *Bank of Nova Scotia v. Smiling Simba Learning Academy Inc.*, 2025 ABKB 11, at paras. 31-32.

[53] However, where a creditor has a contractual right to appoint a receiver upon the debtor's default, has already agreed to forbear and defer exercising its enforcement remedies and, in exchange, has received further confirmation of the Debtors' consent to the appointment of a receiver if the forbearance did not lead to the promised refinancing of the debt: "Commercial certainty for all stakeholders dictates that parties should expect that courts will hold them to their bargains, absent further agreement or circumstances that would make it appropriate to nullify or remove the order": see *ATB Financial v. Mayfield Investments Ltd.*, 2024 ABKB 635, at para 40.

[54] That expectation reasonable arises in this case. This is not a situation where TD Bank has come rushing to court to seek the appointment of a Receiver without affording the Debtors any opportunity to explore the possibility of other options; the Debtors had a long period of forbearance and were not able to achieve a refinancing or sale that was satisfactory to their senior secured lender. They were given a final further opportunity to come up with a plan that their senior secured creditor could support when the Initial Order was made. They have been unable to do so.

[55] Like in *Ashcroft*, it appears that the Debtors here have sought CCAA protection to buy time to continue their ineffective attempt to raise new funding, that will now be used to support the stalking horse bid. That will put TD Bank in the position of having to accept a repayment shortfall along the lines of what it rejected in January when presented with the Debtors last proposed refinancing option. That outcome is not appropriate, fair or reasonable in the circumstances of this case. In terms of other potential outcomes under the CCAA, if the results of the past one plus year of efforts by the Debtors are any indication, as they surely are, the chances of any other better going concern proposal or refinancing emerging in a debtor-led CCAA proceeding are low.

[56] TD Bank acted reasonably and worked with the Debtors and it has earned the right to exercise its enforcement remedy and appoint the Receiver. In the circumstances of this case, I find

that it is more appropriate, just and convenient to grant the Receivership Application rather than the CCAA Application which is most likely to end with the court being asked to approve the Stalking Horse Agreement and a separate sale of the Melair Property.

[57] I will address briefly some of the other points raised.

[58] Although arguments were made by TD Bank about the potentially higher costs of a CCAA process, that has not influenced my decision in this case. While “CCAA proceedings are inherently expensive [because] [t]hey require regular court attendances, probably with greater frequency than a receivership does” (see *BCIMC* at para. 93), the possibility of an incrementally higher cost is not a driving factor in this case because there will be a steep learning curve (and associated cost) for the Receiver and its counsel who do not have the background with the Debtors and their business that they themselves and the Monitor already have.

[59] Aside from the Debtors' speculation that a receivership will be less effective than a debtor-led sale process, TD Bank argues that there is no specific evidence that a court-appointed receiver would negatively impact the interests of employees or third parties. However, I do not need specific evidence to appreciate that there is a greater possibility of a liquidation of assets that does not involve a going concern transaction and to infer that that employees, contractors and third party suppliers may be negatively impacted by that.

[60] Counsel for the Debtors asked the court to take into consideration that the Supreme Court of Canada has recognized that heightened creditor entitlements can be subordinated to the interests of other stakeholders in appropriate, albeit exceptional cases. The examples referenced were: *Sun Indalex Finance, LLC v. United Steelworkers*, 2013 SCC 6, [2013] 1 SCR 271; *Canada v. Canada North Group Inc.*, 2021 SCC 30, [2021] 2 SCR 571, cases that considered priming court ordered super priority charges based on statutory deemed trusts.

[61] This submission was not developed in any detail, but was rather mentioned in passing during oral argument. Having given it some thought, I am not convinced that this is one of those exceptional cases where subordinating the senior secured creditor's interests under its loan and security documents to the interests of other stakeholders who may be affected if the Business cannot survive under the burden of that debt is warranted. The interests of other stakeholders, while a relevant factor to take into consideration, do not in the circumstances of this case trump the interests of the Debtors' senior secured and largest creditor that has been supporting the JBT Group's restructuring efforts for more than a year, is still owed over \$16 million and is facing the prospect of a shortfall.

[62] Having considered all of the above, and the more fulsome written and oral arguments and submissions on behalf of the parties, I find it to be more appropriate, just and convenient to appoint a receiver now in the circumstances of this case. TD Bank's security has been eroded in the interim, and it should not be forced to continue to finance this Business through a debtor led CCAA that does not propose any payment of interest or principal under the TD Bank Credit Facilities.

Other Relief Sought

[63] Since I have decided to grant the Receivership Application and not grant the CCAA Application, I do not need to consider the requirements for the approval of the DIP Financing and

DIP Charge, or the increased Administration Charge under the proposed ARIO, or the requirements for approval of the SISP and the stalking horse agreement under the proposed SISP Approval Order.

[64] As part of the CCAA Application, the Debtors and the Monitor asked the court to seal a Confidential Exhibit that discloses confidential information about the valuation of their Business. The parties agree that if this analysis is made public it will negatively affect the ability to maximize value and maintain integrity in any sale efforts under either of the CCAA or receivership scenarios. The requested sealing order is of a limited scope. It is necessary to protect commercially sensitive information that could negatively impact the JBT Group and its stakeholders in the continuing efforts to sell their Property. Even though the proposed SISP under the CCAA is not proceeding, for so long as there remains a prospect of some sale process being carried out by the Receiver, it would be harmful to that process for the terms of the Confidential Exhibit to be available to participants in that later process.

[65] The proposed partial sealing order appropriately balances the open court principle and legitimate commercial requirements for confidentiality. I am satisfied that the limited nature and scope of the proposed sealing order is appropriate and satisfies the requirements in *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41, [2002] 2 SCR 522, at para. 53, as modified by the reformulation of the test in *Sherman Estate v. Donovan*, 2021 SCC 25, [2021] 2 SCR 75, at para. 38. Preservation of the confidentiality of information inherent in a sale process is recognized as meeting the requirements of the test for sealing court documents in *Sherman Estate*, at para. 85, when limited to only that material that contains the confidential and sensitive information and only for as long as may be necessary.

[66] Counsel advised at the conclusion of the hearing on February 27, 2025 that they would propose language to be incorporated into the Receivership Order, or a CCAA termination order or some other order to seal the Confidential Exhibit if the court so orders, which I do.

[67] Counsel is directed to ensure that the sealed Confidential Exhibit is provided to the court clerk at the filing office in an envelope with a copy of this endorsement and the signed order with the relevant provisions highlighted so that it can be physically sealed. Counsel is further directed to apply, at the appropriate time, for an unsealing order, if necessary.

[68] Trade-Mark Industrial Inc., Trade-Crete Ltd. and Comtrade Ltd. (the "Trade-Mark Group") brought a motion returnable on February 27, 2025 for relief carving out its construction lien action commenced in 2023 from any ongoing stay such that: (a) it has leave to continue its action bearing Court File No. CV-23-00001474-0000, commenced at Kitchener, Ontario (the "Lien Action"), against Waydom Management Inc., Melair Management Inc. and JBT Transport Inc.; and (b) any stay of proceedings in these insolvency proceedings will not apply to the continued pursuit of the Lien Action. This motion is not urgent. It was acknowledged that the Trade-Mark Group only needs the stay of proceedings to be lifted before October 2025 when the Trade-Mark Group is otherwise required to set the Lien Action down for trial if it is proceeding.

[69] This motion in respect of the Lien Action was adjourned. It may be brought back before the court with reasonable notice to the service list, if necessary. Nothing in this endorsement shall

have any bearing on the merits of any relief eventually sought in respect of the continued pursuit of the Lien Action.

[70] There was some discussion at the hearing about the form of order(s) to be signed once my decision has been released. It may be that there are some additional terms that could be appropriately added to the proposed Receivership Order, for example, to address any immediate concerns about Critical Suppliers. Accordingly, I will wait for counsel to confer among themselves and then send me the form of receivership order and any other order(s) that are deemed necessary, arising out of this endorsement, together with blacklines against the last versions of the orders(s) that were before the court. This will need to be done before the current Stay Period expires on March 6, 2025. If there is no agreement, I will sign the originally proposed form of Receivership Order, which counsel for TD Bank should forward directly to me on or before March 6, 2025.

A handwritten signature in dark ink, appearing to read "Kimmel J.", is positioned above a horizontal line.

Kimmel J.

Date: March 4, 2025

APPENDIX B



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00736572-00CL & CV-
25-00737791-00CL

DATE: March 7, 2025

**TITLE OF PROCEEDING: IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR
MANAGEMENT INC., HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED,
HERITAGE NORTHERN LOGISTICS INC., AND HERITAGE WAREHOUSING & DISTRIBUTION
INC.**

And

THE TORONTO-DOMINION BANK v. JBT TRANSPORT INC. et al

BEFORE: JUSTICE KIMMEL

PARTICIPANT INFORMATION

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Phil Turner	R& S Trailer Leasing Limited	philt@breadnertrailers.com

ENDORSEMENT OF JUSTICE KIMMEL:

- [1] This endorsement is supplementary to the court's preliminary endorsement of February 28, 2025 and endorsement of March 4, 2025. The form of receivership order presented to the court by email from counsel for the Toronto-Dominion Bank late in the day on March 6, 2025 has been signed by me today (with some modifications to the first preamble) and may issue.
- [2] Counsel, through their email correspondence, identified a concern about the lack of clarity regarding the priority of the CCAA Administration Charge contained in the February 10, 2025 Interim Order made in *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (the "CCAA") proceedings under Court File No. CV-25-00736572-00CL and the Administration charge now provided for in the signed Receivership Order.
- [3] Language proposed by the CCAA Monitor's counsel for inclusion in the Receivership Order to address this was not agreed to by TD Bank. The proposed language is as follows:
- 4A. THIS COURT ORDERS that, notwithstanding the foregoing, the administration charge as defined and granted in the February 10th Order (the "CCAA Administration Charge") shall continue in full force and effect as against all the Property (as defined below) of the Debtors and shall rank in priority to the Receiver's Charge (as defined herein).
- [4] That priority question will need to be determined by the court if the parties are unable to reach an agreement. In the meantime, as suggested by counsel for the CCAA Monitor, I am including the following language in this endorsement that is intended to preserve the positions of the parties on this priorities question in the meantime:
- The CCAA Administration Charge contained in the court's order of February 10, 2025 in CV-25-00736572-00CL is not immediately extinguished by the receivership order signed today in CV-25-00737791-00CL. That CCAA Administration Charge is preserved pending any future determination or agreement regarding where it ranks vis-à-vis the Receiver's Charge.
- [5] Counsel may arrange a case conference before me through the Commercial List Office to determine how best to resolve this priorities question.



KIMMEL J.

March 7, 2025

APPENDIX C

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

THE HONOURABLE	)	THURSDAY, THE
	)	
JUSTICE KIMMEL	)	6 TH DAY OF MARCH, 2025

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

and

**JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC.,
HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE
NORTHERN LOGISTICS INC., and HERITAGE WAREHOUSING & DISTRIBUTION INC.**

Respondents

**ORDER
(Appointing Receiver)**

THIS MOTION made by The Toronto-Dominion Bank (the “**Bank**”) 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 BDO Canada Limited (“**BDO**”) as receiver and manager (in such capacities, the “**Receiver**”) without security, of the Property (as defined below) of JBT Transport Inc., Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc., Drumbo Transport Ltd., Heritage Northern Logistics Inc., and Heritage Warehousing & Distribution Inc. (collectively, the “**Debtors**”) (the “**Debtors**”) was heard on February 27, 2025 via Zoom videoconference, with reasons released on March 4, 2025 and the form of receivership order having been provided for signing this day, when the stay of proceedings under the court’s February 10, 2025 Interim Order made in *Companies’*

Creditors Arrangement Act, R.S.C., 1985, c. C-36 (the "CCAA") proceedings under Court File No. CV-25-00736572-00CL and extended by the court's further endorsement of February 28, 2025 expired.

ON READING the Affidavits of Daryl Coelho sworn February 7, 2025 and February 25, 2025, and the Exhibits thereto and on hearing the submissions of counsel for the Bank and the Receiver, and other counsel appearing on the Participant Information Form, no one appearing for any other party although duly served as appears from the Lawyer Certificate of Service signed February 8, 2025 and the affidavit of service of Maureen McLaren dated February 25, 2025, filed and on reading the consent of BDO 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 motion is properly returnable today and hereby dispenses with further service thereof.

LIFTING OF STAY AND CCAA TERMINATION

2. **THIS COURT ORDERS** that the stay of proceedings over the Debtors and the Property granted by Order of this Court dated February 10, 2025 in proceedings commenced by the Debtors pursuant to the *Companies Creditors Arrangement Act* R.S.C. 1985 c. C-36, as amended, in Court File No. CV-25-00736572-00CL is hereby terminated, effective immediately, and is of no further force and effect.

3. **THIS COURT ORDERS** that Dodick Landau Inc. is hereby discharged from its duties as court-appointed monitor for the Debtors (in such capacity, the “**Monitor**”) and shall have no further duties, obligations or responsibilities as Monitor from and after the date hereof.

APPOINTMENT

4. **THIS COURT ORDERS** that that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof, which property includes, without limitation, the freehold interest in real property municipally known as 425 Melair Drive, Ayr, Ontario, N0B1E0, and bearing the legal description PIN 22714-0168 (LT) (the “**Property**”).

RECEIVER’S POWERS

5. **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 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 business 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 business, or cease to perform any contracts of the Debtors;
- (d) 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;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business 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 and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to 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 the Debtors, for any purpose pursuant to this Order;
- (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 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 \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; 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*, or section 31 of the Ontario *Mortgages Act*, as the case may be, 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 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;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) 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 the Debtors;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect 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 the Debtors;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (r) 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 Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

6. **THIS COURT ORDERS** that (i) the Debtors, (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 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.

7. **THIS COURT ORDERS** that all Persons including, for greater certainty, Solera Holdings Inc. and/or any other corporation or entity that licenses to the Debtors the use of the Omnitrac fleet-management software, 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 business or affairs 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 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 7 or in paragraph 8 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.

8. **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.

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 DEBTORS OR THE PROPERTY

11. **THIS COURT ORDERS** that no Proceeding against or in respect 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 the Debtors or the Property 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 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, or (iv) prevent the registration of a claim for lien.

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 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 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, payroll services, insurance, transportation services, utility or other services to the Debtors, including, for greater certainty, Solera Holdings Inc. and/or any other corporation or entity that licenses to the Debtors the use of the Omnitracs fleet-management software, 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 Debtors 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.

RECEIVER TO HOLD FUNDS

15. **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

16. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors’ 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

17. **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 Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE RECEIVER'S LIABILITY

19. **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

20. **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.

21. **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 Ontario Superior Court of Justice.

22. **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

23. **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 \$250,000 (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.

24. **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.

25. **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.

26. **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

27. **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: <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/JBT>.

28. **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 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

29. **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.

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

31. **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.

32. **THIS COURT ORDERS** that, upon receiving a request by the Receiver, the Ministry of Transportation, Service Ontario, and/or any other government department, ministry or agency responsible for vehicle registration in any other Province or Territory of Canada, are hereby directed to provide the Receiver with details relating to any transfer of ownership of any of the Property, including, without limitation, the identities of the parties to the transfer, the consideration paid and any other details reasonably incidental thereto.

33. **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.

34. **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' estate with such priority and at such time as this Court may determine.

35. **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.

36. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of today's time and is enforceable without the need for entry and filing.

SCHEDULE “A”
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that BDO Inc., the receiver (the “**Receiver**”) of the assets, undertakings and properties of JBT Transport Inc., Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc., Drumbo Transport Ltd., Heritage Northern Logistics Inc., and Heritage Warehousing & Distribution Inc. (collectively, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof, which property includes, without limitation, the freehold interest in real property municipally known as 425 Melair Drive, Ayr, Ontario, N0B1E0 (collectively, the “**Property**”) appointed by Order of the Ontario Superior Court of Justice (the “**Court**”) dated the ____ day of _____, 2025 (the “**Order**”) made in an action having Court file number _____, 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 The Toronto-Dominion Bank 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 February 2025.

BDO Canada Limited., solely in its capacity as
Receiver of the Property, and not in its personal
capacity

Per: _____

Name:

Title:

THE TORONTO-DOMINION BANK
Applicant

and

JBT TRANSPORT INC. et al. Court File No. CV-25-00737791-00CL
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding Commenced at TORONTO

ORDER

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Lawyers for The Toronto-Dominion Bank

APPENDIX D

ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made as of the 25th day of March, 2025.

BETWEEN:

BDO CANADA LIMITED, solely in its capacity as court-appointed Receiver of all of the property and assets of Heritage Warehousing & Distribution Inc. (the "**Company**") and not in any other capacity and with no personal or corporate liability (hereinafter called the "**Vendor**")

OF THE FIRST PART

- and -

1001172780 ONTARIO LTD., a corporation incorporated pursuant to the laws of the Province of Ontario (hereinafter called the "**Purchaser**")

OF THE SECOND PART

RECITALS:

Whereas:

- A. Pursuant to the Order of the Honourable Justice Kimmel of the Ontario Superior Court of Justice (Commercial List) in Court File No. CV-25-00737791-00CL (the "**Proceedings**"), dated March 6, 2025 (the "**Appointment Order**"), the Vendor was appointed as Receiver of all the assets, property and undertaking (the "**Assets**") of the Company.
- B. Pursuant to the Appointment Order, the Vendor is authorized to sell the Assets and apply for an order of the Court approving the sale of the Assets and vesting title to the Assets in the Purchaser.
- C. Subject to an order being issued by the Court approving the sale of the Purchased Assets (defined herein) and pursuant to the terms of this Agreement, the Purchaser has offered to purchase the Purchased Assets and the Vendor has accepted such offer on the terms and conditions contained herein.

NOW THEREFORE IN CONSIDERATION of the premises and the mutual agreements in this Agreement, and for other consideration (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree as follows.

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement:

"Accounts Payable" or **"A/Ps"** means the accounts payable of the Company relating to the Business as at March 14, 2025 and listed in Schedule C attached hereto;

"Accounts Receivable" or **"A/Rs"** means the accounts receivable of the Company relating to the Business as at March 14, 2025 and listed in Schedule D attached hereto and specifically excludes any tax refunds;

"Agreement" means this asset purchase agreement and all Schedules attached hereto and the terms "hereof" and "hereto" refer to this Agreement as a whole and references to "Section" and "subsection" mean the relevant section or subsection of this Agreement unless the context specifically indicates otherwise;

"Applicable Law" means any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, restriction, regulatory policy or guideline, by-law (zoning or otherwise), or Order, or any consent, exemption, or approval of any Governmental Authority, that applies in whole or in part to the Transaction, the Vendor, the Purchaser, the Company, or to any of the Purchased Assets;

"Approval and Vesting Order" means an order or orders of the Court in a form substantially in accordance with Schedule A authorizing and approving the Transaction contemplated under this Agreement and ordering that the right, title and interest of the Company in the Purchased Assets be vested in the Purchaser free and clear of any right, title or interest of the Company and Encumbrances;

"Assets" has the meaning given in recital A and includes the items in Schedules C, D and E attached hereto;

"Assignment and Assumption of A/Ps and A/Rs" means the assignment and assumption agreement in respect of the A/Ps and A/Rs, including an indemnity by the Purchaser in favour of the Vendor in respect of all obligations arising prior to or after the Closing Date;

"Assumed Employees Liabilities" has the meaning given to such term in Section 2.6(d);

"Assumed Employees" has the meaning given to such term in Section 4.1(b);

"Assumed Liabilities" has the meaning set out in Section 2.6;

"BIA" means the *Bankruptcy and Insolvency Act* of Canada as the same may be amended from time to time;

"Business" means the warehouse and distribution business carried on by the Company at the Premises;

"Business Day" means a day other than a Saturday or Sunday, on which Canadian chartered banks are open for the transaction of domestic business in Toronto, Ontario;

"Claims" shall have the meaning ascribed thereto in the Approval and Vesting Order;

"Closing" means the completion of the sale to, and purchase by the Purchaser of, the Purchased Assets in accordance with the terms of this Agreement;

"Closing Date" means ten (10) Business Days following the date on which the Court grants the Approval and Vesting Order and the expiry of any relevant appeal period, or, in the event that an appeal from the Approval and Vesting Order is issued, ten (10) business days following the final dismissal of any such appeal, unless the parties hereto otherwise agree to such other date in writing. In the event the Court does not grant the Approval and Vesting Order or upon appeal the said Order is stayed, varied vacated or set aside, this Agreement shall be at an end and the Purchaser shall be entitled to a return of its deposit and all monies paid without interest or deduction within five (5) business days;

"Closing Document" means any document delivered at or subsequent to the Closing Time as provided in or pursuant to this Agreement;

"Company" has the meaning given in the listing of the Parties of the First Part;

"Company Employee Plans" means any Plans maintained or otherwise contributed to, or required to be maintained or contributed to, by or on behalf of the Company with respect to its employees;

"Closing Time" means 10:00 am Toronto time on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing shall take place;

"Court" means the Ontario Superior Court of Justice (Commercial List);

"Crystallization Date" means March 14, 2025;

"Employees" means any and all: (i) officers, employees, individual consultants and individual service providers of the Company or any predecessors of the Company who are actively working for the Company (including full-time, part-time or temporary employees); and (ii) officers, employees, individual consultants and individual service providers of the Company or any predecessors of the Company who are not actively working for the Company because they have been laid off on a temporary or indefinite basis; and (iii) officers, employees, individual consultants and individual service providers of the Company or any predecessors of the Company who are not actively working for the Company because they are on statutory or approved leaves

of absence (including maternity leave, parental leave, short-term or long-term disability leave, workers' compensation and other statutory leaves).

"Encumbrances" shall have the meaning ascribed to thereto in the Approval and Vesting Order;

"Excluded Assets" means any Assets not specifically included as part of the Purchased Assets, and for greater certainty, includes bank accounts of the Company, cash on hand or cash equivalents at Closing, contracts, Records, and all refunds owed or owing to the Company by any Governmental Authority;

"Excluded Employees" has the meaning set out in subsection 2.6(d);

"Forklifts and Pallet Racks" means all forklifts and pallet racks owned by the Company and listed at Schedule E hereto;

"Furniture and Computers" means all furniture and computers owned by the Company and located at the Premises;

"Governmental Authority" means any domestic or foreign government whether federal, provincial, state or municipal and any governmental agency, governmental authority, governmental tribunal or governmental commission of any kind whatever;

"including" means **"including without limitation"** and the term **"including"** shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it;

"Landlord" means the landlord of the Premises, DIR Properties (GP) Inc.;

"Lease" means the "Net Whole Building Industrial Building Lease" dated February 3, 2022 made between the Landlord, as landlord, the Company, as tenant, and JBT Transport Inc., as indemnifier, as amended;

"Liabilities" means all costs, expenses, charges, debts, liabilities, commitments and obligations of any nature or kind, whether accrued or fixed, actual, absolute, contingent, latent or otherwise, matured or unmatured or determined or undeterminable, including those arising under any Applicable Law or Claim and those arising under any contract or undertaking or otherwise, including any tax liability or tort liability of the Company;

"Order" means any order (draft or otherwise), judgment, injunction, decree, award or writ of any court, tribunal, arbitrator, Governmental Authority, or other Person;

"Parties" means the Purchaser and the Vendor collectively, and **"Party"** means any one of them;

"Person" or **"person"** shall be broadly interpreted and includes an individual, body corporate, partnership, joint venture, trust, association, unincorporated organization, the Crown, any Governmental Authority or any other entity recognized by law;

"Plan" means any plan, arrangement, agreement, program, policy, practice or undertaking, whether oral or written, formal or informal, insured or uninsured, unregistered, that provides any employee benefit, fringe benefit, supplemental unemployment benefit, bonus, incentive, termination, change of control, health, welfare, medical, dental, disability, life insurance and any similar plans, programmes, arrangements or practices, in each case: (i) for the benefit of an employees or other Persons who are receiving remuneration for work or services provided to the given employer who are not employees (or any spouses, dependants, survivors or beneficiaries of such Persons); (ii) that are maintained, sponsored or funded by the employee's employer; or (iii) under which such employer has, or shall have, any liability or contingent liability;

"Premises" means the leased premises as described in Schedule B;

"Purchase Price" means the purchase price payable for the Purchased Assets pursuant to Section 2.2;

"Purchased Assets" means, subject to the terms hereof, all of the right, title and interest of the Company in and to the following:

- (a) the Accounts Receivable;
- (b) cash received by the Vendor from and after the Crystallization Date up until and including the Closing Date on account of payment by customers of the Accounts Receivable;
- (c) the Assumed Liabilities;
- (d) the Forklifts and Pallet Racks;
- (e) the Furniture and Computers;

but not including any Excluded Assets;

"Related Person" has the meaning in the *Bankruptcy and Insolvency Act*, 1985, c. B-3, as amended;

"Records" means all of the records relating exclusively to the Business consisting of operating data, files, books and records, correspondence, materials and contract documents but does not include financial data, financial documents or any financial information of the Company;

"Transaction" means the transaction of purchase and sale contemplated pursuant to this Agreement;

1.2 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.

1.3 Headings

The division of this Agreement into articles, Sections, subsections and schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.4 Number and Gender

In this Agreement, words in the singular include the plural and vice-versa and words in one gender include all genders.

1.5 Entire Agreement

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of or between the Parties.

1.6 Amendment

This Agreement may only be amended, modified or supplemented by a written agreement signed by each Party.

1.7 Waiver of Rights

Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

1.8 Schedules

The following Schedules form part of this Agreement:

- Schedule A - Form of Approval and Vesting Order
- Schedule B - Address of Premises
- Schedule C - Accounts Payable
- Schedule D - Accounts Receivable
- Schedule E - Forklifts and Pallet Racks

1.9 Applicable Law

This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws in force in Ontario (excluding any conflict of laws, rule or principle which might refer such interpretation to the laws of another jurisdiction). Each Party irrevocably submits to the exclusive jurisdiction of the Court with respect to any matter arising hereunder or related hereto.

1.10 Currency

Unless specified otherwise, all statements of or references to dollar amounts in this Agreement are to Canadian dollars.

1.11 Third Party Beneficiaries

Nothing in this Agreement or in any Closing Document is intended expressly or by implication to, or shall, confer upon any Person other than the Parties, any rights or remedies of any kind.

ARTICLE 2 PURCHASE AND SALE

2.1 Purchase and Sale of Purchased Assets

- (a) The Vendor shall sell, assign and transfer to the Purchaser and the Purchaser shall purchase the Purchased Assets on the Closing Date pursuant to the Approval and Vesting Order and the Purchaser shall pay the Purchase Price on the Closing Date, subject to the terms and conditions contained in this Agreement.
- (b) The Purchaser hereby acknowledges to and in favour of the Vendor that the Purchaser has conducted its own investigations and inspections of the Purchased Assets and that the Purchaser is responsible to conduct its own inspections and investigations of all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has satisfied itself with respect to the Purchased Assets and all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has relied entirely upon its own investigation and inspections in entering into this Agreement, that the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis as at the Closing Date, that the Purchaser will accept the Purchased Assets in their state, condition and location on Closing and that the Purchaser hereby acknowledges that the Vendor has made no representations, warranties, statements or promises, including as to the compliance with any Applicable Laws affecting the Transaction, save and except as are expressly contained in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties and representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) do not apply to the sale of the Purchased Assets and have been waived by the Purchaser. Except as expressly set out in this Agreement, no adjustment shall be allowed to the Purchaser for any changes in condition, quality or quantity of the Purchased Assets to and including

the Closing Date. Except as specifically contemplated and provided for in this Agreement, the Purchaser acknowledges that the Vendor is not required to inspect or count, or provide any inspection or counting, of the Purchased Assets or any parts thereof and the Purchaser shall be deemed, at its own expense, to have relied entirely upon its own inspection and investigation of the Purchased Assets. Nothing contained herein shall require the Vendor, following Closing, to take possession of, protect, preserve, or otherwise safeguard any Purchased Assets. The Purchaser expressly acknowledges that no representations or warranties are provided by or on behalf of the Vendor with regard to the Purchased Assets.

- (c) The Purchaser acknowledges and agrees that any and all information relating to the Purchased Assets (including any environmental report(s), if any, or any information memorandum given by the Vendor, the Company, or any other person to the Purchaser) was delivered to the Purchaser solely for the Purchaser's convenience and there is no representation or warranty of any kind whatsoever made by the Vendor nor the Company or any other person with respect to the accuracy or completeness of any such information.

The descriptions of any of the Purchased Assets contained on the Schedules appended hereto are for the purposes of identification only and the Vendor is not liable for any error or omission in such Schedules.

- (d) The Purchaser acknowledges that it shall be the Purchaser's sole responsibility to obtain, at its own expense, and the Purchaser shall use its best efforts to obtain, any consents, approvals or any further documentation or assurances which may be required to be obtained by Purchaser (but not the Company or Vendor) to carry out the terms of this Agreement. Notwithstanding the foregoing, the Vendor agrees to do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within its power and as the Purchaser may reasonably request be done and or executed, in order to carry out the terms of this Agreement, but in so doing, shall not be required to incur any expense or liability (except as the Vendor in its absolute discretion sees fit).
- (e) The Vendor is not selling and the Purchaser is not purchasing the Excluded Assets, all of which are excluded from the Purchased Assets and the purchase and sale hereunder;
- (f) If any of the Excluded Assets or any proceeds thereof shall at any time come into the possession of or under the control of the Purchaser, such assets and/or proceeds shall be held by the Purchaser, in trust for the benefit of the Vendor. Upon the Purchaser becoming aware that it has come into possession of such assets and/or proceeds, the Purchaser shall forthwith so advise the Vendor in writing of same and shall, if so requested by the Vendor, account and deliver over to the Vendor, at the Vendor's cost, any such assets and/or proceeds;

- (g) If any of the Purchased Assets or any proceeds thereof shall at any time come into the possession of or under the control of either of the Vendor or the Purchaser, such assets and/or proceeds shall be held by the party in possession, in trust for the benefit of the party not in possession. Upon the Purchaser and/or the Vendor becoming aware that either party has come into possession of such assets and/or proceeds, the Vendor or Purchaser as applicable shall forthwith so advise the other in writing of same and shall, account and deliver over to the other party, at the other party's cost, any such assets and/or proceeds; and
- (h) The Purchaser shall assume, at its own cost, complete responsibility for compliance with all Applicable Laws in connection with the Purchased Assets, or the use thereof by the Purchaser, after the Closing Date.

2.2 Purchase Price & Allocation

The Purchase Price for the Purchased Assets (not including all applicable taxes, for which the Purchaser shall also be liable in accordance with Section 2.6) shall be CDN and the Purchase Price shall be allocated among the Purchased Assets as follows

Accounts Receivable	
Forklifts and Pallet Racks	
Furniture and Computers	

2.3 Payment of Purchase Price

- (a) The Purchaser shall pay the Purchase Price to the Vendor by paying the sum of CDN , to be paid by wire transfer, delivery of certified funds or bank draft payable to the Vendor "in Trust", on execution of this Agreement by the Purchaser to the Vendor and held by the Vendor and dealt with in accordance with Section 2.3(b) or (c), as applicable.
- (b) Subject to the terms herein, if this Agreement is terminated or the Closing otherwise fails to occur for any reason other than a breach by the Purchaser of its obligations under this Agreement then: (i) the Purchaser shall be entitled to the return of funds paid to the Vendor in the amount of the Purchase Price without interest or deduction within five (5) Business Days; (ii) the Purchaser shall immediately remit to the Vendor the sum of any monies obtained by the Purchaser, if any, in respect of the A/R if, prior to Closing, the Purchaser becomes in possession of such monies paid in respect to the AR; (iii) the Purchaser shall return to the Vendor, at the Purchaser's expense, the Forklifts and Pallet Racks

and the Furniture and Computers; and (iv) other than the Vendor's obligations contained herein, the Purchaser shall have no further recourse against the Vendor and this Agreement shall become null and void.

- (c) If this Agreement is terminated or Closing otherwise fails to occur as a result of the breach of the Purchaser of its obligations under this Agreement: (i) then the Vendor shall be entitled to retain _____ as liquidated damages and not as a penalty, and shall be entitled to pursue all of its other rights and remedies against the Purchaser; (ii) the Purchaser shall return to the Vendor, at the Purchaser's expense, the Forklifts and Pallet Racks and the Furniture and Computers; and (iii) the Purchaser shall immediately remit to the Vendor the sum of any monies obtained by the Purchaser, if any, in respect of the A/R if, prior to Closing, the Purchaser becomes in possession of such monies paid in respect to the A/R.

2.4 Adjustments

There shall be no adjustments to the Purchase Price at the Closing Date, other than provided for at Section 2.3 above.

2.5 Taxes

The Purchaser shall be liable for and shall pay, in addition to the Purchase Price, all federal and provincial sales taxes and any other taxes or duties payable in connection with the conveyance and transfer of the right, title and interest, if any, of the Vendor in and to the Purchased Assets (collectively, the "Taxes") to the Purchaser and the Purchaser undertakes and agrees to pay all such Taxes on Closing – provided that the Vendor and the Purchaser agree that the appropriate elections with respect to the payment of Taxes may be made. By executing this Agreement, the Purchaser indemnifies and holds the Vendor harmless from and against any and all costs, expenses, liabilities and damages incurred or suffered by the Vendor as a result of the failure of the Purchaser to pay any of the Taxes exigible in connection with the Transaction which indemnity shall survive closing.

2.6 Assumption of Liabilities

At the Time of Closing, the Purchaser will assume and thereafter fulfil, perform and discharge when due the following Liabilities of the Company outstanding as at the Closing Date (collectively, the "Assumed Liabilities");

- (a) all Liabilities arising from or in connection with the Accounts Payable, and the Lease in each case arising on and after the Closing Date;
- (b) all Liabilities arising from or in connection with any Taxes for which the Purchaser is responsible pursuant to Section 2.5;
- (c) all Liabilities and obligations arising from or in connection with (i) Section 4.1; (ii) relating to the Purchaser's employment of, or termination of employment (whether or not arising under or in respect of any Company Employee Plan) of any

Assumed Employees, to the extent arising on or after the Closing Date; (iii) relating to the acceptance of the Purchaser's offer of employment or notice of continued employment to any Employee pursuant to the terms of Section 4.1; (iv) the failure of the Purchaser to satisfy its obligations under Section 4.1 with respect to any Employee; and (v) under any Company Employee Plan; (collectively, the "**Assumed Employees Liabilities**"), but for further clarity the Purchaser shall not be liable for any Liabilities and obligations arising (whether before or after the Closing Date) from Employees who are not offered employment by the Purchase or are offered employment by the Purchaser and who decline such offer (the "**Excluded Employees**"); and

- (d) all Liabilities of the Company owing to the Canadian Revenue Agency that that ranks ahead of the Toronto Dominion Bank.

2.7 Time and Place of Closing

The Closing shall take place on the Closing Date at the offices of the solicitors for the Vendor or as may otherwise be agreed between the Parties in writing.

2.8 Access to Accounting Records

In connection with the Closing of the Transaction and the Proceedings generally, the Purchaser covenants and agrees to cooperate with the Vendor and grant full and unfettered access to the accounting Records (A/Rs, A/Ps, brokerage payables, billings, and so on) of the Company (and its affiliates), and to make available to the Vendor the appropriate Employees to continue to collect the A/Rs, for a period of at least sixty (60) days after Closing, subject to extension by the Vendor if necessary.

2.9 The Closing

2.9.1 Vendor's Deliveries

At Closing, the Vendor shall execute (where applicable) and deliver to the Purchaser or the Purchaser's Solicitors the following:

- (a) upon the delivery of all of the Purchaser's Deliveries as set out in Article 2.9.2, the Receiver's Certificate in the form appended as Schedule "A" to the Approval and Vesting Order;
- (b) the Approval and Vesting Order;
- (c) an acknowledgement dated as of the Closing Date, that each of the conditions precedent in this Agreement in favour of the Vendor have been fulfilled, performed or waived by the Vendor as of the Closing Date;

- (d) a certificate dated as of the Closing Date, confirming that all of the representations and warranties of the Vendor contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date;
- (e) a bill of sale in respect of the Purchased Assets on the terms contained herein, if requested;
- (f) the cash in respect of any A/R that is collected by the Vendor from and after the Crystallization Date to and including the Closing Date; and
- (g) the Assignment and Assumption of A/Ps and A/Rs;

execute and deliver or cause to be executed and delivered such other documents, instruments, tax elections or certificates as contemplated by this Agreement.

2.9.2 Purchaser's Deliveries

At Closing, the Purchaser shall execute (where applicable) and deliver to the Vendor or the Vendor's Solicitors the following:

- (a) a certified copy of a resolution of the board of directors of the Purchaser authorizing the execution of this Agreement and performance of each of the Purchaser's obligations hereunder;
- (b) an acknowledgement dated as of the Closing Date, that each of the conditions precedent in this Agreement in favour of the Purchaser have been fulfilled, performed or waived by the Purchaser as of the Closing Date;
- (c) payment or evidence of payment of applicable federal and provincial taxes, or appropriate self-assessment or exemption documentation with the exception of any taxes that may become payable upon registration or including but not limited to HST/ PST on the transfer of trailer or vehicle ownership;
- (d) the Assignment and Assumption of A/Ps and A/Rs; and

execute and deliver or cause to be executed and delivered such other documents, instruments, tax elections or certificates as contemplated by this Agreement.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Vendor

The Vendor represents and warrants to the Purchaser as follows and acknowledges that the Purchaser is relying upon such representations and warranties in entering into this Agreement:

- (a) The Vendor has been appointed Receiver of the Company pursuant to the Appointment Order, and the Appointment Order is in full force and effect.

- (b) The Vendor has done no act to dispose of or encumber any of the Purchased Assets.
- (c) The Vendor has the right, power and capacity to transfer the Assets to the Purchaser on the Closing date free and clear of all Encumbrances in accordance with the Approval and Vesting Order.

3.2 Representations and Warranties of the Purchaser

The Purchaser represents and warrants to the Vendor as follows and acknowledges that the Vendor is relying upon such representations and warranties in entering into this Agreement:

- (a) The Purchaser is a corporation duly incorporated, organized, and validly existing under the laws of its jurisdiction of incorporation. No proceedings have been taken or authorized by the Purchaser or, to the best of the Purchaser's knowledge, by any other Person, with respect to the bankruptcy, insolvency, liquidation, dissolution or winding up of the Purchaser.
- (b) The Purchaser has all necessary power and capacity to execute and deliver, and to observe and perform its covenants and obligations under, this Agreement and the Closing Documents to which it is a party. The Purchaser has taken all corporate action necessary to authorize the execution and delivery of, and the observance and performance of, its covenants and obligations under this Agreement and the Closing Documents to which it is or shall be a party.
- (c) This Agreement has been, and each Closing Document to which the Purchaser is a party will on Closing be, duly executed and delivered by the Purchaser, and this Agreement constitutes, and each Closing Document to which the Purchaser is a party will, on Closing, constitute, a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms.
- (d) The Purchaser is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada).
- (e) The Purchaser will be responsible for and will remit to or reimburse, as applicable, all taxes that arise from the sale of the Purchased Assets unless otherwise specified in this Agreement, including the Vehicle/Trailer Transfer Taxes.
- (f) The Purchaser acknowledges that it is responsible for conducting its own searches and investigations of the current and past uses of the Purchased Assets.
- (g) The Purchaser acknowledges the Vendor makes no representation or warranty of any kind that the present use or future intended use by the Purchaser of the Purchased Assets is or will be lawful or permitted.
- (h) The Purchaser is satisfied with the Purchased Assets and all matters and things connected therewith or in any way related thereto.

- (i) The Purchaser is relying entirely upon its own investigations and inspections in entering into this Agreement.

3.3 Interpretation

Each representation and warranty made by a Party in this Agreement shall be treated as a separate representation and warranty in respect of each statement made and the interpretation of any statement made shall not be restricted by reference to, or inference from, any other statement made in a representation and warranty of such Party.

3.4 Commission

Each Party represents and warrants to each other Party that no other Party will be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated hereby because of any action taken by, or agreement or understanding reached by, that Party.

3.5 Survival of Representations and Warranties

All representations, warranties, statements, covenants, and agreements made by the Purchaser in this Agreement, or any Closing Document, shall survive the Closing indefinitely.

ARTICLE 4 EMPLOYEES

4.1 Employee Matters

- (a) The Vendor has made available to the Purchaser a schedule of all Employees (without reference to names), together with, their positions and material terms of employment including wages/salary, incentive compensation, service date, benefits and vacation entitlement and accrual. The Vendor will inform the Purchaser on a periodic basis, or as requested, of any changes to the Employees (other than Excluded Employees).
- (b) The Purchaser and the Vendor agree that the Purchaser has determined that it shall make an offer of employment to and retain 13 Employees, which employment shall be on substantially the same terms and conditions as presently enjoyed by such Employees (the "**Assumed Employees**").
- (c) The Vendor and/or the Company shall not be responsible and liable for any liabilities or obligations associated with the Assumed Employees prior to the Closing Date or thereafter, including without limitation but not limited to, any required notice of termination, termination or severance pay (required under Applicable Law or under any contract), employment insurance, workplace safety and insurance/workers' compensation, Canada Pension Plan, salary or wages, vacation pay, overtime pay, payroll or employer health Taxes, commissions or vacation entitlements and accruals, termination pay, severance pay, accrued

vacation, pension contributions or other entitlements pursuant to the Employment Standards Act, 2000 (Ontario) or otherwise at law.

ARTICLE 5

CONDITIONS PRECEDENT

5.1 Conditions of Closing

Either the Purchaser or the Vendor shall be obliged to complete the Closing only if each of the conditions' precedent, set out below in Sections 5.1.1 through 5.1.8 inclusive, has been satisfied in full at or before the Closing Time.

5.1.1 Accuracy of Representations and Performance of Covenants

At the Closing Time, all of the representations and warranties of each of the Purchaser and the Vendor made in or pursuant to this Agreement shall be true and correct as if made at and as of the Closing Time (regardless of the date as of which the information in this Agreement or in any schedule or other document made pursuant hereto is given) except as such representations or warranties may be affected by the appeal of any court order referred to herein. At the Closing Time, each of the Purchaser and the Vendor shall have observed or performed in all respects all of the obligations, covenants and agreements which it must perform at or before the Closing Time. Each of the Purchaser and the Vendor shall have received immediately prior to the Closing Time a certificate from the other certifying, to the best of its knowledge, information and belief (after due enquiry) that the conditions in this Section 5.1.1 to be satisfied by it have been satisfied.

5.1.2 Litigation

No Order shall have been entered that prohibits or restricts the Closing. Neither of the Parties, nor any of their respective directors, officers, employees, or agents, shall be a defendant or third party to or threatened with any litigation or proceedings, before any court or Governmental Authority which, in the opinion of either the Purchaser or the Vendor, acting reasonably, could prevent or restrict that Party from performing any of its obligations in this Agreement or any Closing Document, including the appeal or any threatened appeal of the Approval and Vesting Order.

5.1.4 Receipt of Closing Documentation

All documentation relating to the sale and purchase of the Purchased Assets and such other Closing Documents relating to the due authorization and completion of the sale and purchase and all actions and proceedings taken on or prior to the Closing in connection with the performance by the Purchaser and the Vendor of their obligations under this Agreement shall be satisfactory to each of the Purchaser, the Vendor and their respective counsel, as applicable. Each of the Purchaser and the Vendor shall have received copies of the Closing Documents and all such documentation or other evidence as it may reasonably request in order to establish the

consummation of the transactions contemplated hereby and the taking of all corporate proceedings in connection therewith in form (as to certification and otherwise) and substance satisfactory to each of the Purchaser, the Vendor and their respective counsel.

5.1.5 Orders

The Vendor shall have obtained the Approval and Vesting Order. The Vendor shall not have received notice of appeal in respect to of the Approval and Vesting Order and the Approval and Vesting Order shall not have been stayed, varied or vacated and shall be in full force and effect and no Order restraining or prohibiting Closing shall have been made by the Court.

5.1.6 Possession of Purchased Assets

The Purchaser will take possession of the Purchased Assets where situate on the Closing Date. The Purchaser acknowledges that the Vendor has no obligation to deliver physical possession of the Purchased Assets to the Purchaser. Any fees in relation to the cartage of shipping of the Purchased Assets will be the sole responsibility of the Purchaser, and shall be paid by the Purchaser.

5.1.7 Cancellation of Insurance

Except as expressly contemplated herein, all insurance maintained by the Vendor on behalf of the Company shall be cancelled by the Vendor on the Closing Date and the Purchaser shall be responsible for placing its own insurance with respect to the Purchased Assets from and after the Closing Date.

5.2 Waiver

Any Party may waive, by notice to the other Parties, any condition set forth in this Article 5 which is for its benefit. No waiver by a Party or any condition, in whole or in part, shall operate as a waiver of any other condition.

5.3 Failure to Satisfy Conditions

If any condition set forth in Article 5 is not satisfied at the Closing Time, the Party entitled to the benefit of such condition (the "**First Party**") may terminate this Agreement by notice in writing to the other Party and in such event the Parties shall be released from all obligations hereunder.

ARTICLE 6 LEASE

6.1 Assumption of Lease

The Purchaser shall be responsible for dealing with the Landlord in connection with any consent, costs or other matters relating to the Purchaser's assumption of the Lease. If required, the Vendor will provide its consent to the landlord and Purchaser in relation to the assumption of the Lease.

The Vendor is not in possession of the Premises and will take no steps to assist the Purchaser with the possession of the Premises.

ARTICLE 7

7.1 Non-Disclosure of Transaction

The Purchaser agrees that it will not and will cause its officers, directors, employees, representatives and advisors not to, disclose or permit to be disclosed to any Person, any information relating to the Purchase Price or any of the other terms of this Agreement until after closing.

7.2 Risk of Loss

Up to the time of the Closing, the Purchased Assets shall be and remain at the risk of the Vendor. If, prior to the time of the Closing, all or any material part of the Purchased Assets are substantially destroyed or damaged by fire or any other casualty or shall be expropriated, the Purchaser shall have the option, exercisable by notice in writing given within two (2) Business Days of the Purchaser receiving notice in writing from the Vendor of such destruction, damage or expropriation:

- (a) to complete the purchase without reduction of the Purchase Price and all proceeds of insurance or compensation for expropriation shall be payable to the Purchaser and all right and claim of the Vendor to any such amounts not paid by the time of the Closing shall be assigned by the Vendor to the Purchaser; or
- (b) of terminating this Agreement and not completing the purchase, in which case all obligations of the Purchaser and the Vendor hereunder, other than those pursuant to Section 6.1, shall terminate and the Deposit shall be returned to the Purchaser.

For greater certainty, where any damage is not substantial, the Purchaser shall be obliged to complete this Agreement, without deduction, and shall be entitled to the proceeds of insurance, if any, in connection with such damage.

ARTICLE 8 GENERAL

8.1 Expenses

Each Party shall pay all expenses it incurs in authorizing, preparing, executing and performing any aspect of the Transaction contemplated by this Agreement, whether or not the Closing occurs, including all fees and expenses of its legal counsel, bankers, investment bankers, brokers, accountants or other representatives or consultants.

8.2 Time

Time is of the essence of each provision of this Agreement.

8.3 Notices

Any notice, demand or other communication (in this Section, a "notice") required or permitted to be given or made hereunder shall be given in writing and addressed as follows:

- (a) In the case of a notice to the Vendor, addressed to it at:

BDO CANADA LIMITED., in its capacity
as court-appointed Receiver of all the
property and assets of Heritage
Warehousing & Distribution Inc.

20 Wellington St. E. Suite 500
Toronto, Ontario M5E 1C5

Attention: Josie Parisi
Tel: 416-369-6031
Email: Jparisi@bdo.ca

And with a further copy to its counsel at:

Harrison Pensa LLP
130 Dufferin Avenue, Suite 1101
London, ON N6A 5R2

Attention: Timothy C. Hogan
Tel: (519) 679-9660
Email: thogan@harrisonpensa.com

- (b) In the case of a notice to the Purchaser, addressed to it at:

1001172780 Ontario Ltd.

-
-

Attention: Denis Mederios
Tel: •
Email: <denis.m@jbtgroup.com>

And with a further copy to its counsel at:

-
-

•
Attention: •
Tel: •
Email: •

Any such notice, if personally delivered, shall be deemed to have been validly and effectively given and received on the Business Day of such delivery and if sent by telecopier or other electronic communication with confirmation of transmission, shall be deemed to have been validly and effectively given and received on the Business Day next following the day it was received.

8.4 Public Announcements / Confidentiality of Agreement

Before the Closing Date, the Purchaser shall make no public statement or issue any press release concerning the transactions contemplated by this Agreement except as may be necessary to comply with the requirements of all Applicable Law. If any such public statement or release is so required, the Purchaser shall consult with the other Parties prior to making such statement or release, and the Parties shall use all reasonable efforts, acting in good faith, to agree upon a text for such statement or release which is satisfactory to all Parties. The Parties expressly acknowledge and agree that this Agreement shall not become public until after Closing.

8.5 Assignment

- (a) The Purchaser may not assign any or all rights or benefits under this Agreement to any Person without the Vendor's written consent which consent shall be in the Vendor's sole discretion. If the Purchaser wishes to assign this agreement after the grant of the Approval and Vesting Order and the Vendor consents in its sole discretion, the Purchaser shall pay all of the costs incurred by the Vendor on a solicitor and its own client scale in connection with all proceedings to amend the Approval and Vesting Order or otherwise provide for vesting in the assignee.
- (b) Except as provided in Section 8.5(a), no assignment of benefits or arrangement for substituted performance by one Party shall be of any effect.
- (c) This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation or statutory arrangement of any Party) and permitted assigns.

8.6 Further Assurances

Each Party shall do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within its power as any other Party may in writing at any time and from time to time reasonably request be done and or executed, in order to give full effect to the provisions of this Agreement and each Closing Document.

8.7 Remedies Cumulative

The rights and remedies of the Parties under this Agreement are cumulative and in addition to and not in substitution for any rights or remedies provided by law. Any single or partial exercise by any Party hereto of any right or remedy for default or breach of any term, covenant or condition of this Agreement does not waive, alter, affect or prejudice any other right or remedy to which such Party may be lawfully entitled for the same default or breach.

8.8 Sale by Receiver

The Purchaser acknowledges and agrees that the Vendor is acting solely in its capacity as the Court-appointed receiver of the Company and without personal or corporate liability.

8.9 Counterparts

This Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement.

[Signature page to follow]

[Signature page to Asset Purchase Agreement]

IN WITNESS WHEREOF this Agreement has been executed by the Purchaser as of the date first indicated.

1001172780 ONTARIO LTD.

Per: _____

•
I have authority to bind the corporation.

IN WITNESS WHEREOF this Agreement has been executed by the Vendor as of the date first indicated.

BDO CANADA LIMITED, solely in its capacity
as the court-appointed Receiver of Heritage
Warehousing & Distribution Inc. and not in
any other capacity and with no personal or
corporate liability

Per: _____

• Josie Parisi

I have authority to bind the corporation.

SCHEDULE A

Approval and Vesting Order

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) THE [th]
)
JUSTICE []) DAY OF MARCH, 2025
)

THE TORONTO-DOMINION BANK

Plaintiff

- and -

**JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT
INC., HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED,
HERITAGE NORTHERN LOGISTICS INC., and HERITAGE WAREHOUSING &
DISTRIBUTION INC.**

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Heritage Warehousing & Distribution Inc. (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and 1001172780 Ontario Ltd.. (the "**Purchaser**") dated March , 2025 and appended to the First Report of the Receiver dated March , 2025 (the "**Report**"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, all other parties in attendance, and no one appearing for any other person on the service list, although properly served as appears from the affidavit of [] sworn March , 2025 filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale 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.
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's right, title and interest in and to the Purchased Assets described in the Sale 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 Kimmel dated March 6, 2025; (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, 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.
3. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the 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.

4. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.
5. THIS COURT ORDERS that, notwithstanding:
 - (a) the pendency of these proceedings;
 - (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made in respect of the Debtor;

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

6. 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.

Justice, Ontario Superior Court of Justice
Commercial List

Schedule A – Form of Receiver’s Certificate

Court File No. CV-25-00737791-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE

)

THE [th]

JUSTICE []

)

)

DAY OF MARCH, 2025

THE TORONTO-DOMINION BANK

Plaintiff

- and -

JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC., HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN LOGISTICS INC., and HERITAGE WAREHOUSING & DISTRIBUTION INC.

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Kimmel of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated March 6, 2025, BDO Canada Limited was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of Heritage Warehousing & Distribution Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of March , 2025 (the "**Sale Agreement**") between the Receiver and 1001172780 Ontario Ltd. (the "**Purchaser**"), and provided for the vesting in the Purchaser of the

Debtor'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 Sale 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 Sale 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 Sale Agreement;
2. The conditions to Closing as set out in the Sale 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].

**BDO CANADA LIMITED., in its capacity as
Receiver of the undertaking, property and
assets of Heritage Warehousing &
Distribution Inc., and not in its personal or
corporate capacity**

Per: _____

Name:

Title:

Schedule B – Purchased Assets

All Accounts Receivable, Forklifts and Pallet Racks, and Furniture and Computers of the Debtor, as such terms are defined and described in the Sale Agreement.

SCHEDULE B

Address of Premises

60 Steckle Place, Kitchener, Ontario, comprising
approximately 100,742 square foot rentable area

SCHEDULE C

Accounts Payable (Assumed Liabilities)

Heritage Warehousing & Distribution Inc

A/P Aging Summary

As of March 8, 2025

In addition to the liabilities noted above, the purchaser is responsible for all amounts due to:

- i. Canada Revenue Agency CRA for source deductions and ~~any and all~~ sales taxes
- ii. Employee obligations – 13 employees have been assumed. The names of these employees have been provided to the Vendor. The Purchaser is responsible for all employee liabilities including, but not limited to wages, vacation pay, payment for benefits, payment for pension plan contributions, etc.

SCHEDULE D

Accounts Receivable

Heritage Warehousing & Distribution Inc
A/R Aging Summary
As of March 14, 2025

SCHEDULE E

Forklifts and Pallet Racks

Lift						Battery			Charger	
Year	Brand	Config	Model	Serial #	Make	Model	Serial #	Make	Model	Serial #
2019	Crown	Reach	RM6000	1A550423	HUP.	125P-13	MVD00144821	Energic Plus	NG-TST-P 36/180	382679
2015	Crown	3 wheel	SC5245-40	9A224184	HUP.	85P-21	MTE055823			
2020	Toyota		8FBE20	19692	TOYOTA	24-85V-15	H2FV26825	Energis	N1P3-JN-4CO	FWB1062952
2011	Toyota		7FBEU20	19859	TOYOTA			ECOTEC	ACCESS 20/48	22K3233
			5200 SERIES - CARTON CLAMP - RU35D-CCS- 35Q							
2015	CROWN	3 wheel		9A219585	ENERSYS	SC5245-40	9A219585	ENERSYS	NIP3-IN-4CO	FWB1062951
2015	Toyota	3 wheel	7FBEU20	25406				Energys	NIP3-IN-4C	RWDCCO393471
2013	Crown	3 wheel	SC5245-40	9A198864	CROWN	18-100VTE-21	17031737		FS4	3M22040062
2012	Crown	3 wheel	SC5245-40	9A187705	TFORCE	18-085VP-21	MWG00021479	Energic Plus	NG-TST-P 36/180	378736
2011	Toyota	3 wheel	SC5245-40	19912		18-100VTE-21	17031738			
2018	Crown	3 wheel	SC5245-40	10107534	CROWN	SC5245-40	RXE00529578			

APPENDIX E

INTERIM OPERATING AGREEMENT

BETWEEN:

BDO CANADA LIMITED, solely in its capacity as court-appointed Receiver of all of the property and assets of Heritage Warehousing & Distribution Inc. and not in any other capacity and with no personal or corporate liability
(hereinafter the "**Receiver**")

-and-

1001172780 ONTARIO LTD, a corporation incorporated pursuant to the laws of the Province of Ontario ("**100 Ontario**" and together with the Receiver, the "**Parties**")

Recitals

1. The Receiver was appointed over the Property (as defined in the Appointment Order) of Heritage Warehousing & Distribution Inc. ("**HWD**") pursuant to the Order of the Ontario Superior Court of Justice – Commercial List (the "**Court**") in Court File No. CV-25-00737791-00CL dated March 6, 2025 (the "**Appointment Order**") with the authority to, among other powers, enter into this Agreement (the "**Agreement**").
2. HWD provided warehousing and third-party logistics services to its customers (the "**Warehouse Operation**") from 60 Steckle Place, Kitchener, Ontario (the "**Premises**"), and the Receiver did permit HWD's continued operations of the Warehouse Operations, subject to the terms of the Agreement.
3. The Parties have entered into an asset purchase agreement dated March 25, 2025 with respect to certain assets of HWD (the "**Purchased Assets**"), which is subject to Court approval (the "**Sale Agreement**"). 100 Ontario is a company related to HWD and as of March 14, 2025 (the "**Crystallization Date**") is now in possession of the Premises and is operating the Warehouse Operation.
4. The Parties agree that 100 Ontario shall continue to stay in possession of the Premises and continue to operate the Warehouse Operation at its own risk and expense, pending

completion of the Sale Agreement, in order to maintain the business as a going concern and to attempt to preserve value.

NOW THEREFORE, in consideration of the mutual promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

Appointment of 100 Ontario

1. The Receiver hereby appoints and grants 100 Ontario with the right to occupy the Premises and utilize the assets of the Warehouse Operation to operate the Warehouse Operation strictly at its own risk and expense during the Term (as defined herein) of this Agreement. 100 Ontario represents and warrants to the Receiver that it has the knowledge, experience and financial ability to utilize the assets of the Warehouse Operation to operate the Warehouse Operation during the Term of this Agreement in a competent, honest, diligent and efficient manner as would a prudent owner.
2. Commencing on the Crystallization Date, 100 Ontario has and shall continue to operate the Warehouse Operation at its own risk and expense and shall be entitled to retain any profit generated by during the Term of this Agreement. 100 Ontario shall be liable for all expenses and shall bear any and all losses from operations during such Term. All operations, actions and activities of 100 Ontario relating to the Warehouse Operation shall be for its own account and the Receiver shall bear no liability, loss, claim for damage or claim for payment whatsoever, known or unknown, for any matter or issue arising from 100 Ontario 's involvement or operation of the Warehouse Operation.
3. 100 Ontario shall be responsible for any damages caused to the Premises as a result of any acts or omissions attributable to 100 Ontario, or their agents, servants, or employees.
4. 100 Ontario shall be responsible for and liable to pay the following:
 - a. all rent amounts due under the lease with respect to the Premises, which accrue during the Term of this Agreement;

- b. adequate Insurance (as defined herein);
 - c. all realty taxes due under the lease with respect to the Premises, and all utilities due in relation to the Premises, which accrue during the Term of this Agreement; and
 - d. all amounts due and owing to the Canada Revenue Agency for HST and employee deductions at source, and all employee wages, which accrue during the Term of this Agreement.
5. The Parties acknowledge that prior to the Crystallization Date, the Receiver was not in possession or control of the Warehouse Operation or the Premises from which it operates from and has not operated the Warehouse Operation at any time.
6. 100 Ontario covenants and agree to conduct the Warehouse Operation in a manner consistent with reasonable and prudent business practices.

Receiver Warranties

7. The Receiver hereby warrants to 100 Ontario:
- a. that there are no actions, suits or arbitration proceedings pending or to the knowledge of Receiver threatened against or affecting the Receiver with respect to the Premises which if adversely determined against the Receiver will materially affect 100 Ontario's entry or access or use of the Premises. The Receiver is not aware of any existing ground upon which any such action, suit or proceeding commenced has any reasonable likelihood of success and there is not presently outstanding against Receiver any judgment, decree, injunction, rule or order of any court, governmental department, commission, agency, instrumentality or arbitrator which would materially or adversely affect the use of the Premises for the purpose stated in this Agreement; and,
 - b. that it has full power and authority to enter into this Agreement and the documents to delivered hereunder and to carry out its obligations hereunder.

Term

8. This Agreement shall retroactively commence as of the Crystallization Date and shall terminate on the earlier of: the date of closing of the transaction contemplated by the Sale Agreement (the “**Closing Date**”) or the vesting of the Purchased Assets (the “**Term**”).
9. The Term of this Agreement may only be extended by agreement in writing executed by the Receiver, HWD and 100 Ontario.
10. This Agreement may be terminated by the Receiver or 100 Ontario at any time:
 - a. with no notice, should 100 Ontario become bankrupt, or should 100 Ontario or the Receiver breach any material term of this Agreement which, in the sole discretion of the Receiver, puts the Premises or the Warehouse Operation at any risk of diminishing in value;
 - b. the termination of the Sale Agreement; or
 - c. on an Order of the Court terminating the Receiver’s powers or requiring the cessation or termination of this Agreement, including, without limitation, any such Order relating to the completion of the Sale Agreement (any day when the Agreement is terminated the “**Termination Date**”).

Reporting and Monitoring

11. As a term of this Agreement, HWD and 100 Ontario agree that the Receiver will at all times be entitled to monitor the operations of 100 Ontario, and 100 Ontario shall provide to the Receiver such information and documentation as the Receiver requires, in its sole discretion and at the Receiver’s request, to undertake such monitoring. 100 Ontario shall also provide the Receiver with the following specific reporting under the terms of this Agreement:
 - a. customer sales made up until the Closing Date or any Termination Date including dates upon which services were ordered and performed;

- b. customer payments made up until the Closing Date or any Termination Date including the dates when payments were made and the bank accounts where the amounts were deposited;
- c. any correspondence with the Canada Revenue Agency in respect of refunds associated with HWD to the Closing Date or any Termination Date;
- d. on the execution of this Agreement, and as a condition precedent to same, provide the Receiver with evidence that 100 Ontario have the following types of insurance in place in relation to their operation of the Warehouse Operation, to the satisfaction of the Receiver in its sole discretion:
 - i. General Commercial Property and Liability Insurance; and,
 - ii. Property/Fire Insurance in relation to the Premises.(i-ii together, the “**Insurance**”)
- e. 100 Ontario must maintain the Insurance in place in relation to their operation of the Warehouse Operation for the Term of this Agreement, and shall provide evidence of same to the Receiver on its request.

Compliance With Laws

- 12. 100 Ontario agrees to comply with all of the codes, permits, ordinances, laws, bylaws, orders, statutes, rules, policies and regulations enacted by the City of Kitchner, Province of Ontario and/or Canadian government in operating the Warehouse Operation, including those concerning the environment, hazardous substances or wastes, toxic substances and occupational safety and health.
- 13. 100 Ontario shall obtain all municipal and governmental licenses, permits, approvals and transfers of utilities and agreements in the name of 100 Ontario at the expense of 100 Ontario, required for the lawful management and operation of the Warehouse Operation, and the Receiver agrees to cooperate fully with 100 Ontario for the procurement of said licenses, permits, approvals and transfers.

Independent Contractor

14. The Parties agree that the only relationship created hereby is that of interim operator of the Warehouse Operation, and that 100 Ontario is an independent contractor and not an agent, employee, joint venture or partner of the Receiver, or any other party. This Agreement does not provide 100 Ontario with any rights in or to the Premises or the Warehouse Operation, except as explicitly set out in this Agreement.

Assignment

15. The Receiver is entering into this Agreement in recognition of, and in reliance upon, the expertise, reliability and competence of 100 Ontario and matters pertinent thereto. The performance of the obligations imposed upon the 100 Ontario under this Agreement will not be assignable by it to any other party.

Employees

16. Any personnel employed in the operation of the Warehouse Operation by 100 Ontario shall be employees of 100 Ontario and not the Receiver. 100 Ontario shall hire all employees, agents necessary to operate the Warehouse Operation and shall have the sole and exclusive control over labor and employee relations policies and policies relating to wages, hours, working conditions and other conditions of 100 Ontario's employees. The Receiver shall have no responsibility arising from this Agreement for the liabilities owing to the employees, servants, or agents of 100 Ontario.

Indemnification

17. 100 Ontario shall indemnify, hold harmless and defend the Receiver, its agents, servants and employees from and against any claim, demand or cause of action whatsoever kind or nature arising out of error, omission or negligent act of 100 Ontario, their agents, servants or employees in the performance of services out of this Agreement or arising out of any breach, violation or nonperformance of any covenant, condition or term required to be performed by 100 Ontario pursuant to the terms of this Agreement or for any claim, demand or cause of action of whatever kind or nature arising out of any conduct or misconduct of 100 Ontario not

referred to above, known or unknown.

Delivery of Records

18. In the event of or at the termination of this Agreement, 100 Ontario shall forthwith deliver to the Receiver any outstanding reports prescribed in Article 11 of this Agreement.

General

19. This Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein. If any of the provisions of this Agreement are determined to be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired thereby. This Agreement constitutes the whole and entire agreement between the Parties in connection with the transactions contemplated herein and cancels and supersedes any prior agreements, undertakings, declarations, commitments, representations, written or oral, in respect thereof, and there are no express or implied terms, conditions, agreements, undertakings, declarations, commitments, representations or warranties or other duties (legal, equitable, fiduciary or in tort) whatsoever among the Parties not expressly provided for in this Agreement.
20. Time shall be of the essence in this Agreement.
21. This Agreement may be amended only by written instrument executed by both Parties.
22. This Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement.
23. 100 Ontario recognizes that the Receiver is acting solely in its capacity as court-appointed Receiver of HWD, and not in any other personal or corporate capacity, and the Receiver shall incur no liability through the Term of this Agreement.
24. Any dispute as to any Term of this Agreement shall be determined by the Court in file number CV-25-00737791-00CL.

DATED this 4th day of April, 2025

BDO Canada Limited, solely In Its Capacity as Court
appointed Receiver of all the property, assets and
undertakings of HWD, and not in its personal capacity

Per: _____

I have authority to bind the Receiver

DATED this 4th day of April, 2025

1001172780 Ontario Ltd.

DocuSigned by:



Per: _____
81F3CDE2A7024CF...

Name: Denis Medeiros

Title: President

I have the authority to bind the Corporation

DATED this 4th day of April, 2025

Heritage Warehousing & Distribution Inc.

DocuSigned by:



Per: _____
81F3CDE2A7024CF...

Name: Denis Medeiros

Title: President

I have the authority to bind the Corporation

APPENDIX F

Harrison Pensa LLP

PERSONAL PROPERTY SECURITY ACT (ONTARIO)
SEARCH SUMMARY WITH RESPECT TO:
HERITAGE WAREHOUSING & DISTRIBUTION INC.

eSummary Requested By: Olivia Rajsp
PPSA Enquiry ID: 5116713
File Currency: 11MAR 2025

DISCLAIMER:

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	File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.					
						CG	I	E	A	O	MV
1.	513563724 <i>PPSA</i> <i>*DISCHARGED</i>	8	20250219 1403 1462 8566	HERITAGE WAREHOUSING AND DISTRIBUTION INC.	LIFTOW LIMITED			X		X	X
			2023 TOYOTA 7FBCU55 (VIN: 60783)								
		General Collateral Description: MATERIAL HANDLING EQUIPMENT TOGETHER WITH ALL PARTS, ATTACHMENTS, ACCESSORIES, ADDITIONS, BATTERIES, CHARGERS, REPAIR PARTS, AND OTHER EQUIPMENT PLACED ON OR FORMING PART OF THE GOODS DESCRIBED HEREIN WITH ANY PROCEEDS THEREOF AND THEREFORM INCLUDING WITHOUT LIMITATION, ALL GOODS, SECURITIES, INSTRUMENTS, DOCUMENTS OF TITLE, CHATTEL PAPER AND INTANGIBLES (AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) E-101480									
		11	20250220 1701 1462 9398	HERITAGE WAREHOUSING AND DISTRIBUTION INC.							
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	File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.					
						CG	I	E	A	O	MV
2.	511966467 <i>PPSA</i>	1	20241216 1322 1590 0470 Reg. 5 year(s) Expires 16DEC 2029	JBT TRANSPORT INC.	ECAPITAL COMMERCIAL FINANCE (CANADA) CORP.		X	X	X	X	X
				JBT TRANSPORT INC							
				JBT TRANSPORT	ECAPITAL COMMERCIAL FINANCE CORP.						
				HERITAGE WAREHOUSING & DISTRIBUTION INC.							
				HERITAGE WAREHOUSING & DISTRIBUTION INC							
				HERITAGE WAREHOUSING & DISTRIBUTION							
				HERITAGE TRUCK LINES INC.							
				HERITAGE TRUCK LINES INC							
				HERITAGE TRUCK LINES							

				HERITAGE NORTHERN LOGISTICS INC. HERITAGE NORTHERN LOGISTICS INC HERITAGE NORTHERN LOGISTICS DRUMBO TRANSPORT LIMITED DRUMBO TRANSPORT										
		General Collateral Description: ALL SELLER'S NOW OWNED AND HEREAFTER ACQUIRED ACCOUNTS, CHATTEL PAPER, INVENTORY, EQUIPMENT, INSTRUMENTS, INVESTMENT PROPERTY, DOCUMENTS, LETTER OF CREDIT RIGHTS AND GENERAL INTANGIBLES.												
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			Expires 24JAN 2027		TD EQUIPMENT FINANCE CANADA, A DIVISION OF THE TORONTO-DOMINION BANK							
		2016 TOYOTA 8FBCU25 (VIN: 72874) 2015 CROWN ENCORE SC5245-40 (VIN: 9A219585) 2014 CROWN ENCORE SC5245-40 (VIN: 9A207188) 2019 CROWN ENCORE RM6025-45 (VIN: 1A550423) 2015 CROWN ENCORE FC4525-50 (VIN: 9A222041) 2013 CROWN ENCORE SC5245-40 (VIN: 9A198860) 2013 CROWN ENCORE SC5245-40 (VIN: 9A198864) 2013 CROWN ENCORE SC5245-40 (VIN: 9A198866) 2013 CROWN ENCORE SC5245-40 (VIN: 9A198936) General Collateral Description: (1) ONE REFURBISHED FORKLIFT, COMES WITH NEW 2022 CROWN 24OC85-19 BATTERY (SN G2FV26794) AND 2022 CROWN 48-765-32OC-H CHARGER(SN 22L4154), INCLUDING ALL OTHER ATTACHMENTS AND ACCESSORIES. (1) ONE REFURBISHED FORKLIFT, COMES WITH NEW 2022 ENERSYS 24-E90D- 15BATTERY (SN FWC1062951A) AND 2022 ENERSYS NIP3-IN-4C CHARGER (SN FWB1062951), INCLUDING ALL OTHER ATTACHMENTS AND ACCESSORIES (1) ONE REFURBISHED FORKLIFT, COMES WITH NEW 2022 ENERSYS 24-E90D- 15BATTERY (SN FWC1062951) AND 2022 ENERSYS NIP3-IN-4C CHARGER(SN FWB1062951A), INCLUDING ALL OTHER ATTACHMENTS AND ACCESSORIES. (1) ONE REFURBISHED NARROW AISLE REACH TRUCK, COMES WITH NEW 2022 ENERSYS 18E-125-13 BATTERY (SN MVD00144821) AND 2022 ENERSYS NIP3-IN-4C CHARGER (SN RWC00363421), INCLUDING ALL OTHER ATTACHMENTS AND ACCESSORIES. (1) ONE REFURBISHED FORKLIFT, COMES WITH NEW 2022 EXIDE 24-E90D-21 BATTERY (SN RVJ00301338) AND 2022 ENERSYS - NIP3-JN-4CO CHARGER (SN FWB1062952), INCLUDING ALL OTHER ATTACHMENTS AND ACCESSORIES. (1) ONE REFURBISHED FORKLIFT, COMES WITH NEW 2022 CROWN 18-100VTE- 21BATTERY (SN 017031735) AND CROWN FS3-MP346-3 CHARGER (SN 3M22040042), INCLUDING ALL OTHER ATTACHMENTS AND ACCESSORIES. (1) ONE REFURBISHED FORKLIFT, COMES WITH NEW 2022 CROWN 18-100VTE- 21BATTERY (SN 017031736) AND CROWN FS3-MP346-3 CHARGER (SN 3M22040057), INCLUDING ALL OTHER ATTACHMENTS AND ACCESSORIES. (1) ONE REFURBISHED FORKLIFT, COMES WITH NEW 2022 CROWN 18-100VTE- 21BATTERY (SN 017031738) AND CROWN FS3-MP346-3 CHARGER (SN 3M22040062), INCLUDING ALL OTHER ATTACHMENTS AND ACCESSORIES. (1) ONE REFURBISHED FORKLIFT, COMES WITH NEW 2022 CROWN 18-100VTE- 21BATTERY (SN 017031737) AND CROWN FS3-MP346-3 CHARGER (SN 3M22040094), INCLUDING ALL OTHER ATTACHMENTS AND ACCESSORIES. TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE AND OR DEALINGS WITH THE COLLATERAL AND A RIGHT TO ANY INSURANCE PAYMENT OR OTHER PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL.										

	File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.					
						CG	I	E	A	O	MV
5.	786275775 PPSA	14	20220830 1704 1462 8854 Reg. 4 year(s) Expires 30AUG 2026	HERITAGE WAREHOUSING & DISTRIBUTION INC.	THE TORONTO-DOMINION BANK TD EQUIPMENT FINANCE CANADA, A DIVISION OF THE TORONTO-DOMINION BANK			X		X	
		2022 PALLET RACKING (VIN: -) General Collateral Description: 2022 PALLET C/W ATTACHMENTS AND ACCESSORIES TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO, AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE OR DEALINGS WITH THE COLLATERAL AND A RIGHT TO ANY INSURANCE PAYMENT OR OTHER PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL.									
		17	20220907 1003 1462 1257 A AMNDMNT	HERITAGE WAREHOUSING & DISTRIBUTION INC.				X		X	
	File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.					
						CG	I	E	A	O	MV
6.	726897609 PPSA	12	20170425 0911 2316 1557 Reg. 05 year(s) Expires 25APR 2027	HERITAGE WAREHOUSING & DISTRIBUTION INC.	THE TORONTO-DOMINION BANK		X	X	X	X	X
		13	20220322 1449 1530 5660 B RENEWAL Renew 5 year(s)	HERITAGE WAREHOUSING & DISTRIBUTION INC.							

THE TORONTO-DOMINION BANK

and

JBT TRANSPORT INC., et al.

Applicant

Respondents

Court File No. CV-25-00737791-00CL

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

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

FIRST REPORT OF THE RECEIVER

HARRISON PENZA LLP

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Lawyers for the Receiver,
BDO Canada Limited

THE TORONTO-DOMINION BANK

and

JBT TRANSPORT INC., et al.

Applicant

Respondents

Court File No. CV-25-00737791-00CL

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

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

MOTION RECORD

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