

Clerk's Stamp

COURT FILE NUMBER	2101-00810
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	2314174 ALBERTA LTD.
RESPONDENT	1652563 ALBERTA LTD.
	IN THE MATTER OF THE RECEIVERSHIP OF 1652563 ALBERTA LTD.
DOCUMENT	FIRST REPORT OF THE RECEIVER, BDO CANADA LIMITED APRIL 6, 2021
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Borden Ladner Gervais LLP 1900, 520 – 3 rd Ave. SW Calgary, Alberta T2P 0R3 Attention: Jessica L. Cameron Phone: 403-232-9715 Fax: 403-266-1395 Email: jcameron@blg.com

**FIRST REPORT OF THE RECEIVER
BDO CANADA LIMITED
APRIL 6, 2021**

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INTRODUCTION

1. On February 11, 2021, 2314174 Alberta Ltd. (“**231**”) made an application to the Court of Queen’s Bench of Alberta (the “**Court**”) for the appointment of a receiver and manager (the “**Receiver**”) of all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”), of 1652563 Alberta Ltd. (“**165**” or the “**Company**”).
2. On February 11, 2021 (the “**Receivership Date**”), the Court granted an Order (the “**Receivership Order**”) appointing BDO Canada Limited (“**BDO**”) as the Receiver over the Company and its Property.
3. This is the Receiver’s first report to the Court (the “**First Report**”), which has been prepared in respect of the application to be heard by the Court on April 13, 2021. The purpose of this First Report is to provide information to the Court regarding:
 - background information in respect of the Company;
 - the activities of the Receiver since the Receivership Date;
 - the extent of the known creditors of 165;
 - details of a proposed sales process with respect to the Company’s real estate holdings and the Receiver’s recommendation thereon;
 - the receipts and disbursements of the Receiver since the Receivership Date;
and
 - details of the fees and disbursements incurred to date by the Receiver and its legal counsel.

TERMS OF REFERENCE

4. In preparing this First Report, the Receiver has relied upon unaudited financial information, records of the Company and discussions with the Company's former management ("**Management**") and former employees. The Receiver has not performed an audit, review or other verification of such information; accordingly, the Receiver does not express an opinion thereon.
5. A copy of this First Report, together with all other materials filed with the Court in the within Receivership proceeding have been and will continue to be made available to creditors and other interested parties in electronic format on the Receiver's website at: <https://www.bdo.ca/en-ca/extranets/1652563Alberta/>

BACKGROUND

6. 165 is a private Alberta corporation. A recent search of the Alberta Corporate Registration System indicates the following:
 - a. Mr. Courtney Moffatt is the sole director of the Company; and
 - b. Mr. Moffatt and Mr. Jerry Roberts hold 60% and 40% of the voting shares of the Company respectively.
7. The Company operated under the trade name "Two Guys Trailers", and was engaged in the business of selling cargo and flat deck trailers, used trucks and used cars. While these sales generally occurred from its property located in Carstairs, Alberta (the "**Lands**"), the Company was also engaged in the business of exporting used vehicles from Canada to the United States.
8. Prior to the Receivership Date, the Company was managed by Mr. Moffatt; however, its operations had effectively ceased prior to the Receivership Date such that there was no inventory of vehicles on the Lands as at the Receivership Date.
9. Mr. Roberts is the sole director of 231, the Company's principal secured creditor.

ASSETS

10. The Lands, which are owned by the Company, are comprised of three contiguous parcels described as follows:

<u>No.</u>	<u>Municipal Address</u>	<u>Legal Description</u>	<u>Detail</u>
1	419, 10 Avenue South, Carstairs, AB, T0M 0N0	PLAN 3845C0 THAT PORTION OF THE ROADWAY SOUTH OF LOT 8 BLOCK 28 AND NORTH OF LOT 1 BLOCK 29 EXCEPTING THEREOUT ALL MINES AND MINERALS	Commercial building and parking space (the " Building Lot ")
2	417, 10 Avenue South, Carstairs, AB, T0M 0N0	LEGAL DESCRIPTION PLAN 3845CO BLOCK 28 LOTS 7 AND 8 EXCEPTING THEREOUT ALL MINES AND MINERALS AND THE RIGHT TO WORK THE SAME	Vacant commercial zoned land (" Lot 417 ")
3	413, 10 Avenue South, Carstairs, AB, T0M 0N0	PLAN 3845CO BLOCK 28 LOTS 5 AND 6 EXCEPTING THEREOUT ALL MINES AND MINERALS AND THE RIGHT TO WORK THE SAME	Vacant commercial zoned land (" Lot 413 ")

11. Attached hereto and marked as **Appendices “A”, “B” and “C”**, are copies of the legal titles for the Building Lot, Lot 417 and Lot 413, respectively.
12. The Lands have been listed for sale with Maxwell Capital Realty (the “**Prior Listing Agent**”) since June 2020.
13. The only other known potential assets of the Company are what can be described as approximately 75 generally late model domestic pick-up trucks (the “**Trucks**”) that were last known to be located in the United States.
14. The Receiver understands that the Company had previously exported vehicles into the United States by way of delivering them to various registered importers (“**RI**”) in order to certify and title the vehicles in the United States, after which time the vehicles were then eligible to be sold in the United States.
15. The Receiver understands that several years ago, the RI where the Trucks were located had its operation shut down by US authorities and the Trucks were seized by National Highway Traffic Safety Administration and moved to an impound lot in Utah.
16. As of the date of this First Report, Mr. Moffatt has been unable to provide the Receiver with sufficient contact information to allow the Receiver to confirm the existence, status, and location of the Trucks. Consequently, the Receiver is undertaking its own investigations, including pursuing assistance from alternative sources, to attempt to locate and confirm the status of the Trucks.

CREDITORS

17. A summary of the Company’s approximate obligations, based on the incomplete available books and records of 165 as of the Receivership Date, is as follows:
 - a. secured creditors – approximately \$657,000 due to 231 pursuant to a credit facility, by way of assignment from Bank of Montreal, secured by, *inter alia*, a general security agreement and mortgage on the Lands (the “**Security**”); and

- b. unsecured creditors – approximately \$2.7 Million.
18. The Receiver has obtained an independent legal opinion from its legal counsel, Borden Ladner Gervais LLP (“BLG”), regarding the validity and enforceability of 231’s Security in respect of real property located in Alberta. Subject to certain customary qualifications and limitations, it is BLG’s opinion that 231 holds a first-ranking mortgage against the Lands, which has been duly registered by way of mortgage or caveat registration with the Alberta Land Titles Office, and that such mortgage is valid and enforceable against a trustee in bankruptcy

INITIAL ACTIVITIES OF THE RECEIVER

19. Since the Receivership Date, the Receiver’s activities have included, but are not limited to, the following:
- a. attending at the Lands and arranging for the locks to be changed;
 - b. arranging for insurance coverage on the Lands, which insurance had lapsed prior to the Receivership Date;
 - c. arranging for the establishment of utility accounts in respect of the Lands;
 - d. prepared and issued the *Notice of Receiver and Manager* and *Receiver and Manager’s Statement* as prescribed by the *Bankruptcy and Insolvency Act* to known creditors of the Company based on the Company’s books and records as provided by Mr. Moffatt;
 - e. conducting ongoing investigations of the existence and location of the Trucks;
 - f. responded to inquiries of several of the Company’s creditors and or their legal representatives;
 - g. had numerous discussions and communications with Mr. Moffatt in an attempt to obtain up to date books and records of the Company, as well as information in respect of the whereabouts of the Trucks;

- h. communicated with the Prior Listing Agent as to the status of the Company's listing agreement for the Lands, and subsequent amendments thereto (collectively referred to as the "**Maxwell Listing Agreement**"); and
- i. developed a proposed sales process in respect of the Lands, including the solicitation of proposals from alternative listing agents, as discussed further in this First Report.

SALES PROCESS

- 20. Paragraphs 3(k) and 3(l) of the Receivership Order authorize the Receiver to market the Company's assets for sale. The Receiver has discussed potential realization strategies in respect of the Lands with Mr. Roberts, in his capacity as principal of 231, including:
 - a. maintaining the Maxwell Listing Agreement;
 - b. terminating the Maxwell Listing Agreement and listing the Lands with an alternate realtor, in light of the Lands having been already listed for 10 months without success; and
 - c. disclaiming the Maxwell Listing Agreement and relisting it at a later date in the hopes that the commercial market in Carstairs improves.
- 21. Mr. Roberts has advised the Receiver that with a view to limiting the ongoing cost of the receivership proceedings, including professional fees and holding costs associated with the Lands, he would be prepared to acquire the Lands by way of partial set-off against the Company's secured obligations owed to 231 ("**Credit Bid**"), if necessary.
- 22. Consequently, the Receiver, with the support of 231, has developed a proposed sales process (the "**Sales Process**") that would generally entail:
 - a. disclaiming the Maxwell Listing Agreement;
 - b. listing the Lands with an alternate commercial realtor with a 90-day deadline for the submission of offers; and

- c. providing for the option of 231 to submit a Credit Bid.
23. Although there is no certainty that meaningful offers will be generated by listing the Lands with an alternate realtor, given the lack of success to date in selling the Lands with the Prior Listing Agent, the Receiver believes it is reasonable in the circumstances to list the Lands with an alternate realtor during the Sales Process.
 24. Consequently, between February and March 2021, the Receiver reached out to four alternate realtors to outline the above strategy and inquire as to whether there was an interest in participating in the Sales Process. Two of the realtors contacted indicated that they were not interested in light of the size and location of the Lands. Two of the realtors proposed similar commercial terms. From these two proposals, ultimately the Receiver selected Tyler Realty Corp Ltd. (“**Tyler**”) to act as its agent (the “**Selling Agent**”) given BDO’s prior experience with Tyler.
 25. Subject to the approval of this Honourable Court, the Receiver has entered into a listing agreement with the proposed Selling Agent (the “**Listing Agreement**”), whereby the Selling Agent would act as real estate agent and assist the Receiver in administering the Sales Process.
 26. A copy of the Listing Agreement is attached as **Appendix “D”** to this First report, the salient terms of which are:
 - a. it is limited to a 90 day listing period;
 - b. in the event of a sale of any or all of the Lands, the Selling Agent would be entitled to a 5% commission on the sale price, unless a Credit Bid proves to be the successful bid, in which case the Selling Agent shall earn a flat fee of \$7,500 (the “**Flat Fee**”);
 - c. the Listing Agreement is subject to the terms of the Sales Process; and
 - d. the Listing Agreement is subject to approval by this Honourable Court.

27. In respect of the remuneration contemplated by the Listing Agreement, the Receiver is of the view that:
- a. the 5% commission is commercially reasonable in the circumstances given the proposed listing price; and
 - b. the Flat Fee is reasonable in light of the efforts and expenses that the Selling Agent will incur notwithstanding if a Credit Bid proves to be the successful offer.
28. In all of the circumstances, the Receiver considers that the Listing Agreement and engagement of the Selling Agent is commercially reasonable, fair, and will assist the Receiver to maximize value for stakeholders.
29. The Receiver has worked with the Selling Agent in developing the terms of the Sales Process. The terms of the proposed Sales Process are attached as **Appendix “E”**, the salient terms of which are:
- a. the Lands would be listed for sale through the Selling Agent commencing on April 16, 2021, with a ninety (90) day list period and final bid deadline of July 16, 2021;
 - b. based on the advice of the Listing Agent, and in consideration of the prior Maxwell Listing Agreement, the listing price of the Lands would be \$449,000 for an *en bloc* offer, with the Building Lot listed at \$289,000 as a stand-alone property and the two vacant lots, listed together at \$178,000 as a separate package;
 - c. bidders would have the opportunity to make: i) an *en bloc* offer to acquire all of the Lands; ii) an offer to acquire only the Building Lot; or iii) an offer to acquire only the two vacant lots, being Lot 417 and 413;
 - d. the consideration acceptable would include cash, a Credit Bid, or some combination of the two;

- e. a non-refundable deposit of 10% of the proposed purchase price offered under bids would be required, except in the case of a Credit Bid by 213, in which case no deposit is required due to the nature of the Credit Bid;
 - f. in light of 231 being a potential bidder, 231 would not be entitled to updates as to the status of the Sales Process until the earlier of submitting an offer or confirming it will not be participating in the Sales Process as a bidder. In order to receive information regarding the Sales Process, 231 would also be required to execute and deliver to the Receiver a non-disclosure agreement, in form and substance satisfactory to the Receiver; and
 - g. successful bid(s) would be subject to Court approval.
30. The Receiver is of the view that the Sales Process is appropriate and reasonable in the circumstances for the following reasons:
- a. it balances the desire of 231, the Company's first secured creditor, to limit the expenses incurred by the Receiver with the public marketing of the Lands;
 - b. in light of the extent of the creditors of the Company and the uncertainty as to the extent of the ultimate realizations that may be available in the estate, if any, the Receiver is of the view that a Court approved public sales process is appropriate; and
 - c. 231 is supportive of the Sales Process, including the new Listing Agreement with the Sales Agent.
31. The Receiver considers that the Sales Process is commercially reasonable, fair, and will assist the Receiver to maximize value for stakeholders in the circumstances.
32. In light of the new Listing Agreement and contemplated Sales Process, on April 1, 2021, the Receiver issued a disclaimer notice to the Prior Listing Agent respecting the Maxwell Listing Agreement, with immediate effect. A copy of the Receiver's disclaimer notice is attached hereto as **Appendix "F"**.

RECEIPTS AND DISBURSEMENTS

33. As of the date of this First Report, the Receiver has not recovered any funds; however, it has incurred the following obligations yet to be satisfied:
- a. approximately \$2,600 in respect of insurance premiums in respect of the Lands;
 - b. approximately \$2,300 of utility charges related to the Lands;
 - c. Receiver's fees of \$16,542.75, plus GST, through to March 31, 2021 (the "**Receiver's Fees**"); and
 - d. legal fees of approximately \$16,114.50, plus GST, through to April 5, 2021 (the "**Legal Fees**").
34. The Receiver has requested funding in the amount of \$13,000 from 231 to fund insurance premiums and utility charges to be advanced by way of the issuance of a Receiver's Certificate.
35. Since the granting of the Receivership Order, the Receiver is of the view that its activities have been carried out fairly, efficiently and in a commercially reasonable manner. Further, the Receiver's Fees and the Legal Fees are fair and reasonable in the circumstances, and commensurate with the work performed to date.
36. Specifically, and as is more fully detailed in the First Report, the Receiver's efforts have focused on, among other things:
- a. attempting to collect the Company's Property and Records (as defined in the Receivership Order), including attempting to gain a better understanding of the whereabouts of the Trucks supposedly located in the United States;
 - b. negotiating the terms of the Listing Agreement with the proposed Selling Agent; and
 - c. developing the terms of the proposed Sales Process.

37. The accounts of the Receiver and its legal counsel will be provided to this Honourable Court in advance of the Receiver's application for approval thereof.
38. In light of the foregoing, the Receiver is of the view that it is just and fair that this Honourable Court approve the Receiver's activities, disbursements and fees, as well as the fees of the Receiver's legal counsel, without the necessity of a formal passing of accounts.

RECOMMENDATIONS

39. For the reasons set out in this First Report, the Receiver recommends to this Honourable Court approval of the following:
- a. the Listing Agreement;
 - b. the proposed Sales Process;
 - c. the Receiver's Fees and Legal Fees; and
 - d. the actions, conduct and activities of the Receiver from the date of the Receivership Order up to and including April 6th, 2021 as are more particularly described in this First Report.

All of which is respectfully submitted this 6th day of April 2021.

BDO Canada Limited, in its capacity as
Receiver and Manager of 1652563 Alberta Ltd.
and not in its personal or corporate capacities



Per: _____
Marc Kelly
Senior Vice President

APPENDIX “A”



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0019 707 009 3845CO;OT 201 137 322

LEGAL DESCRIPTION

PLAN 3845CO
THAT PORTION OF THE ROADWAY
SOUTH OF LOT 8 BLOCK 28
AND NORTH OF LOT 1 BLOCK 29
EXCEPTING THEREOUT ALL MINES AND MINERALS

ATS REFERENCE: 5;1;30;17;SE
ESTATE: FEE SIMPLE

MUNICIPALITY: TOWN OF CARSTAIRS

REFERENCE NUMBER: 851 042 530

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
201 137 322	07/08/2020	TRANSFER OF LAND	\$240,000	NOMINAL

OWNERS

1652563 ALBERTA LTD.
OF BOX 2144
CARSTAIRS
ALBERTA T0M 0N0

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION	DATE (D/M/Y)	PARTICULARS
NUMBER		
201 208 518	10/11/2020	CAVEAT RE : AMENDING AGREEMENT CAVEATOR - 2314174 ALBERTA LTD. STE 3810, BANKERS HALL WEST 888-3 ST SW CALGARY ALBERTA T2P5C5

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

(DATA UPDATED BY: TRANSFER OF CAVEAT
211052698)

TOTAL INSTRUMENTS: 001

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 1 DAY OF APRIL,
2021 AT 10:17 A.M.

ORDER NUMBER: 41348628

CUSTOMER FILE NUMBER: bdo



END OF CERTIFICATE

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED
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SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM
INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION,
APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS
PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING
OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

APPENDIX “B”



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0038 673 125 3845CO;28;7,8 201 128 945

LEGAL DESCRIPTION
PLAN 3845CO
BLOCK 28
LOTS 7 AND 8
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

ESTATE: FEE SIMPLE
ATS REFERENCE: 5;1;30;17;SE

MUNICIPALITY: TOWN OF CARSTAIRS

REFERENCE NUMBER: 181 209 629

REGISTERED OWNER(S)					
REGISTRATION	DATE (DMY)	DOCUMENT	TYPE	VALUE	CONSIDERATION
201 128 945	24/07/2020	SEPARATION -	PARCEL		

OWNERS

1652563 ALBERTA LTD.
OF BOX 2144
CARSTAIRS
ALBERTA T0M 0N0

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION	DATE (D/M/Y)	PARTICULARS
181 209 630	28/09/2018	MORTGAGE MORTGAGEE - 2314174 ALBERTA LTD. STE 3810, BANKERS HALL WEST 888-3 ST SW CALGARY ALBERTA T2P5C5 ORIGINAL PRINCIPAL AMOUNT: \$500,000 (DATA UPDATED BY: TRANSFER OF MORTGAGE (CONTINUED)

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2
201 128 945

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

211052697)

211 018 902 22/01/2021 WRIT
CREDITOR - STERLING TRAILER SALES (A PARTNERSHIP).
1935-2 AVE
DUNMORE
ALBERTA T0J1A0
DEBTOR - 1652563 ALBERTA LTD.
419-10 AVE S
CARSTAIRS
ALBERTA TOM0N0
AMOUNT: \$22,250 AND COSTS IF ANY
ACTION NUMBER: 210800008

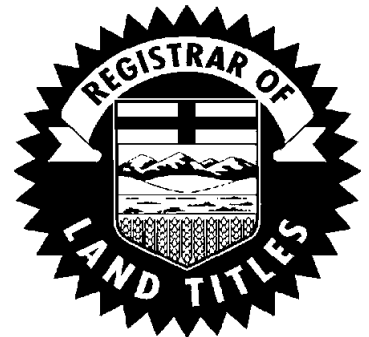
211 042 766 24/02/2021 WRIT
CREDITOR - ALBERTA TREASURY BRANCHES.
2100, 1K0020 - 100 STREET
EDMONTON
ALBERTA T5J0N3
DEBTOR - 1652563 ALBERTA LTD.
419-10 AVE S
CARSTAIRS
ALBERTA TOM0N0
AMOUNT: \$171,735 AND COSTS IF ANY
ACTION NUMBER: 2001-11460

TOTAL INSTRUMENTS: 003

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 1 DAY OF APRIL,
2021 AT 10:04 A.M.

ORDER NUMBER: 41348369

CUSTOMER FILE NUMBER: BDO



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(CONTINUED)

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APPENDIX “C”



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0038 673 109 3845CO;28;5,6 201 128 945 +1

LEGAL DESCRIPTION
PLAN 3845CO
BLOCK 28
LOTS 5 AND 6
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

ESTATE: FEE SIMPLE
ATS REFERENCE: 5;1;30;17;SE

MUNICIPALITY: TOWN OF CARSTAIRS

REFERENCE NUMBER: 181 209 629

REGISTERED OWNER(S)					
REGISTRATION	DATE (DMY)	DOCUMENT	TYPE	VALUE	CONSIDERATION
201 128 945	24/07/2020	SEPARATION -	PARCEL		

OWNERS

1652563 ALBERTA LTD.
OF BOX 2144
CARSTAIRS
ALBERTA T0M 0N0

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION	DATE (D/M/Y)	PARTICULARS
181 209 630	28/09/2018	MORTGAGE MORTGAGEE - 2314174 ALBERTA LTD. STE 3810, BANKERS HALL WEST 888-3 ST SW CALGARY ALBERTA T2P5C5 ORIGINAL PRINCIPAL AMOUNT: \$500,000 (DATA UPDATED BY: TRANSFER OF MORTGAGE (CONTINUED)

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2

201 128 945 +1

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

211052697)

211 018 902 22/01/2021 WRIT
CREDITOR - STERLING TRAILER SALES (A PARTNERSHIP).
1935-2 AVE
DUNMORE
ALBERTA T0J1A0
DEBTOR - 1652563 ALBERTA LTD.
419-10 AVE S
CARSTAIRS
ALBERTA TOM0N0
AMOUNT: \$22,250 AND COSTS IF ANY
ACTION NUMBER: 210800008

211 042 766 24/02/2021 WRIT
CREDITOR - ALBERTA TREASURY BRANCHES.
2100, 1K0020 - 100 STREET
EDMONTON
ALBERTA T5J0N3
DEBTOR - 1652563 ALBERTA LTD.
419-10 AVE S
CARSTAIRS
ALBERTA TOM0N0
AMOUNT: \$171,735 AND COSTS IF ANY
ACTION NUMBER: 2001-11460

TOTAL INSTRUMENTS: 003

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ORDER NUMBER: 41348250

CUSTOMER FILE NUMBER: BDO



END OF CERTIFICATE

(CONTINUED)

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APPENDIX “D”

COMMERCIAL SELLER BROKERAGE AGREEMENT

This form was developed by the Alberta Real Estate Association for the use of its members and may not be altered electronically by any person. Others who use this document do so at their own risk.

This Seller Brokerage Agreement (the "Agreement") is between

THE SELLER

and

THE SELLER'S BROKERAGE (the "Brokerage")

Name <u>BDO Canada Limited, in its Capacity as Receiver and Manager</u>	Brokerage Name _____
Name _____ of <u>1652563 Alberta Ltd.</u>	_____ <u>Tyler Realty Corp. Ltd.</u>
Address <u>620, 903 8 Ave SW</u>	Address <u>3606 Blackfoot Trail S.E.</u>
_____ <u>Calgary AB</u> _____ <u>T2P 0P7</u>	_____ <u>Calgary, AB</u> _____ <u>T2G 4E6</u>
_____ (postal code)	_____ (postal code)
Phone _____ <u>403-536-8510</u>	Phone _____ <u>403-253-0333</u>
Fax _____	_____ <u>Dan Shute 403-874-2204</u>
Email _____ <u>makelly@bdo.ca</u>	_____ <i>Broker, Associate Broker or Associate authorized to represent the Brokerage</i>
	Member of _____ <u>Calgary</u> (the "Board")

In consideration of the Brokerage listing the Seller's Property, the Seller hereby gives the Brokerage the **exclusive** right to offer the Property for sale for the price of _____ Four Hundred Forty-Nine Thousand _____ Dollars (\$ 449,000.00) **plus GST**, if applicable, and upon the following terms:

1. THE PROPERTY

1.1 The Property is the Land and Buildings known as _____ located at: _____ 419 10 Ave S, Carstairs, AB (2400 sf bldg and lot) _____ 417 and 413 10 Ave S. Carstairs, AB _____ (municipal street address)

1.2 The legal description of the Property is:
Plan _____ Block/Unit _____ Lot _____
see attached

If Condominium Property, legal description and details as per Commercial Condominium Property Appendix (attached).

1.3 The Property includes:
(a) All goods attached to the Land and Buildings ("Attached Goods") except those goods listed below:

(b) Goods not attached to the Land and Buildings ("Unattached Goods") as listed below:

2. TERM OF THE AGREEMENT

2.1 This Agreement will commence at _____m. on the _____ 16th day of _____ April, 20 21 and will expire at _____m. on the _____ 16 day of _____ Jul, 20 21 (the "Expiry Date").

3. POSSESSION DATE

3.1 The proposed Possession Date is _____

4. MLS® SERVICES

- 4.1 All MLS® Listings must:
- (a) be for a minimum duration of 60 days;
 - (b) provide compensation for cooperating brokers for the sale of the property;
 - (c) not exclude any licensed industry member from acting as a cooperating broker.
- 4.2 Seller's Information:
- (a) The Seller Brokerage Agreement must be completed in full and must include the names of the parties, the term of the agreement, the address and legal description of the property, the price at which the property is being offered, the remuneration being offered to cooperating brokerages, the possession date and other property-dependent information necessary for the marketing of the property. This information will be entered into the MLS® System.
 - (b) Changes to certain of the above-mentioned information will require the signatures of the Seller.
 - (c) Should the Seller not wish its name to be entered into the MLS® System, this is permissible upon receipt of a written request from the Seller through its brokerage.
 - (d) The Seller maintains the right to request that information such as the address and legal description of the property not be displayed on ICX.ca or REALTOR.ca.
- 4.3 Advertising:
- (a) The Seller's name and contact information shall not appear on ICX.ca or REALTOR.ca or in the public remarks section of the MLS® System.
 - (b) The Brokerage may permit the Seller to reserve the right to sell the property itself. If Seller's Rights Reserved apply to a listing, that fact shall be disclosed to other members of the Board via the MLS® System.
- Note: *MLS® Listing means a property listed for sale on the Board's MLS® System. The trademarks MLS®, Multiple Listing Service® and the associated logos are owned by The Canadian Real Estate Association (CREA) and identify the quality of services provided by real estate professionals who are members of CREA.*

5. APPOINTMENT OF DESIGNATED AGENT

- 5.1 The Brokerage designates
- Dan Shute
- _____
- _____ (the Designated Agent) to serve as sole agent for the Seller.
- 5.2 If the Designated Agent ceases to be registered with the Brokerage, unless otherwise agreed in writing, the Brokerage will designate another member of the Brokerage to serve as the sole agent for the Seller.
- 5.3 The Seller agrees that an agency relationship will exist only with the Designated Agent and not with the Brokerage.
- 5.4 The Seller agrees the Brokerage's responsibilities will be limited to:
- (a) treating the interests of the Seller and buyers interested in the property represented by the Brokerage in an even-handed, objective and impartial manner;
 - (b) ensuring compliance by the Designated Agent with the Brokerage's policies and procedures governing designated agents;
 - (c) supervising the Designated Agent and support staff to ensure the Designated Agent fulfills its mandate under this Agreement;
 - (d) holding all monies received by the Brokerage in trust in accordance with the provisions of the *Real Estate Act*; and
 - (e) providing a true copy of this Agreement to the Seller after all parties have signed.
- 5.5 The Designated Agent's knowledge will not be attributed to the Brokerage or to its designated agents representing buyers or other sellers.
- 5.6 The Brokerage will appoint a supervising broker and, if required, an advisor for the purposes of clauses 5.4(b) and (c), but the Brokerage will ensure that all information obtained by these parties will be held in confidence by them. The Brokerage and the Designated Agent undertake that they will not disclose any confidential information concerning the Seller to any other member of the Brokerage or any other person unless authorized by the Seller or required by law.

6. DESIGNATED AGENT'S MANDATE

6.1 Obligations

The Designated Agent will fulfill the following duties:

- (a) to use best efforts to market the Property and to promote the interests of the Seller;
- (b) to market the Property through the MLS® of the Board in accordance with the requirements of the Board;
- (c) to cooperate with brokerages working with buyers;
- (d) subject to Section 19, to act solely as the Seller's agent and fulfill the duties of loyalty, confidentiality and full disclosure of all relevant facts affecting the transaction known to the Brokerage. This includes disclosing all conflicts of interest that may arise between the Seller's interests and those of the Brokerage or buyers;
- (e) to disclose to all buyers all material latent defects affecting the Property known to the Brokerage;
- (f) to assist the Seller in negotiating favourable terms and conditions with a buyer, resulting in a legally binding purchase contract for the Property;
- (g) to present, in a timely manner, all offers and counter-offers to the Seller even when the Property is already the subject of a purchase contract;
- (h) to comply with the provisions of the *Real Estate Act* and its regulations, and the rules and bylaws of the Real Estate Council of Alberta.

6.2 Other Services

The Seller requests, and the Designated Agent agrees to provide, the following services:

- (a) to advertise the Property; Yes No
- (b) to place a "for sale" sign on the Property; Yes No
- (c) to show the Property at times acceptable to the Seller and, if any, the tenant(s); Yes No
- (d) the services listed below:

7. BROKERAGE'S REMUNERATION

7.1 Commission

The Seller will pay the Brokerage as Commission 5% of the final sale price exc. GST if a cash sale is accepted OR a flat fee of \$7500 plus GST in the event a credit bid is accepted plus GST if, during the term of the Agreement:

- (a) the Property is sold, exchanged or otherwise disposed of by the Seller or anyone else;
- (b) a person contacts the Seller directly or through a brokerage or inspects the Property and the Property is then sold, exchanged or otherwise disposed of by the Seller or anyone else to that person within 90 days after the Expiry Date (the "Hold-Over Period"). This clause will not apply where the Seller has signed another seller brokerage agreement after the Expiry Date and a real estate commission is payable to another brokerage according to the terms of that other seller brokerage agreement as a result of the sale or disposition;
- (c) the Seller has signed a Purchase Contract with a buyer who is willing and able to complete the sale but the Seller refuses to complete the sale; or
- (d) a buyer is found who is willing and able to complete the sale upon the conditions outlined in this Agreement but the Seller refuses to sign the Purchase Contract.

7.2 Payment of Commission

- (a) The Seller will pay the Commission to the Brokerage no later than the second Business Day after the sale is completed, unless the Seller and the Brokerage agree otherwise in writing.
- (b) Any holdbacks or conditions accepted by the Seller or the Seller's lawyer will not delay payment of the Commission to the Brokerage.
- (c) The Brokerage will offer 50% (creditor bid acceptance excluded) of the Commission, plus GST, as compensation to cooperating brokerages.

7.3 Alternate Compensation

The Seller will pay Alternate Compensation to the Brokerage if a Purchase Contract is signed but the buyer defaults and the Deposits are forfeited. This Alternate Compensation will be lesser of the Commission that would have been payable had the sale been completed or 50% of the forfeited Deposits. Alternate Compensation shall be payable upon the forfeiture of the Deposits.

7.4 Deduction of Commission from Deposits and Proceeds of Sale

- (a) The Seller authorizes the Brokerage, upon completion of the sale, to deduct the Commission owed to the Brokerage from the Deposits, if any, held by the Brokerage and will pay any balance of Commission owed in accordance with clause 7.1.
- (b) The Seller irrevocably and unconditionally instructs any lawyer acting on behalf of the Seller to deduct from the Deposits and Proceeds of Sale, or any monies forfeited by or recovered from the buyer, any Commission or Alternate Compensation that remains owing to the Brokerage after it has exercised its right, if any, under clause 7.4(a) and to pay such Commission or Alternate Compensation, plus GST, to the Brokerage.

7.5 Limitation on Other Remuneration

The Brokerage agrees not to accept any other remuneration, whatever its form (including finder's fees, referral fees and gifts) and from whatever source (including the buyer, a mortgage lender, another brokerage or contractor), directly or indirectly related to its agency under this Agreement unless, before accepting such remuneration, the Brokerage has fully disclosed in writing to the Seller all relevant facts relating to the offer of remuneration, including the maximum amount to be received, and obtained the Seller's written consent to the Brokerage receiving such remuneration.

8. DEPOSITS

8.1 All Deposits will be held in accordance with the terms of the signed Purchase Contract. If the Deposits are held by a real estate brokerage, they must be held in trust according to the *Real Estate Act* (Alberta).

9. SECURITY FOR THE BROKERAGE'S REMUNERATION

- 9.1 The Seller **encumbers** all of its interest in the Property for the benefit of the Brokerage to secure payment of all money which may be owed by the Seller to the Brokerage under this Agreement. The Seller authorizes the Brokerage to file and maintain a **caveat** against the title to the Property in accordance with the *Land Titles Act* (Alberta) to give notice of this encumbrance.
- 9.2 If the Brokerage successfully enforces any of its rights or remedies under this section, the Seller will pay reasonable lawyer and client legal fees and costs incurred by the Brokerage.
- 9.3 If the Seller owes money under this Agreement and the Brokerage does not wish to enforce this Agreement against the Seller, then upon mutual agreement between the Brokerage and the buyer's brokerage, the Brokerage may assign this Agreement to the buyer's brokerage. If this Agreement is assigned, then the buyer's brokerage may enforce this Agreement against the Seller to collect the portion of the Remuneration or Alternate Compensation, plus GST, to which the buyer's brokerage is entitled, and the buyer's brokerage will have the same rights and security given to the Brokerage according to Section 9 of this Agreement.

10. DUTIES OF THE SELLER

- 10.1 The Seller will:
 - (a) make its best efforts to insure the Property and its contents against loss or damage due to perils that are normally insured against for similar properties. The Seller will make best efforts to ensure that such insurance will be effective even when the Property is vacant;
 - (b) make reasonable efforts to communicate and cooperate with the Designated Agent in a timely manner;
 - (c) provide the Designated Agent with all the information necessary for the listing and marketing of the Property; and,
 - (d) immediately advise the Designated Agent of any material change in the physical condition or status of the Property or in the information provided by the Seller.
- 10.2 The Seller will immediately advise the Designated Agent:
 - (a) during the term of the Agreement, of all inquiries by interested buyers or their representatives received by the Seller;
 - (b) during the term of the Agreement, of all offers to purchase from interested buyers or their representatives and will deliver such offers to the Brokerage;
 - (c) during the Hold-Over Period, of any offers to purchase the Property accepted by the Seller from a buyer introduced to the Seller during the term of the Agreement; and
 - (d) during the Hold-Over Period, of any offers or counter-offers regarding the Property made by the Seller and accepted by a buyer introduced to the Seller during the term of the Agreement.

11. IMPORTANT INFORMATION

- 11.1 The Seller will provide the following Important Information to the Designated Agent promptly and at the Seller's expense:
 - (a) a real property report, if applicable, reflecting the current state of improvements on the Property, according to the Alberta Land Surveyors' Manual of Standard Practice, with evidence of municipal compliance or non-conformance. This obligation will not apply to condominium units that do not create a lot nor to any transaction where there are no structures on the land.
 - (b) if the Property is a resale condominium, the Important Information as described in the Condominium Property Appendix (attached).
 - (c) all other applicable property information that is reasonably required to develop particulars of sale including, but not limited to, financial information such as annual property operating data (APOD), tenant schedules and leases, service and supply contracts, engineering reports, environmental assessment reports, building plans and specifications.
- 11.2 In the event that the Seller fails to provide the Important Information, the Designated Agent is authorized to obtain it on the Seller's behalf and at the Seller's expense.

11.3 Sellers are required by common law to disclose defects that are hidden, not visible or discoverable through a reasonable inspection of the Property, **and** that render the Property dangerous or potentially dangerous to the occupants or unfit for habitation. Sellers may also be required to disclose government and local authority notices and lack of development permits.

Are you aware of any such defects in the Property? Yes No _____ Seller's Initials

Have you received any government or local authority notices? Yes No _____ Seller's Initials

Are you aware of any lack of permits for any development on the property? Yes No _____ Seller's Initials

12. ADVICE TO THE SELLER

12.1 If the Seller has entered into any long-term contracts that relate to the Property, for example, agreements for gas or utility services or security monitoring, the Seller should verify termination policies and any possible financial penalties with the other contracting party.

12.2 The Seller is advised that the Designated Agent is being retained as a real estate broker, not as a lawyer, tax advisor, lender, appraiser, surveyor, structural engineer, property inspector, or other professional service provider.

13. SELLER'S WARRANTIES

13.1 The Seller warrants the following:

- (a) The Seller has the authority to sell the Property and enter into this Agreement;
- (b) The Seller has a right to sell the Unattached Goods listed in clause 1.3(b);
- ~~(c) The goods attached to the Property and the included Unattached Goods listed in clause 1.3 are free and clear of financial encumbrances;~~
- (d) The Seller has disclosed to the Designated Agent all third party claims and interests in the Property known to the Seller;
- (e) The Property is not currently the subject of any seller brokerage agreement;
- (f) All information provided to the Designated Agent is accurate to the best of the Seller's knowledge.

13.2 ~~The Seller warrants that, to best of the Seller's knowledge, the following are truthful and accurate:~~

- ~~(a) The current use of the Land and Buildings complies with the existing municipal land use bylaw;~~
- ~~(b) The Buildings and other improvements on the Land are not placed partly or wholly on any easement or utility right of way and are entirely on the Land and do not encroach on neighbouring lands, except where an encroachment agreement is registered on title, or in the case of an encroachment into municipal lands or a right of way, the municipality has endorsed encroachment approval directly on the real property report;~~
- ~~(c) The location of Buildings and other improvements on the Land complies with all relevant municipal bylaws, regulations or relaxations granted by the appropriate municipality prior to the sale being completed, or the Buildings and other improvements on the Land are "non-conforming buildings" as that term is defined in the *Municipal Government Act* (Alberta); and~~
- ~~(d) The current use of the Land and Buildings and the location of the Buildings and other improvements on the Land comply with any restrictive covenant on title;~~
- ~~(e) Within the meaning of the *Income Tax Act* (Canada), the Seller is not now, nor will be on Completion Day, a non-resident of Canada nor is the Seller an agent or a trustee for any person with an interest in the Property who is a non-resident of Canada.~~
- (f) Where applicable, the Seller has complied with the bylaws of the Condominium Corporation.

14. SELLER'S CONFIDENTIAL INFORMATION WILL BE PROTECTED

14.1 The Brokerage and the Designated Agent undertake that they will:

- (a) not use confidential information received from the Seller, or obtained as a result of providing services under this Agreement, for its own gain or the gain of its employees or to the prejudice of the Seller's interests; and
- (b) not disclose any confidential information concerning the Seller to any other brokerage or other person unless authorized by the Seller or required by law.

15. USE AND DISTRIBUTION OF SELLER'S INFORMATION

15.1 The Seller consents to the collection, use and disclosure of personal information by the Brokerage and the Designated Agent for the purpose of this Agreement and such other use as is consistent with listing and marketing the Property including, but not limited to:

- (a) listing and advertising the Property using any medium including electronic media, interior and exterior photographs and video;
- (b) retaining and disclosing any listing and sales information, including price, which may be used by the Brokerage or the Designated Agent for any purpose relating to its business including conducting comparative analyses and disclosing such information to other persons such as appraisers and other brokerages;

15.2 Subject to Section 4 of this Agreement, the Seller consents to placement of the listing and sales information by the Brokerage into the database(s) of the appropriate listing service(s) of the Board and acknowledges that the database of the Board is the property of the Board.

- 15.3** The Seller further acknowledges that the Brokerage, the Designated Agent and the Board may:
- (a) distribute the information to any persons authorized to use such service which may include other brokers, government departments, appraisers, municipal organizations and others;
 - (b) market the Property, at its option, in any medium, including electronic media;
 - (c) compile, retain and publish any statistics including historical listing service data which may be used by the Brokerage and licensed Board members to conduct comparative market analyses; and
 - (d) make such other use of the information as the Brokerage, the Designated Agent and the Board deem appropriate in connection with the listing, marketing and selling of real estate.

16. INDEMNIFICATION

- 16.1** ~~The Seller will hold harmless and indemnify the Brokerage and the Designated Agent for any claims that may arise from its reasonable and good faith reliance on representations made, or information provided, by the Seller.~~

17. ADDITIONAL TERMS

- 17.1** The Seller agrees that:
- (a) the Designated Agent may represent other sellers and, subject to Section 19, buyers;
 - (b) the Brokerage and the Designated Agent cannot disclose to the Seller confidential information obtained through any other agency relationship to which the Brokerage or the Designated Agent is or has been a party;
 - (c) the Designated Agent will not be obligated to seek additional offers to purchase while the Property is subject to an unconditional purchase contract;
 - (d) if the Property is owned by a limited company, a sale of shares representing a controlling interest in the Property will constitute a sale for the purposes of this Agreement.
- 17.2** This Agreement:
- (a) includes, if signed or initialled by the Seller and attached to this Agreement, the following documents:
includes and is subject to, the Sales Process attached hereto as Appendix A
 - (b) will constitute the entire agreement between the Seller and Brokerage and there are no representations, warranties, collateral agreements or conditions which affect this Agreement other than as expressed herein.
 - (c) is for the benefit of and will be binding upon the heirs, administrators, executors, successors and assigns of the parties;
 - (d) will be governed by the laws of the Province of Alberta and the parties will submit to the jurisdiction of the Courts of the Province of Alberta for the resolution of any disputes that may arise out of this Agreement.
- 17.3** No amendment to the terms of this Agreement shall be effective unless it is in writing and signed by the Seller and the Brokerage.
- 17.4** If there is conflict or discrepancy between any provision added to this Agreement and any provision in the standard portion hereof, the added provision will supersede the standard provision to the extent of such conflict or discrepancy.
- 17.5** **This Agreement is subject to and conditional upon approval by the Court of Queen's Bench of Alberta.**
- 17.6** **This Agreement may be terminated early by the Receiver, with or without cause. If the Agreement is terminated by the Receiver without cause, the Brokerage shall be entitled to the minimum flat fee payment of \$7,500 plus GST. If the Agreement is terminated by the Receiver for cause, no fees shall be payable by the Receiver to the Brokerage.**

18. ENDING THE AGREEMENT

- 18.1** Without prejudice to the acquired rights of the Seller or the Brokerage, this Agreement will end upon:
- (a) a completed sale of the Property;
 - (b) the expiration of the term of the Agreement as specified in clause 2.1 or on an earlier date if mutually agreed to by the Seller and the Brokerage in writing;
 - (c) the suspension or cancellation of the Brokerage's licence to trade in real estate;
 - (d) the Brokerage ceasing to be a member in good standing of a real estate board/association; or
 - (e) the bankruptcy or insolvency of the Brokerage or if it is in receivership.
- 18.2** Where one party to this Agreement has materially breached a part of this Agreement, the other party may, at its option, end this Agreement by notice in writing to the party in breach.
- 18.3** When this Agreement ends, the Brokerage and the Designated Agent will immediately remove the Property as an active listing on any listing service, cease all marketing activities on behalf of the Seller, remove all signs and any lockbox from the Property, and return documents and other materials provided by the Seller.
- 18.4** Ending this Agreement for whatever reason does not relieve the Brokerage and the Designated Agent of their duty of confidentiality to the Seller and their duty to account for all monies received by the Brokerage.

19. AGENCY DISCLOSURE AND TRANSACTION BROKERAGE

- 19.1 The Seller has entered into an agency relationship with the Designated Agent. The Designated Agent is obligated to protect and promote the interests of the Seller. Specifically, the Designated Agent owes the Seller the duties of loyalty, obedience, confidentiality, reasonable care and skill, full disclosure and full accounting.
- 19.2 The Seller and potential buyers may be represented by different designated agents or different brokerages. Each owes its client the full agency duties listed in 19.1. Designated agents or brokerages representing buyers will not have an agency relationship with the Seller.
- 19.3 If the Designated Agent is the agent of a buyer who wishes to make an offer on the Property, the duties owed to each party are in conflict and would by necessity be limited. Prior to writing the offer the Designated Agent will review with the buyer all relevant facts and implications of dual representation and then seek the buyer's written consent to transaction brokerage on the terms specified in the Transaction Brokerage Agreement. The Designated Agent will obtain the Seller's consent to transaction brokerage prior to presenting the buyer's offer to the Seller.
- 19.4 Should either the Designated Agent or the Brokerage decide not to enter into transaction brokerage or should either the Seller or the buyer refuse to consent to transaction brokerage, unless otherwise agreed in writing by the parties, the Designated Agent will continue to represent the party, be it the Seller or the buyer, with whom it first entered into an exclusive agency relationship and the Brokerage will offer to designate another member of the Brokerage to represent the other party as sole agent or refer the other party to another brokerage.

20. DEFINITIONS

- 20.1 For the purposes of this Agreement:
 - (a) "Business Day" means every day but Saturday, Sunday and statutory holidays;
 - (b) "purchase" includes an exchange, option, lease or other acquisition of an interest in real estate;
 - (c) "sale" includes an exchange, option, lease or other disposition of an interest in real estate;
 - (d) the sale is completed when the purchase price is paid to the Seller or the Seller's lawyer and is releasable.

21. SELLER'S ACKNOWLEDGMENT

- 21.1 The Seller, having received and read this Agreement, and having been given the opportunity to request further information concerning this Agreement and the representation relationships described in clause 19.1, acknowledges this Agreement accurately sets out the terms agreed to by the Seller and the Brokerage.

22. SIGNATURES

- 22.1 This Agreement may be signed by the parties and transmitted by fax. This procedure will be as effective as if the parties had signed and delivered an original copy.

This Agreement was signed on _____ **April** _____, 20**21** _____.

BDO Canada Limited, in its Capacity as Receiver and Manager of 1652563 Alberta Ltd.

Name of Owner Registered on Title

Authorized Signing Officer

Witness

Print Name of Authorized Signing Officer

Print Name of Witness

Authorized Signing Officer

Witness

Print Name of Authorized Signing Officer

Print Name of Witness

Signature of Designated Agent
(authorized to sign on behalf of the Brokerage)

Dan Shute

Print Name of Designated Agent

403-874-2204

Phone

403-253-4407

Fax

dan@tylerrealty.com

Email

Note: All communications are to be directed to the Designated Agent

Seller: Initial here to show you have received a copy of this Agreement. _____ Date _____

COMMERCIAL SELLER BROKERAGE AGREEMENT

APPENDIX

This Appendix is attached to and forms part of the Commercial Seller Brokerage Agreement # BDO-Apr2021

Between

THE SELLER

and

THE SELLER'S BROKERAGE (the "Brokerage")

Name BDO Canada Limited, in its Capacity as Receiver and Manager Brokerage Name

Name of 1652563 Alberta Ltd. Tyler Realty Corp. Ltd.

Dan Shute 403-874-2204

Broker, Associate Broker or Associate authorized to represent the Brokerage

With respect to the Property described as:

Municipal Address 419 10 Ave S, Carstairs, AB (2400 sf bldg and lot)

417 and 413 10 Ave S. Carstairs, AB

The Properties included in the listing are described as:

419 - 10 Ave S, Carstairs, AB
Plan 3845CO
That Portion of the Roadway
South of Lot 8, Block 28
And North of Lot 1 Block 29
Excepting Thereout All Mines and Minerals
Linc. 0019707009
2,400 sq. ft. +/- commercial building on a 8,567 sf +/- lot
\$289,000

417 - 10 Ave S.
Plan 3845CO, Block 28, Lots 7 & 8
Excepting Thereout All Mines and Minerals
Linc. 0038 673 125
6,500 sq. ft. +/- vacant commercial lot
\$89,000

413 - 10 Ave S.
Plan 3845CO, Block 28, Lots 7 & 8
Excepting Thereout All Mines and Minerals
Linc. 0038 673 109
6,500 sq. ft. +/- vacant commercial lot
\$89,000

Note: This form must be initialled by all parties to the Commercial Seller Brokerage Agreement.

Date: _____ m. on _____, 20_____.

Name of Owner(s) Registered on Title

Authorized Signing Officer(s)

Witness

Authorized Signing Officer(s)

Witness

Signature of Broker, Associate Broker or Associate
authorized to sign on behalf of the Brokerage

(Appendix “A” to Commercial Seller Brokerage Agreement – BDO-Apr2021)

SALES PROCESS

On the application of 2314174 Alberta Ltd. (the “**Secured Lender**”), BDO Canada Limited (“**BDO**”) was appointed the receiver and manager (the “**Receiver**”) of the current and future assets, undertakings and properties of 1652563 Alberta Ltd. (the “**Debtor**”), pursuant to a receivership order (the “**Receivership Order**”) granted by the Court of Queen’s Bench of Alberta (the “**Court**”) on February 11, 2021.

The Debtor is the fee simple owner of three adjacent lands located in the Town of Carstairs, Alberta, which are municipally and legally described as follows (collectively, the “**Lands**”):

<u>No.</u>	<u>Municipal Address</u>	<u>Legal Description</u>	<u>Detail</u>
1	419, 10 Avenue South, Carstairs, AB, T0M 0N0	PLAN 3845C0 THAT PORTION OF THE ROADWAY SOUTH OF LOT 8 BLOCK 28 AND NORTH OF LOT 1 BLOCK 29 EXCEPTING THEREOUT ALL MINES AND MINERALS	Commercial building and parking space (the “ Building Lot ”)
2	417, 10 Avenue South, Carstairs, AB, T0M 0N0	LEGAL DESCRIPTION PLAN 3845CO BLOCK 28 LOTS 7 AND 8 EXCEPTING THEREOUT ALL MINES AND MINERALS AND THE RIGHT TO WORK THE SAME	Vacant commercial zoned land (“ Lot 417 ”)
3	413, 10 Avenue South, Carstairs, AB, T0M 0N0	PLAN 3845CO BLOCK 28 LOTS 5 AND 6 EXCEPTING THEREOUT ALL MINES AND MINERALS AND THE RIGHT TO WORK THE SAME	Vacant commercial zoned land (“ Lot 413 ”)

The Secured Lender holds a mortgage in respect of each of the Lands. The Lands are more particularly described in the Receiver’s First Report to the Court dated April 5, 2021 (the “**First Report**”).

Subject to the approval of the Court, the Receiver intends to market and sell the Lands in accordance with the sales process described herein (the “**Sales Process**”). To assist with the implementation of the Sales Process, the Receiver has, subject to Court approval, engaged Tyler Realty Corp. Ltd. as its selling agent (the “**Selling Agent**”).

The balance of this document outlines the Sales Process, which is principally comprised of three stages: pre-marketing, marketing and offering/evaluation stages. The Secured Lender shall have certain consultation and credit bidding rights as provided for below.

Unless otherwise indicated, capitalized terms used herein shall have the meanings given to them in the First Report.

OPPORTUNITY AND SALES PROCESS SUMMARY

1. The Sales Process is intended to solicit interest in the sale of the Lands (the “**Opportunity**”).
2. Having regard to the location and status of the Lands, the Receiver and Selling Agent shall solicit interest in the Lands in the following three packages (collectively, the “**Packages**”):
 - a) **Package 1:** all of the Lands, being an *en bloc* offer;
 - b) **Package 2:** the Building Lot; and
 - c) **Package 3:** Lot 417 and Lot 413.
3. Except as otherwise set forth in a definitive sale agreement with a successful bidder, any offer by a bidder is on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Receiver or the Selling Agent, or any of their respective affiliates, agents, advisors or estates. In the event of a sale, all of the right, title and interest of the Receiver in and to the Lands to be acquired shall be sold free and clear of all mortgages, pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to a Court Order, except as otherwise provided in such Court Order.
4. Solicitation of interest for formal binding offers shall be on an unpriced basis whereby no minimum asking price will be stipulated.

TIMELINE

5. The following table sets out the key milestones under the Sales Process:

<u>Milestone</u>	<u>Deadline</u>
Commencement Date	April 16, 2021
Final Bid Deadline	July 16, 2021
Sale Approval Application(s)	To be determined.

PRE-MARKETING

6. As soon as reasonably practicable, but in any event by no later than April 16, 2021 (the “**Commencement Date**”):
 - a) the Selling Agent, in consultation with the Receiver, shall prepare: (i) a process summary (the “**Teaser Letter**”) describing the Opportunity and Packages, outlining the Sales Process, and inviting recipients of the Teaser Letter to express their interest to participate in the Sale Process;

- b) the Receiver, with input from the Selling Agent, shall develop a purchase and sale agreement for use during the Sales Process (the “**Draft PSA**”); and
- c) the Selling Agent will prepare a list of potential bidders, including (i) parties that have approached the Receiver or the Selling Agent indicating an interest in the Opportunity; and (ii) local, national or U.S. parties who the Receiver and the Selling Agent believe may be interested in purchasing the Lands or some of them (collectively, “**Known Potential Bidders**”).

MARKETING

- 7. The Receiver shall arrange for a notice of the Sales Process (and such other relevant information as the Receiver and Selling Agent consider appropriate) (the “**Notice**”) to be published in the *Calgary Herald*, the *Red Deer Advocate*, and any other newspaper or journals as the Receiver and the Selling Agent consider appropriate, if any.
- 8. The Selling Agent shall send the Teaser Letter to all Known Potential Bidders, the Selling Agent’s proprietary list of purchasers, and third-party brokerages, and any other party responding to the Notice or press release, or otherwise making inquiries regarding the Sales Process and Opportunity (all of the foregoing collectively referred to herein as an “**Interested Party**” or “**Interested Parties**”).
- 9. Requests for information shall be directed to the Selling Agent or the Receiver, at the contact information listed in **Appendix “A”** hereto. The Selling Agent shall send additional information relating to the Opportunity to Interested Parties as soon as reasonably practicable after such request. Notwithstanding the foregoing, neither the Selling Agent nor the Receiver are under any obligation to provide further information to an Interested Party who in either the Selling Agent’s or the Receiver’s reasonable business judgment is not participating in the Sales Process in good faith and with the intention to evaluate the Opportunity for the purposes of potentially making a formal binding offer in accordance with paragraph 11 hereof.

DUE DILIGENCE

- 10. The Receiver and the Selling Agent shall in their reasonable business judgment and subject to competitive and other business considerations, afford each Interested Party access to such information relating to the Lands as they deem appropriate. Notwithstanding the foregoing, neither the Selling Agent nor the Receiver are under any obligation to provide further information to an Interested Party who in either the Selling Agent’s or the Receiver’s reasonable business judgment is not participating in the Sales Process in good faith and with the intention to evaluate the Opportunity for the purposes of potentially making a formal binding offer in accordance with paragraph 11 hereof. By participating in the Sales Process, each Interested Party shall rely solely on its own investigations in order to satisfy itself as to all matters, except to the extent expressly agreed to in a definitive sale agreement with a successful bidder. The Receiver and the Selling Agent, and their respective advisors, make no representation or warranty as to the accuracy or completeness of any information made available pursuant to the Sales Process to such Interested Parties or otherwise, except to the extent as may be expressly contemplated in any definitive sale agreement with a successful bidder.

FORMAL BINDING OFFERS AND SELECTION OF SUCCESSFUL BIDS

Formal Binding Offers

- 11. Interested Parties shall be entitled to make a formal offer to purchase a Package. Such Interested Parties wishing to make a formal offer shall submit, to the Selling Agent and Receiver at the addresses specified

in **Appendix “A”** hereto (including by email), so to be received by not later than 5:00 PM (Calgary time) on July 16, 2021 (the “**Final Bid Deadline**”), a sealed binding offer that complies with all of the following requirements:

- a) cash is the preferred form of consideration, but if the bid utilizes other consideration, a description of the material terms of the consideration shall be provided;
- b) the bid is an offer to purchase a Package on terms and conditions acceptable to the Receiver;
- c) unless otherwise agreed, the bid shall take the form of the Draft PSA and shall include a letter stating that the Interested Party’s offer is irrevocable until the selection of one or more Successful Bidders (as defined below), provided that if such Interested Party is selected as a Successful Bidder, its offer shall remain irrevocable until the closing of the transaction with the Successful Bidder;
- d) the bid includes duly authorized and executed transaction agreements as contemplated by the Draft PSA; including, but not limited to, the purchase price expressed in Canadian dollars (the “**Purchase Price**”), together with all exhibits and schedules thereto, and the name or names of the ultimately beneficial owner(s) of the Interested Party, including their respective percentage interests;
- e) the bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction that will allow the Receiver to make a determination as to the Interested Party’s financial and other capabilities to consummate the proposed transaction;
- f) the bid should not be conditioned on the outcome of unperformed due diligence by the Interested Party;
- g) the bid fully discloses the identity of each entity that will be entering into the transaction or the financing, or that is participating or benefiting from such bid;
- h) the bid includes a commitment by the Interested Party to provide a non-refundable deposit in the amount of not less than 10% of the Purchase Price offered upon the Interested Party being selected as the Successful Bidder, which shall be paid to the Receiver in trust;
- i) the bid includes acknowledgments and representations of the Interested Party that: (i) it has had an opportunity to conduct any and all due diligence regarding the Lands prior to making its offer; (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Lands in making its bid; and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever made by the Receiver or the Selling Agent, whether express, implied, statutory or otherwise, regarding the property or the accuracy or completeness of any information provided in connection therewith, except as expressly stated in the definitive purchase agreement signed by the Receiver;
- j) all required corporate approvals of the Interested Party will have been obtained prior to the submission of the bid;
- k) the bid shall identify any material conditions in favour of the purchaser to be resolved prior to closing the transaction;

- l) the bid is received by the Final Bid Deadline; and
 - m) the bid contemplates a schedule for closing the transaction.
12. If an Interested Party submits a bid that complies with the requirements specified in paragraph 11 above such bid shall be deemed by the Receiver to be a “**Qualified Bid**” and each party who makes such bid a “**Qualified Bidder**”. Notwithstanding the foregoing, the Receiver may, acting reasonably, waive strict compliance with any one or more of the requirements specified above and deem non-compliant bids to be a Qualified Bid.
13. The Receiver shall have the right to remove all or part of the Lands or a Package from the Sales Process at its sole discretion.
14. If the Receiver is not satisfied with the number or terms of the Qualified Bids, the Receiver may amend the Sales Process to extend the Final Bid Deadline.
15. The Receiver may terminate, at any time without Court approval, further participation in the Sales Process by any Interested Party, or to modify dates or procedures as deemed appropriate or necessary, or to terminate the Sales Process in its entirety.

Credit Bid by the Secured Lender

16. The Receiver, in consultation with the Selling Agent, shall consider any bid by the Secured Lender, whereby all or a portion of the consideration being offered under the bid includes the compromise of all or a portion of the indebtedness owing from the Debtor to the Secured Lender (a “**Credit Bid**”).
17. A Credit Bid submitted by the Secured Lender (in this case, the “**Credit Bidder**”), shall be deemed to be a Qualified Bid for the purpose of the Sales Process, and the Credit Bid shall be deemed to be a Qualified Bid for the Sales Process, provided that:
- a) the Credit Bidder executes and delivers to the Receiver a non-disclosure agreement in the form and substance satisfactory to the Receiver in its sole discretion (an “**NDA**”);
 - b) the Credit Bid is submitted by the Final Bid Deadline; and
 - c) the Credit Bid complies with the requirements under paragraph 11 above, as are applicable given the nature of the Credit Bid which is a comprise of indebtedness. For clarity, the Credit Bidder shall not be required to pay to the Receiver a deposit.
18. The Credit Bidder may be given access to other Qualified Bids received by the Receiver and Selling Agent during the Sales Process, provided that:
- a) access to other Qualified Bids is granted only after the Final Bid Deadline; or
 - b) the Credit Bid is submitted on or before the Final Bid Deadline, and the Credit Bidder covenants that its Credit Bid shall not be increased at any time during the Sales Process, and the Credit Bidder shall not be permitted to increase its Credit Bid at any time during the Sales Process; and

- c) the Credit Bidder maintains the confidentiality of the information provided, pursuant to the NDA and does not communicate, directly or indirectly with other parties or any other Qualified Bidder.
19. For clarity, if the Secured Lender submits a Credit Bid after the expiration of the Final Bid Deadline, such Credit Bid shall not be considered a Qualified Bid, and the Secured Lender shall not be considered a Credit Bidder or Qualified Bidder.

Evaluation of Competing Bids

20. A Qualified Bid will be evaluated, even before the Final Bid Deadline, based upon several factors, including, without limitation, items such as (i) the Purchase Price and the net value and form of consideration to be paid provided by such Qualified Bid; (ii) the identity, circumstances and ability of the Qualified Bidder to successfully complete such transactions, including any conditions attached to the Qualified Bid and the expected feasibility of such conditions, the proposed transaction documents (including any deviations from the Draft PSA); (iii) factors affecting the speed, certainty and value of the transaction; and (iv) the likelihood and timing of consummating such transaction, and the ability of the Qualified Bidder to finance and ultimately consummate the proposed transaction within the timeline established by the Receiver.

Selection of Successful Bid

21. Following the Final Bid Deadline, the Receiver shall:
- a) review and evaluate each Qualified Bid (including any Credit Bid) in consultation with the Selling Agent and the Secured Lender (or the Credit Bidder, as the case may be); and
 - b) identify the highest or otherwise best bid(s) for the Package(s), which may be a Credit Bid (each a “**Successful Bid**”), and the Qualified Bidder(s) making such Successful Bid(s) (each a “**Successful Bidder**”). The determination of any Successful Bid by the Receiver shall be subject to approval by the Court.
22. The Receiver shall have no obligation to enter into a Successful Bid and reserves the right to reject any or all Qualified Bids.

Sale Approval Application

23. At the hearing of the application to approve any transaction with a Successful Bidder (each a “**Sale Approval Application**”), the Receiver shall seek, among other things, approval from the Court to consummate a Successful Bid.
24. All Qualified Bids for the same Package as a Successful Bid placed before the Court (if any), other than the Successful Bid subject of the application, shall be deemed rejected by the Receiver on and as of the date of approval of such Successful Bid by the Court.

Confidentiality and Access to Information

25. Unless otherwise expressly set out herein, participants and prospective participants in the Sales Process shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of Potential Bidders, Qualified Bidders, Qualified Bids, the details of

any bids submitted or the details of any confidential discussions or correspondence between the Receiver and such other bidders or Potential Bidders in connection with the Sales Process.

Supervision of the Sales Process

26. The Receiver and Selling Agent shall participate in the Sales Process in the manner set out in this Sales Process and are entitled to receive all information in relation to the Sales Process.
27. This Sales Process does not, and will not be interpreted to, create any contractual or other legal relationship between the Receiver or Selling Agent and any Qualified Bidder, the Credit Bidder, or any other party, other than as specifically set forth in a definitive agreement that may be signed with the Receiver and approved by the Court.
28. Without limiting the preceding paragraph, the Receiver shall not have any liability whatsoever to any person or party, including without limitation any Interested Party, Qualified Bidder, the Credit Bidder, a Successful Bidder, or any other creditor or other stakeholder of the Debtor, for any act or omission related to the process contemplated by this Sales Process, except to the extent such act or omission is the result from gross negligence or willful misconduct of the Receiver. By submitting a bid, each Qualified Bidder, Credit Bidder, or Successful Bidder, as the case may be, shall be deemed to have agreed that it has no claim against the Receiver for any reason whatsoever, except to the extent such claim is the result from gross negligence or willful misconduct of the Receiver.
29. Participants in the Sales Process are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
30. The Receiver shall have the right to modify the Sales Process and the deadlines set out herein if, in its reasonable business judgment, such modification will enhance the process or better achieve the objectives of the Sales Process.

APPENDIX “A”

CONTACT INFORMATION

Selling Agent

Tyler Realty Corp. Ltd.
3606 Blackfoot Trail SE,
Calgary, AB, T2G 4E6

Attention: Dan Shute, Senior Associate (dan@tylerrealty.com)

Receiver

BDO Canada Limited
110, 5800 2 Street SW
Calgary, AB T2H 0H2

Attention: Marc E. Kelly, Senior Vice President (makelly@bdo.ca)

APPENDIX “E”

SALES PROCESS

On the application of 2314174 Alberta Ltd. (the “**Secured Lender**”), BDO Canada Limited (“**BDO**”) was appointed the receiver and manager (the “**Receiver**”) of the current and future assets, undertakings and properties of 1652563 Alberta Ltd. (the “**Debtor**”), pursuant to a receivership order (the “**Receivership Order**”) granted by the Court of Queen’s Bench of Alberta (the “**Court**”) on February 11, 2021.

The Debtor is the fee simple owner of three adjacent lands located in the Town of Carstairs, Alberta, which are municipally and legally described as follows (collectively, the “**Lands**”):

<u>No.</u>	<u>Municipal Address</u>	<u>Legal Description</u>	<u>Detail</u>
1	419, 10 Avenue South, Carstairs, AB, T0M 0N0	PLAN 3845C0 THAT PORTION OF THE ROADWAY SOUTH OF LOT 8 BLOCK 28 AND NORTH OF LOT 1 BLOCK 29 EXCEPTING THEREOUT ALL MINES AND MINERALS	Commercial building and parking space (the “ Building Lot ”)
2	417, 10 Avenue South, Carstairs, AB, T0M 0N0	LEGAL DESCRIPTION PLAN 3845CO BLOCK 28 LOTS 7 AND 8 EXCEPTING THEREOUT ALL MINES AND MINERALS AND THE RIGHT TO WORK THE SAME	Vacant commercial zoned land (“ Lot 417 ”)
3	413, 10 Avenue South, Carstairs, AB, T0M 0N0	PLAN 3845CO BLOCK 28 LOTS 5 AND 6 EXCEPTING THEREOUT ALL MINES AND MINERALS AND THE RIGHT TO WORK THE SAME	Vacant commercial zoned land (“ Lot 413 ”)

The Secured Lender holds a mortgage in respect of each of the Lands. The Lands are more particularly described in the Receiver’s First Report to the Court dated April 5, 2021 (the “**First Report**”).

Subject to the approval of the Court, the Receiver intends to market and sell the Lands in accordance with the sales process described herein (the “**Sales Process**”). To assist with the implementation of the Sales Process, the Receiver has, subject to Court approval, engaged Tyler Realty Corp. Ltd. as its selling agent (the “**Selling Agent**”).

The balance of this document outlines the Sales Process, which is principally comprised of three stages: pre-marketing, marketing and offering/evaluation stages. The Secured Lender shall have certain consultation and credit bidding rights as provided for below.

Unless otherwise indicated, capitalized terms used herein shall have the meanings given to them in the First Report.

OPPORTUNITY AND SALES PROCESS SUMMARY

1. The Sales Process is intended to solicit interest in the sale of the Lands (the “**Opportunity**”).
2. Having regard to the location and status of the Lands, the Receiver and Selling Agent shall solicit interest in the Lands in the following three packages (collectively, the “**Packages**”):
 - a) **Package 1:** all of the Lands, being an *en bloc* offer;
 - b) **Package 2:** the Building Lot; and
 - c) **Package 3:** Lot 417 and Lot 413.
3. Except as otherwise set forth in a definitive sale agreement with a successful bidder, any offer by a bidder is on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Receiver or the Selling Agent, or any of their respective affiliates, agents, advisors or estates. In the event of a sale, all of the right, title and interest of the Receiver in and to the Lands to be acquired shall be sold free and clear of all mortgages, pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to a Court Order, except as otherwise provided in such Court Order.
4. Solicitation of interest for formal binding offers shall be on an unpriced basis whereby no minimum asking price will be stipulated.

TIMELINE

5. The following table sets out the key milestones under the Sales Process:

<u>Milestone</u>	<u>Deadline</u>
Commencement Date	April 16, 2021
Final Bid Deadline	July 16, 2021
Sale Approval Application(s)	To be determined.

PRE-MARKETING

6. As soon as reasonably practicable, but in any event by no later than April 16, 2021 (the “**Commencement Date**”):
 - a) the Selling Agent, in consultation with the Receiver, shall prepare: (i) a process summary (the “**Teaser Letter**”) describing the Opportunity and Packages, outlining the Sales Process, and inviting recipients of the Teaser Letter to express their interest to participate in the Sale Process;
 - b) the Receiver, with input from the Selling Agent, shall develop a purchase and sale agreement for use during the Sales Process (the “**Draft PSA**”); and
 - c) the Selling Agent will prepare a list of potential bidders, including (i) parties that have approached the Receiver or the Selling Agent indicating an interest in the Opportunity; and (ii)

local, national or U.S. parties who the Receiver and the Selling Agent believe may be interested in purchasing the Lands or some of them (collectively, “**Known Potential Bidders**”).

MARKETING

7. The Receiver shall arrange for a notice of the Sales Process (and such other relevant information as the Receiver and Selling Agent consider appropriate) (the “**Notice**”) to be published in the *Calgary Herald*, the *Red Deer Advocate*, and any other newspaper or journals as the Receiver and the Selling Agent consider appropriate, if any.
8. The Selling Agent shall send the Teaser Letter to all Known Potential Bidders, the Selling Agent’s proprietary list of purchasers, and third-party brokerages, and any other party responding to the Notice or press release, or otherwise making inquiries regarding the Sales Process and Opportunity (all of the foregoing collectively referred to herein as an “**Interested Party**” or “**Interested Parties**”).
9. Requests for information shall be directed to the Selling Agent or the Receiver, at the contact information listed in **Appendix “A”** hereto. The Selling Agent shall send additional information relating to the Opportunity to Interested Parties as soon as reasonably practicable after such request. Notwithstanding the foregoing, neither the Selling Agent nor the Receiver are under any obligation to provide further information to an Interested Party who in either the Selling Agent’s or the Receiver’s reasonable business judgment is not participating in the Sales Process in good faith and with the intention to evaluate the Opportunity for the purposes of potentially making a formal binding offer in accordance with paragraph 11 hereof.

DUE DILIGENCE

10. The Receiver and the Selling Agent shall in their reasonable business judgment and subject to competitive and other business considerations, afford each Interested Party access to such information relating to the Lands as they deem appropriate. Notwithstanding the foregoing, neither the Selling Agent nor the Receiver are under any obligation to provide further information to an Interested Party who in either the Selling Agent’s or the Receiver’s reasonable business judgment is not participating in the Sales Process in good faith and with the intention to evaluate the Opportunity for the purposes of potentially making a formal binding offer in accordance with paragraph 11 hereof. By participating in the Sales Process, each Interested Party shall rely solely on its own investigations in order to satisfy itself as to all matters, except to the extent expressly agreed to in a definitive sale agreement with a successful bidder. The Receiver and the Selling Agent, and their respective advisors, make no representation or warranty as to the accuracy or completeness of any information made available pursuant to the Sales Process to such Interested Parties or otherwise, except to the extent as may be expressly contemplated in any definitive sale agreement with a successful bidder.

FORMAL BINDING OFFERS AND SELECTION OF SUCCESSFUL BIDS

Formal Binding Offers

11. Interested Parties shall be entitled to make a formal offer to purchase a Package. Such Interested Parties wishing to make a formal offer shall submit, to the Selling Agent and Receiver at the addresses specified in **Appendix “A”** hereto (including by email), so to be received by not later than 5:00 PM (Calgary time) on July 16, 2021 (the “**Final Bid Deadline**”), a sealed binding offer that complies with all of the following requirements:

- a) cash is the preferred form of consideration, but if the bid utilizes other consideration, a description of the material terms of the consideration shall be provided;
- b) the bid is an offer to purchase a Package on terms and conditions acceptable to the Receiver;
- c) unless otherwise agreed, the bid shall take the form of the Draft PSA and shall include a letter stating that the Interested Party's offer is irrevocable until the selection of one or more Successful Bidders (as defined below), provided that if such Interested Party is selected as a Successful Bidder, its offer shall remain irrevocable until the closing of the transaction with the Successful Bidder;
- d) the bid includes duly authorized and executed transaction agreements as contemplated by the Draft PSA; including, but not limited to, the purchase price expressed in Canadian dollars (the "**Purchase Price**"), together with all exhibits and schedules thereto, and the name or names of the ultimately beneficial owner(s) of the Interested Party, including their respective percentage interests;
- e) the bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction that will allow the Receiver to make a determination as to the Interested Party's financial and other capabilities to consummate the proposed transaction;
- f) the bid should not be conditioned on the outcome of unperformed due diligence by the Interested Party;
- g) the bid fully discloses the identity of each entity that will be entering into the transaction or the financing, or that is participating or benefiting from such bid;
- h) the bid includes a commitment by the Interested Party to provide a non-refundable deposit in the amount of not less than 10% of the Purchase Price offered upon the Interested Party being selected as the Successful Bidder, which shall be paid to the Receiver in trust;
- i) the bid includes acknowledgments and representations of the Interested Party that: (i) it has had an opportunity to conduct any and all due diligence regarding the Lands prior to making its offer; (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Lands in making its bid; and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever made by the Receiver or the Selling Agent, whether express, implied, statutory or otherwise, regarding the property or the accuracy or completeness of any information provided in connection therewith, except as expressly stated in the definitive purchase agreement signed by the Receiver;
- j) all required corporate approvals of the Interested Party will have been obtained prior to the submission of the bid;
- k) the bid shall identify any material conditions in favour of the purchaser to be resolved prior to closing the transaction;
- l) the bid is received by the Final Bid Deadline; and
- m) the bid contemplates a schedule for closing the transaction.

12. If an Interested Party submits a bid that complies with the requirements specified in paragraph 11 above such bid shall be deemed by the Receiver to be a “**Qualified Bid**” and each party who makes such bid a “**Qualified Bidder**”. Notwithstanding the foregoing, the Receiver may, acting reasonably, waive strict compliance with any one or more of the requirements specified above and deem non-compliant bids to be a Qualified Bid.
13. The Receiver shall have the right to remove all or part of the Lands or a Package from the Sales Process at its sole discretion.
14. If the Receiver is not satisfied with the number or terms of the Qualified Bids, the Receiver may amend the Sales Process to extend the Final Bid Deadline.
15. The Receiver may terminate, at any time without Court approval, further participation in the Sales Process by any Interested Party, or to modify dates or procedures as deemed appropriate or necessary, or to terminate the Sales Process in its entirety.

Credit Bid by the Secured Lender

16. The Receiver, in consultation with the Selling Agent, shall consider any bid by the Secured Lender, whereby all or a portion of the consideration being offered under the bid includes the compromise of all or a portion of the indebtedness owing from the Debtor to the Secured Lender (a “**Credit Bid**”).
17. A Credit Bid submitted by the Secured Lender (in this case, the “**Credit Bidder**”), shall be deemed to be a Qualified Bid for the purpose of the Sales Process, and the Credit Bid shall be deemed to be a Qualified Bid for the Sales Process, provided that:
 - a) the Credit Bidder executes and delivers to the Receiver a non-disclosure agreement in the form and substance satisfactory to the Receiver in its sole discretion (an “**NDA**”);
 - b) the Credit Bid is submitted by the Final Bid Deadline; and
 - c) the Credit Bid complies with the requirements under paragraph 11 above, as are applicable given the nature of the Credit Bid which is a comprise of indebtedness. For clarity, the Credit Bidder shall not be required to pay to the Receiver a deposit.
18. The Credit Bidder may be given access to other Qualified Bids received by the Receiver and Selling Agent during the Sales Process, provided that:
 - a) access to other Qualified Bids is granted only after the Final Bid Deadline; or
 - b) the Credit Bid is submitted on or before the Final Bid Deadline, and the Credit Bidder covenants that its Credit Bid shall not be increased at any time during the Sales Process, and the Credit Bidder shall not be permitted to increase its Credit Bid at any time during the Sales Process; and
 - c) the Credit Bidder maintains the confidentiality of the information provided, pursuant to the NDA and does not communicate, directly or indirectly with other parties or any other Qualified Bidder.

19. For clarity, if the Secured Lender submits a Credit Bid after the expiration of the Final Bid Deadline, such Credit Bid shall not be considered a Qualified Bid, and the Secured Lender shall not be considered a Credit Bidder or Qualified Bidder.

Evaluation of Competing Bids

20. A Qualified Bid will be evaluated, even before the Final Bid Deadline, based upon several factors, including, without limitation, items such as (i) the Purchase Price and the net value and form of consideration to be paid provided by such Qualified Bid; (ii) the identity, circumstances and ability of the Qualified Bidder to successfully complete such transactions, including any conditions attached to the Qualified Bid and the expected feasibility of such conditions, the proposed transaction documents (including any deviations from the Draft PSA); (iii) factors affecting the speed, certainty and value of the transaction; and (iv) the likelihood and timing of consummating such transaction, and the ability of the Qualified Bidder to finance and ultimately consummate the proposed transaction within the timeline established by the Receiver.

Selection of Successful Bid

21. Following the Final Bid Deadline, the Receiver shall:
- a) review and evaluate each Qualified Bid (including any Credit Bid) in consultation with the Selling Agent and the Secured Lender (or the Credit Bidder, as the case may be); and
 - b) identify the highest or otherwise best bid(s) for the Package(s), which may be a Credit Bid (each a “**Successful Bid**”), and the Qualified Bidder(s) making such Successful Bid(s) (each a “**Successful Bidder**”). The determination of any Successful Bid by the Receiver shall be subject to approval by the Court.
22. The Receiver shall have no obligation to enter into a Successful Bid and reserves the right to reject any or all Qualified Bids.

Sale Approval Application

23. At the hearing of the application to approve any transaction with a Successful Bidder (each a “**Sale Approval Application**”), the Receiver shall seek, among other things, approval from the Court to consummate a Successful Bid.
24. All Qualified Bids for the same Package as a Successful Bid placed before the Court (if any), other than the Successful Bid subject of the application, shall be deemed rejected by the Receiver on and as of the date of approval of such Successful Bid by the Court.

Confidentiality and Access to Information

25. Unless otherwise expressly set out herein, participants and prospective participants in the Sales Process shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of Potential Bidders, Qualified Bidders, Qualified Bids, the details of any bids submitted or the details of any confidential discussions or correspondence between the Receiver and such other bidders or Potential Bidders in connection with the Sales Process.

Supervision of the Sales Process

26. The Receiver and Selling Agent shall participate in the Sales Process in the manner set out in this Sales Process and are entitled to receive all information in relation to the Sales Process.
27. This Sales Process does not, and will not be interpreted to, create any contractual or other legal relationship between the Receiver or Selling Agent and any Qualified Bidder, the Credit Bidder, or any other party, other than as specifically set forth in a definitive agreement that may be signed with the Receiver and approved by the Court.
28. Without limiting the preceding paragraph, the Receiver shall not have any liability whatsoever to any person or party, including without limitation any Interested Party, Qualified Bidder, the Credit Bidder, a Successful Bidder, or any other creditor or other stakeholder of the Debtor, for any act or omission related to the process contemplated by this Sales Process, except to the extent such act or omission is the result from gross negligence or willful misconduct of the Receiver. By submitting a bid, each Qualified Bidder, Credit Bidder, or Successful Bidder, as the case may be, shall be deemed to have agreed that it has no claim against the Receiver for any reason whatsoever, except to the extent such claim is the result from gross negligence or willful misconduct of the Receiver.
29. Participants in the Sales Process are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
30. The Receiver shall have the right to modify the Sales Process and the deadlines set out herein if, in its reasonable business judgment, such modification will enhance the process or better achieve the objectives of the Sales Process.

APPENDIX “A”

CONTACT INFORMATION

Selling Agent

Tyler Realty Corp. Ltd.
3606 Blackfoot Trail SE,
Calgary, AB, T2G 4E6

Attention: Dan Shute, Senior Associate (dan@tylerrealty.com)

Receiver

BDO Canada Limited
110, 5800 2 Street SW
Calgary, AB T2H 0H2

Attention: Marc E. Kelly, Senior Vice President (makelly@bdo.ca)

APPENDIX “F”

Jessica L. Cameron
T (403) 232-9715
F (403) 266-1395
JCameron@blg.com

Borden Ladner Gervais LLP
Centennial Place, East Tower
1900, 520 - 3rd Ave SW
Calgary, AB, Canada T2P 0R3
T 403.232.9500
F 403.266.1395
blg.com



File No. 440777.000010

April 1, 2021

DELIVERED VIA COURIER AND EMAIL

Maxwell Capital Realty (Crowfoot)
#150, 75 Crowfoot Rise NW
Calgary, Alberta T3G 4P5

Attention: Leo Scarcelli
Email: LeoS@maxwellrealty.ca

Dear Mr. Scarcelli:

Re: Receivership of 1652563 Alberta Ltd. (“165”), Court of Queen’s Bench of Alberta File No. 2101-00810 (the “Receivership Proceedings”)

And Re: Disclaimer of Commercial Seller Brokerage Agreement No. 419, executed on June 16, 2020, between 165 and Maxwell Capital Realty, as Amended by Commercial Seller Brokerage Agreement Amendments dated December 3, 2020 (As Amended, the “Agreement”)

We are counsel to BDO Canada Limited (“**BDO**”) in its capacity as the court-appointed receiver and manager (the “**Receiver**”) over all of the current and future assets, undertakings and properties of every nature and kind (the “**Property**”) of 165, pursuant to a receivership order granted by the Court of Queen’s Bench of Alberta (the “**Court**”) on February 11, 2021 (the “**Receivership Order**”). We write to you in respect of the above-referenced Agreement. Copies of the Receivership Order and the Agreement are enclosed herewith.

We understand that 165 executed the Agreement in respect of the engagement of Maxwell Capital Realty as listing agent for the sale of real property municipally described as Units #413, #417 and #419 – 10 Avenue South, Carstairs, Alberta.

The Receiver no longer requires the provision of services under the Agreement and has further determined that there is no commercial value to maintaining the Agreement for purposes of the Receivership Proceedings.

As such, please be advised that the Receiver wishes to provide formal notice to you that it is hereby disclaiming and renouncing 165’s entire interest in or to the Agreement. Accordingly, please see enclosed the Receiver’s Notice of Disclaimer for service upon you. Consequently, any obligations

of 165 under or in connection with the Agreement are hereby terminated effective as of April 1, 2021.

Please be further advised that the Receivership Order stays and suspends all claims against 165 or the Receiver. Specifically, the Receivership Order states that:

- (a) No legal proceeding against or in respect of 165 or its Property may be commenced or continued, except with the written consent of the Receiver or permission of the Court (Section 8);
- (b) The exercise of all rights or remedies (including contractual rights) against or in respect of 165, its Property or the Receiver are stayed and suspended, and shall not be commenced or continued, except with permission of the Court (Section 9); and
- (c) No legal proceeding or enforcement process in any Court or tribunal shall be commenced or continued against the Receiver, except with written consent of the Receiver or permission of the Court (Section 7).

We trust you will find the foregoing to be in order. Should you have any questions, please do not hesitate to contact the undersigned.

Yours truly,

BORDEN LADNER GERVAIS LLP

J. Cameron

Jessica L. Cameron

Enclosures

cc: Marc Kelly, BDO Canada Limited (via email)

NOTICE OF DISCLAIMER

TO: Maxwell Capital Realty

TAKE NOTICE THAT:

1. **WHEREAS** BDO Canada Limited is the court-appointed receiver (the “**Receiver**”) of all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”) of 1652563 Alberta Ltd. (the “**Debtor**”), pursuant to a receivership order granted by the Court of Queen’s Bench of Alberta on February 11, 2021 (the “**Receivership Order**”);
2. **AND WHEREAS** paragraph 3(c) of the Receivership Order empowers the Receiver to manage, operate and carry on the business of the Debtor, including the power to cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
3. **AND WHEREAS** the Receiver has all the powers of receivers and managers, pursuant to (i) the common law, (ii) section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, and (iii) section 13 of the *Judicature Act*, RSA 2000, c J-2 (collectively, the “**Legal Powers**”);
4. **AND WHEREAS** the Debtor and Maxwell Capital Realty are parties to Commercial Seller Brokerage Agreement No. 419, executed on June 16, 2020, as Amended by Commercial Seller Brokerage Agreement Amendments dated December 3, 2020 (as Amended, the “**Agreement**”) in respect of the listing for sale of lands legally described as:

PLAN 3845CO
THAT PORTION OF THE ROADWAY SOUTH OF LOT 8 BLOCK 28
AND NORTH OF LOT 1 BLOCK 29
EXCEPTING THEREOUT ALL MINES AND MINERALS

-and-

PLAN 3845CO
BLOCK 28
LOTS 5 AND 6
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

-and-

PLAN 3854CO
BLOCK 28
LOTS 7 AND 8
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

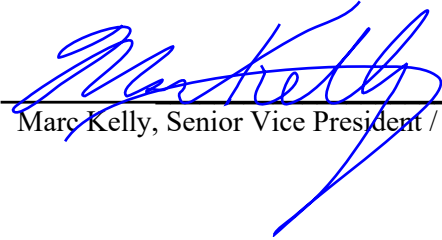
and municipally described as #419, #413, and #417 – 10 Avenue South, Carstairs, Alberta, respectively;

5. **NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS** that the Receiver, effective as of April 1, 2021 (the “**Effective Date**”), in accordance with, *inter alia*, the Receivership Order and its Legal Powers, hereby abandons, renounces and disclaims any and all interest that 165 had, has or may have in the Agreement.

IN WITNESS WHEREOF, the Receiver executed this Notice of Disclaimer this 1st day of April, 2021.

) **BDO CANADA LIMITED** in its capacity as the
) court-appointed receiver of **1652563 ALBERTA**
) **LTD.**, and not in its corporate or personal capacity
)
)
)
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)

Per:



Marc Kelly, Senior Vice President / Partner