

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

THE HONOURABLE  
MR. JUSTICE PATTILLO

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TUESDAY, THE 14<sup>th</sup> DAY  
OF DECEMBER, 2021

B E T W E E N:

**THE MANUFACTURERS LIFE INSURANCE COMPANY**

Applicant

- and -

**RIVERSIDE PROFESSIONAL CENTRE INC.**

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

**ORDER  
(Stalking Horse Sale Process Approval)**

THIS MOTION made by MNP Ltd. in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Riverside Professional Centre Inc. (“**Riverside**”) acquired for, or used in relation to, a business carried on by Riverside, including all proceeds thereof, was heard this day by Zoom videoconference due to the COVID-19 pandemic.



ON READING the first report of the Receiver, dated December 7, 2021 (the “**First Report**”), and on hearing the submissions of counsel for the Receiver, the Applicant, The Ottawa Hospital/L’Hopital D’Ottawa (the “**Stalking Horse Bidder**”) and such other counsel as were present, as indicated by the counsel slip, no one else appearing although duly served, as appears from the affidavits of Daniel Richer sworn December 8, 2021 and Jeremy Barbaza sworn December 8, 2021, filed:

### **SERVICE AND DEFINITIONS**

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

2. THIS COURT ORDERS that capitalized terms used in this Order and not otherwise defined herein shall have the meanings given to them in (i) the stalking horse asset purchase agreement dated as of December 7, 2021, substantially in the form attached as Appendix “D” to the First Report (the “**Stalking Horse Agreement**”) between the Receiver and the Stalking Horse Bidder; or (ii) the sale process attached to this Order as Schedule “A” (the “**Sale Process**”).

### **REPORT AND ACTIVITIES OF THE RECEIVER**

3. THIS COURT ORDERS that the First Report, and the actions, conduct and activities of the Receiver described therein, be and are hereby approved, provided, however, that only the Receiver, in its personal capacity only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

## SEALING

4. THIS COURT ORDERS that the Receiver is hereby authorized, *nunc pro tunc*, to redact from the marketing and listing proposals (the “**Marketing and Listing Proposals**”) of CBRE Limited and Colliers Macauley Nicolls Inc. (together, the “**Brokers**”), which are appended to the First Report as Appendix “C”, information pertaining to the Brokers’ assessments as to the value of the Property.

5. THIS COURT ORDERS that the unredacted copies of the Marketing and Listing Proposals, being Confidential Appendix “A” to the First Report, filed with the Court be sealed pending further Order of the Court.

## STALKING HORSE SALE PROCESS

6. THIS COURT ORDERS that the Sale Process and the bidding procedures (the “**Bidding Procedures**”) set out therein (subject to any amendments thereto that may be made in accordance therewith and this Order), be and is hereby approved.

7. THIS COURT ORDERS that the Receiver is authorized and directed to carry out the Sale Process and the Bidding Procedures in accordance with its terms and this Order, and is hereby authorized and directed to take such steps and execute such documentation as the Receiver considers necessary or desirable in carrying out its obligations thereunder, subject to prior approval of this Court being obtained before completion of any transaction(s) under the Sale Process.

8. THIS COURT ORDERS that the Receiver and its affiliates, partners, directors, employees, advisors, agents, counsel and controlling persons (collectively, the “**Assistants**”) shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any

person in connection with or as a result of performing their duties under the Sale Process, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or wilful misconduct of the Receiver as determined by this Court.

9. THIS COURT ORDERS that the Receiver may apply to this Court to amend, vary or supplement this Order or for advice or directions with respect to the discharge of its powers and duties under this Order or under the Sale Process or Bidding Procedures, at any time during the term of the Sale Process.

#### **STALKING HORSE AGREEMENT**

10. THIS COURT ORDERS that the execution, delivery, entry into, compliance with, and performance by the Receiver of the Stalking Horse Agreement be and is hereby ratified, authorized and approved, *provided, however*, that nothing contained in this Order approves the sale or the vesting of the Purchased Assets to the Stalking Horse Bidder pursuant to the Stalking Horse Agreement and that, if the Stalking Horse Agreement is the Successful Bid under the Sale Process, the approval of the sale and vesting of the Purchased Assets to the Stalking Horse Bidder shall be considered by this Court on a subsequent motion made to this Court following the completion of the Sale Process.

11. THIS COURT ORDERS that the Stalking Horse Agreement be and is hereby approved and accepted solely for the purposes of being the Stalking Horse Bid under the Sale Process and the Bidding Procedures, and subject to the further Order of the Court referred to in paragraph 10 above.

## **BREAK FEE**

12. THIS COURT ORDERS that payment and priority of the Break Fee in the amount of Two Hundred and Fifty Five Thousand Dollars (\$255,000), to the Stalking Horse Bidder, pursuant to section 4.2 of the Stalking Horse Agreement, is hereby approved and, in the event that the Stalking Horse Bidder does not have the Successful Bid and the transactions contemplated by the Successful Bid are completed, the Receiver is hereby authorized and directed to pay the Break Fee to the Stalking Horse Bidder out of the sale proceeds derived from and upon completion of the Successful Bid.

13. THIS COURT ORDERS that the Stalking Horse Bidder shall be entitled to the benefit of and is hereby granted a charge (the “**Break Fee Charge**”) on the proceeds of sale of any Successful Bid (other than the bid set out in the Stalking Horse Agreement), in accordance with Section 4.2 of the Stalking Horse Agreement, to secure such payment. The Break Fee Charge shall be subordinate only to the Receiver’s Charge (as defined in paragraph 19 of the Appointment Order of Justice Koehnen dated October 29, 2021) (the “**Appointment Order**”) and the Receiver’s Borrowings Charge (as defined in paragraph 22 of the Appointment Order).

## **PIPEDA**


14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), the Receiver and its Assistants are hereby authorized and permitted to disclose and deliver for review personal information of identifiable individuals to prospective purchasers or bidders for the Property (including, without limitation, the Stalking Horse Bidder) and their advisors, but only to the extent desirable or required to carry out the Sale Process and to negotiate or attempt to complete a transaction pursuant to the Sale Process

(a “**Transaction**”). Each prospective purchaser or bidder (and their respective advisors) to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and if it does not complete a Transaction, shall return all such information to the Receiver, or in the alternative destroy all such information and provide confirmation of its destruction if required by the Receiver. The purchasers of any of the Property shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) to which any such purchaser is a party, shall be entitled to use the personal information provided to it that is related to the Property acquired pursuant to the Sale Process in a manner that is in all material respects identical to the prior use of such information by Riverside, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Receiver.

## **GENERAL**

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

16. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Toronto time on the date of this Order, and this Order is enforceable without the need for entry and filing.



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**SCHEDULE "A"**

**STALKING HORSE SALE PROCESS AND BIDDING PROCEDURES**



## STALKING HORSE SALE PROCESS

### I. BACKGROUND

#### A) General

On October 29, 2021, MNP Ltd. was appointed receiver (in such capacity, the “**Receiver**”) of the assets, undertaking and property (the “**Property**”) of Riverside Professional Centre Inc. (“**Riverside**”) by order (the “**Receivership Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”).

Pursuant to the Receivership Order, the Receiver is authorized to market and sell any or all of the Property and to engage a real estate consultant (the “**Real Estate Consultant**”) to assist with such efforts, which the Receiver intends to do.

On December 14, 2021 the Court issued an order (the “**Sale Process Order**”), among other things: (i) authorizing the Receiver to commence a sale process (the “**Sale Process**”) to market and sell the Property in accordance with the bidding procedures set forth below (the “**Bidding Procedures**”) and (ii) approving the asset purchase agreement (the “**Stalking Horse APA**”) between the Receiver and The Ottawa Hospital/L’Hopital D’Ottawa (in such capacity, the “**Stalking Horse Bidder**”) to act as a “stalking horse bid” in the Sale Process (the “**Stalking Horse Bid**”). The Sale Process Order also approved certain protections for the Stalking Horse Bidder, as more fully set out in the Stalking Horse APA.

Subject to Court availability and the terms hereof, as soon as practicable following the selection of the Successful Bidder (as defined herein), the Receiver will bring a motion (the “**Approval and Vesting Order Motion**”) seeking an order of the Court (the “**Approval and Vesting Order**”) authorizing the Receiver to proceed with the sale of the Property to the Qualified Bidder (as defined herein) making the highest or otherwise best bid (the “**Successful Bid**”), pursuant to these Bidding Procedures (the “**Successful Bidder**”).

The Bidding Procedures are to be employed with respect to the sale of all or part of the Property, pursuant to the Sale Process in Riverside’s receivership proceedings. The Sale Process is structured as a two-phased process. Phase 1 contemplates initial due diligence by Potential Bidders (as defined below) and the receipt by the Receiver of non-binding letters of interest by Phase 1 Qualified Bidders (as defined below). Phase 2 contemplates the submission of binding offers by Phase 2 Qualified Bidders (as defined below) in the form of the Template APA (as defined below), with a blackline against the Stalking Horse APA.

#### B) Key Dates

January 3, 2022	Launch date of process
January 10, 2022	Deadline to publish notice of the Sale Process and deliver the Teaser Letter (as defined below) and the NDA (as defined below) to Known Potential Bidders (as defined below).
February 28, 2022 at 5:00 PM (Eastern Time)	Phase 1 Bid Deadline (as defined below).

March 15, 2022 at 5:00 PM (Eastern Time) Phase 2 Bid Deadline (as defined below).

Within three (3) business days of the expiration of the Phase 2 Bid Deadline Deadline to notify Phase 2 Qualified Bidders (as defined below) of Auction (as defined below), if any, and provide details of Lead Bid (as defined below).

Within seven (7) business days of the expiration of the Phase 2 Bid Deadline Auction (if any).

As soon as practicable following the determination of the Successful Bidder Approval and Vesting Order Motion hearing.

### **C) Sale Process Overview**

1. The Sale Process is intended to solicit interest in and opportunities for a transaction for the sale of all or substantially all of the Property that is superior to the Stalking Horse Bid (the “**Opportunity**”). The Receiver is responsible for the oversight and administration of the Sale Process, including, if necessary, an auction (the “**Auction**”).
2. Any sale of the Property will be on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Receiver or its agents, advisors or estates, except as expressly stated in the terms of any definitive transaction documents, and all of the right, title and interest of Riverside in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to the Approval and Vesting Order, except as otherwise provided in such Approval and Vesting Order, or any definitive transaction documents.
3. By participating in this process, each Potential Bidder is deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding Riverside and the Property prior to making any bid as contemplated herein, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or regarding Riverside and the Property in making its bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding Riverside or the Property or the completeness of any information provided in connection therewith, except as expressly stated in the terms of any definitive transaction documents.
4. The various deadlines herein may be extended by and at the discretion of the Receiver.

## **D) Solicitation of Interest: Notice of Sale Process**

5. As soon as is reasonably practicable and, in any event, by no later than January 10, 2022:
  - a. the Receiver, in consultation with the Real Estate Consultant, will prepare a list of potential bidders, including (i) parties that have approached the Receiver or the Real Estate Consultant, indicating an interest in the Opportunity; and (ii) strategic parties who the Receiver, in consultation with the Real Estate Consultant, believes may be interested in purchasing, all or substantially all, of the Property (“**Known Potential Bidders**”);
  - b. the Receiver will cause a notice of the Sale Process (and such other relevant information that the Receiver considers appropriate) (the “**Notice**”) to be published in *The Globe and Mail* (National Edition), *The Ottawa Citizen* and *Insolvency Insider* and any other newspaper, journal or industry publication as the Receiver, in consultation with the Real Estate Consultant, considers appropriate, if any; and
  - c. the Receiver, in consultation with the Real Estate Consultant, will prepare: (i) a process summary (the “**Teaser Letter**”) describing the Opportunity, outlining the Sale Process and inviting recipients of the Teaser Letter to express their interest pursuant to the Sale Process; and (ii) a non-disclosure agreement in form and substance satisfactory to the Receiver (an “**NDA**”).
6. The Receiver will publish the Notice and send the Teaser Letter and NDA to all Known Potential Bidders by no later than January 10, 2022, and to any other party who requests a copy of the Teaser Letter and NDA, or who is identified to the Receiver, or the Real Estate Consultant, as a potential bidder, as soon as reasonably practicable after such request or identification, as applicable.

## **II. PHASE 1: INITIAL DUE DILIGENCE AND NON-BINDING LOIs**

### **A) Qualified Bidders**

7. Any party who wishes to participate in the Sale Process (a “**Potential Bidder**”), other than the Stalking Horse Bidder, must provide the Receiver with an NDA executed by it, an executed acknowledgement of the Sale Process, written confirmation of the identity of the Potential Bidder, the contact information for that Potential Bidder, and full disclosure of the direct and indirect principals (if any) of the Potential Bidder, and such other information as may be reasonably requested by the Receiver.
8. A Potential Bidder who has delivered an executed NDA and provided the required written confirmation, contact information, and disclosure to the satisfaction of the Receiver, will be deemed a “**Phase 1 Qualified Bidder**”, unless the Receiver determines such person is unlikely, based on the availability of financing, experience, and other considerations, to be able to consummate a sale pursuant to the Sale Process.

9. At any time during the first phase of the Sale Process (“**Phase 1**”), the Receiver may, in its reasonable business judgment, eliminate a Phase 1 Qualified Bidder from the Sale Process, in which case such bidder will be eliminated from the Sale Process and will no longer be a Phase 1 Qualified Bidder for the purposes of the Sale Process.
10. Potential Bidders must rely solely on their own independent review, investigation, and/or inspection of all information and the Property in connection with their participation in the Sale Process and any transaction they enter into with the Receiver.

### **B) Due Diligence**

11. Only Phase 1 Qualified Bidders will be eligible to receive due diligence materials and confidential information in respect of Riverside and the Property. The Real Estate Consultant shall, in consultation with the Receiver (both using their reasonable business judgement) and subject to competitive and other business considerations, afford each Phase 1 Qualified Bidder such access to due diligence materials and information relating to Riverside and the Property, as the Receiver may deem appropriate. Due diligence access may also include management presentations, access to electronic data rooms, on-site inspections, and other matters that a Phase 1 Qualified Bidder may reasonably request and as to which the Receiver, in its reasonable business judgement, may agree.
12. The Receiver will be responsible for the coordination of all reasonable requests for additional information and due diligence access from Phase 1 Qualified Bidders. Any new information provided to a Phase 1 Qualified Bidder will be uploaded into the electronic data room so that other Phase 1 Qualified Bidders will have access to the same information. The Receiver will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Phase 1 Qualified Bidders and the manner in which such requests must be communicated. The Receiver will not be obligated to furnish any information relating to the Property to any person other than a Phase 1 Qualified Bidder. Further, and for the avoidance of doubt, selected due diligence materials may be withheld from Phase 1 Qualified Bidders if the Receiver determines such information to represent proprietary, privileged, or sensitive competitive information.
13. The Receiver is not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Property.

### **C) Phase 1 Bid Requirements**

14. A Phase 1 Qualified Bidder (other than the Stalking Horse Bidder) that wishes to pursue the Opportunity further must deliver a non-binding letter of interest (a “**Phase 1 Bid**”) to the Receiver at the email addresses specified below so as to be received not later than 5:00 PM (Eastern Time) on or before February 28, 2022 (the “**Phase 1 Bid Deadline**”):

to the Receiver:

MNP Ltd.  
111 Richmond Street West, Suite 300

Toronto, ON M5H 2G4  
sheldon.title@mnp.ca  
Attention: Sheldon Title

with a copy to:

Fasken Martineau DuMoulin LLP  
dchochla@fasken.com  
Attention: Dylan Chochla.

15. A Phase 1 Bid will be considered a “**Phase 1 Qualified Bid**” only if it satisfies the following requirements, in each case, in form and substance satisfactory to the Receiver, in consultation with the Real Estate Consultant (collectively, the “**Phase 1 Bid Requirements**”):
  - a. it is received on or before the Phase 1 Bid Deadline by a Phase 1 Qualified Bidder;
  - b. it discloses the identity of the Phase 1 Qualified Bidder and each entity that will be participating in a potential Phase 2 Bid;
  - c. it contains a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
  - d. it contemplates the purchase of the Property on an “as is, where is” basis;
  - e. it includes the purchase price or price range in Canadian dollars, including details of any liabilities to be assumed by the Phase 1 Qualified Bidder and key assumptions supporting the valuation;
  - f. it includes a description of the Phase 1 Qualified Bidder’s intended use of the Property expected to be subject to the transaction;
  - g. it includes references to the Phase 1 Qualified Bidder’s ability to finance and/or complete the proposed transaction, which references may include a term sheet, ability to pay in cash, or other evidence to mitigate transaction risks;
  - h. it contains an outline of any additional due diligence required to be conducted in order to submit a final and binding offer in Phase 2;
  - i. it contains a description of:
    - i. all conditions to closing that the Phase 1 Qualified Bidder may wish to impose and an outline of the principle terms thereof;
    - ii. the conditions and approvals required for a final and binding offer, including any anticipated corporate, security holder, internal, legal or other regulatory approvals required to close the transaction, and an estimate of the anticipated time frame and any anticipated impediments for obtaining such approvals; and

- iii. any other terms or conditions of the Phase 1 Bid that the Phase 1 Qualified Bidder believes are material to the transaction;
  - j. it contains a target closing date that, in the opinion of the Receiver, exercising reasonable business judgement, is likely to be achieved;
  - k. it includes the key terms and conditions to be included in any order of the Court approving the contemplated transaction;
  - l. it contains such other information as reasonably requested by the Receiver; and
  - m. the consideration offered for the purchase of the Property is greater than the Stalking Horse Bid by at least the Minimum Overbid Increment (as defined in the auction procedures attached hereto as Appendix I; hereafter, the “**Auction Procedures**”) (*i.e.*, \$25,000), plus an amount in cash to pay the Break Fee, and contemplates payment in cash on closing; and
  - n. an initial refundable deposit of not less than \$250,000, in the form of a wire transfer, certified cheque delivered to the mailing address for the Receiver set out at paragraph 14 or such other form acceptable to the Receiver (the “**Phase 1 Bid Deposit**”), which shall be held in trust by the Receiver (the “**Escrow Account**”) and disbursed from the Escrow Account only as follows: (i) if the Phase 1 Qualified Bidder is deemed a Phase 2 Qualified Bidder (as defined below) and decides to participate in Phase 2 of the Sale Process (as defined below), its Phase 1 Bid Deposit will be treated in accordance with paragraph 26.f below; and (ii) if the Phase 1 Qualified Bidder is not deemed a Phase 2 Qualified Bidder or is not otherwise invited to participate in Phase 2 of the Sale Process, its Phase 1 Bid Deposit, without interest, shall be returned to it forthwith.
16. The Receiver, in its business judgment, may waive compliance with any one or more of the Phase 1 Bid Requirements and deem such non-compliant Phase 1 Bid to be a Phase 1 Qualified Bid.
17. The Stalking Horse Bid is deemed to be a Phase 1 Qualified Bid and the Stalking Horse Bidder shall be deemed to be a Phase 1 Qualified Bidder.

#### **D) Assessment of Phase 1 Qualified Bids and Subsequent Process**

18. Following the Phase 1 Bid Deadline, the Receiver, in consultation with the Real Estate Consultant, will assess the Phase 1 Qualified Bids and select one or more Phase 1 Qualified Bids to participate in a second round of offers for the Property, which offers must be binding (“**Phase 2**”). Prior to selecting parties to participate in Phase 2, the Receiver may seek clarification of the information provided in a Phase 1 Qualified Bid.
19. If no Phase 1 Bids are received, or in the opinion of the Receiver, no Phase 1 Bids constitute Qualified Phase 1 Bids, the Receiver may determine that Phase 2 is not required. In that case, the Stalking Horse Bidder shall be the Successful Bidder and

- the Receiver will proceed to close the transaction contemplated by the Stalking Horse APA.
20. Among other considerations that may be relevant to the Receiver's evaluation of the Phase 1 Qualified Bids, if the Receiver determines that a Phase 1 Qualified Bidder: (i) has a bona fide interest in completing a sale of the Property; and (ii) has the financial capability (based on the availability of financing, experience and other considerations) to consummate such a transaction, based on the financial information provided in the Phase 1 Qualified Bid, then such Phase 1 Qualified Bidder will be deemed a "**Phase 2 Qualified Bidder**", provided that the Receiver may, in its reasonable business judgment, limit the number of Phase 2 Qualified Bidders (and thereby eliminate some bidders from the process). Only Phase 2 Qualified Bidders shall be invited to participate in Phase 2 of the Sale Process.
  21. As soon as practical after the Phase 1 Bid Deadline, the Receiver, in consultation with the Real Estate Consultant, will advise any Phase 1 Qualified Bidder: (i) whether or not its bid constitutes a Phase 1 Qualified Bid; and (ii) whether or not it has been deemed a Phase 2 Qualified Bidder.
  22. The Receiver shall have no obligation to admit any Phase 1 Qualified Bids as Phase 2 Qualified Bids, or to commence Phase 2 of the Sale Process at all, and it reserves the right to reject any or all Phase 1 Qualified Bids.
  23. The Stalking Horse Bidder is deemed to be a Phase 2 Qualified Bidder. Only Phase 2 Qualified Bidders are permitted to participate in Phase 2 of the Sale Process.

### **III. PHASE 2: FORMAL OFFERS, AUCTION, AND SELECTION OF SUCCESSFUL BIDDER**

#### **A) Phase 2 Bid Requirements**

24. All Phase 2 Qualified Bidders shall be invited to Phase 2 for the purpose of submitting a formal binding offer to purchase the Property (a "**Phase 2 Bid**").
25. Phase 2 Qualified Bidders that wish to make a formal offer to purchase the Property shall submit a binding definitive agreement of purchase and sale in the form of asset purchase agreement provided by the Receiver (the "**Template APA**") with a blackline against the Stalking Horse APA (together, a "**Phase 2 Bid**") prior to 5:00 PM (Eastern Time) on March 15, 2022, or such other date as may be determined by the Receiver and communicated to the Phase 2 Qualified Bidders in writing ("**Phase 2 Bid Deadline**").
26. A Phase 2 Bid will be considered a "**Phase 2 Qualified Bid**" only if it satisfies the following requirements (in each case, in form and substance satisfactory to the Receiver), unless waived by the Receiver in accordance with these Bidding Procedures (collectively, the "**Phase 2 Bid Requirements**"):
  - a. the bid is made by a Phase 2 Qualified Bidder and received by the Phase 2 Bid Deadline;

- b. the bid shall comply with each of the Phase 1 Bid Requirements, other than 15.a, including, without limitation, that the consideration offered for the purchase of the Property is greater than the Stalking Horse Bid by at least the Minimum Overbid Increment (as defined in the Auction Procedures) (*i.e.*, \$25,000), plus an amount in cash to pay the Break Fee, and contemplates payment in cash on closing;
- c. the bid is an offer to purchase some or all of the Property, on terms and conditions reasonably acceptable to the Receiver, and is substantially in the form of the Template APA, with a blackline against the Stalking Horse APA;
- d. the bid includes a letter stating that the Phase 2 Qualified Bidder's offer is binding and irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Phase 2 Qualified Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the earlier of (i) the closing of the transaction with the Successful Bidder, and (ii) 120 days from the Approval and Vesting Order Motion, subject to further extensions as may be agreed to under the applicable transaction agreement(s);
- e. the bid includes a proposal with respect to the existing lease between Riverside and The Ottawa Hospital/L'Hopital D'Ottawa for the property municipally known as 1919 Riverside Drive, Ottawa, ON K1H 7W9;
- f. it includes payment by the Phase 2 Qualified Bidder of a cash deposit which shall be in excess of the Phase 1 Bid Deposit, and which, in combination with the Phase 1 Bid Deposit, shall be in an aggregate amount of not less than 10% of the total consideration contemplated by the Phase 2 Bid, in the form of a wire transfer, certified cheque delivered to the mailing address for the Receiver set out at paragraph 14 or such other form acceptable to the Receiver (collectively with the "**Phase 1 Bid Deposit**", the "**Bid Deposit**"), which shall be held in the Escrow Account and disbursed from the Escrow Account only as follows: (i) if the Phase 2 Qualified Bidder is the Successful Bidder, its Bid Deposit will be applied without interest on Closing to the purchase price payable by it under its bid on the closing thereof; and (ii) if the Phase 2 Qualified Bidder is not the Successful Bidder, then its Bid Deposit, without interest, shall be returned to it forthwith following the expiration of its offer in accordance with the definitive documents and the terms hereof;
- g. 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 Phase 2 Qualified Bidder's financial and other capabilities to consummate the proposed transaction;
- h. the bid includes evidence, in form and substance reasonably satisfactory to the Receiver, of authorization and approval from the Phase 2 Qualified Bidder's board of directors (or comparable governing body) with respect to submission, execution, delivery and closing of the transaction agreement(s) submitted by the Phase 2 Qualified Bidder;



- i. the bid is not conditioned on: (i) the outcome of unperformed due diligence by the Phase 2 Qualified Bidder, (ii) obtaining financing, or (iii) any other condition that, in the Receiver's business judgment, unduly increases the risk that the proposed transaction will not close on or before the target closing date;
- j. the bid includes acknowledgements and representations of the Phase 2 Qualified Bidder that: (i) it has had an opportunity to conduct any and all due diligence regarding the Property 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 Property in making its bid, (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Property or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Receiver; and
- k. the bid includes such other information as may be reasonably required by the Receiver in the event that Phase 2 is supplemented with the Auction.

#### **B) Assessment of Phase 2 Qualified Bids and Auction**

27. Following the Phase 2 Bid Deadline, the Receiver will assess the Phase 2 Bids received in consultation with the Real Estate Advisor. The Receiver, in its business judgment, will designate those Phase 2 Bids that comply with the Phase 2 Bid Requirements as Phase 2 Qualified Bids, with such bidders being Phase 2 Qualified Bidders.
28. Only Phase 2 Qualified Bidders whose bids have been designated as Phase 2 Qualified Bids are eligible to participate in the Auction or to become the Successful Bidder.
29. The Receiver may, in its discretion, request revisions or supplementations to any Phase 2 Bid and/or waive strict compliance with any one or more of the Phase 2 Bid Requirements and deem a non-compliant bid to be a Phase 2 Qualified Bid. For greater certainty, if multiple Phase 2 Bids are received, the Receiver has no obligation to exercise its discretion or authority under this provision in respect of all Phase 2 Bids received even if such authority or discretion is exercised by the Receiver in respect of any one Phase 2 Bid.
30. The Receiver shall notify each Phase 2 Qualified Bidder in writing as to whether its bid constituted a Phase 2 Qualified Bid within five (5) business days of the expiration of the Phase 2 Bid Deadline, or at such later time as the Receiver deems appropriate.
31. The Stalking Horse Bid is deemed to be a Phase 2 Qualified Bid and the Stalking Horse Bidder is deemed to be a Phase 2 Qualified Bidder.
32. If one or more Phase 2 Qualified Bids (other than the Stalking Horse APA) have been received by the Receiver on or before the Phase 2 Bid Deadline, the Receiver shall

invite all Phase 2 Qualified Bidders to attend an Auction to be conducted in accordance with the Auction Procedures.

33. If no Phase 2 Bids are received or, in the discretion of the Receiver no Phase 2 Bids constitute Phase 2 Qualified Bids, the Stalking Horse APA shall be the Successful Bid and the Stalking Horse Bidder shall be the Successful Bidder and the Auction shall not be held.

### **C) Auction Process and Selection of Successful Bid**

34. If the Receiver determines that an Auction is required, the Receiver will invite all Phase 2 Qualified Bidders to the Auction and the Auction will be conducted, in accordance with the Auction Procedures. The Receiver, in its business judgment, will determine the Phase 2 Qualified Bid that constitutes the highest or otherwise best offer for the Property in accordance with the Bid Assessment Criteria (as defined in the Auction Procedures) and designate such bid as the “**Lead Bid**” for the purpose of the Auction.
35. Save and except for the Stalking Horse Bid, the Receiver shall be under no obligation to accept the highest or best offer, or any offer, and the Receiver shall have no obligation to enter into a Successful Bid, and it reserves the right to reject any or all Phase 2 Qualified Bids.
36. The closing of the transaction contemplated in the Successful Bid is expressly conditional upon the approval of the Successful Bid by the Court at the hearing of the Approval and Vesting Order Motion. The presentation of the Successful Bid to the Court for approval does not obligate the Receiver to close the transaction contemplated by such Successful Bid, unless and until the Court approves the Successful Bid and all other conditions therein are satisfied or waived. The Receiver will be deemed to have accepted a bid only when the bid has been approved by the Court at the hearing of the Approval and Vesting Order Motion.

### **D) Sale Approval Hearing**

37. The Receiver shall use reasonable efforts to bring a motion to the Court to approve the Successful Bid, as soon as practicable following the determination by it of the Successful Bidder.
38. At the hearing of the Approval and Vesting Order Motion, the Receiver shall seek, among other things, approval from the Court to consummate any Successful Bid. The Receiver will be deemed to have accepted the Successful Bid only when it has been approved by the Court. All Phase 2 Qualified Bids, other than the Successful Bid, if any, shall be deemed rejected by the Receiver, on and as of the date of approval of the Successful Bid by the Court.

## **IV. CONFIDENTIALITY, COMMUNICATION AND ACCESS TO INFORMATION**

39. All discussions regarding any bids submitted through these Bidding Procedures should be directed to the Receiver, or if directed by the Receiver, to the Real Estate Consultant. Under no circumstances should any of Riverside’s stakeholders be

contacted directly without the prior consent of the Receiver. Any such unauthorized contact or communication could result in exclusion of the interested party from the Sale Process. For greater certainty, nothing herein shall prevent a stakeholder from contacting potential bidders with the agreement of the Receiver to advise that the Receiver has commenced a Sale Process and that they should contact the Receiver if they are interested in the Opportunity.

40. If it is determined by the Receiver that it would be worthwhile to facilitate a discussion between a Phase 1 Qualified Bidder or a Phase 2 Qualified Bidder (as applicable, depending on the stage of the Sale Process) and a stakeholder or other third party, as a consequence of a condition to closing, or potential closing condition identified by such bidder, the Receiver may provide such bidder with the opportunity to meet with the relevant stakeholder or third party to discuss such condition or potential condition, with a view to enabling such bidder to seek to satisfy the condition or assess whether the condition is not required or can be waived. Any such meetings or other form of communication will take place on terms and conditions considered appropriate by the Receiver. The Receiver must be provided the opportunity to be present at all such communications or meetings.

## **V. MISCELLANEOUS**

41. The Sale Process does not, and will not be interpreted to create any contractual or other legal relationship between the Receiver and any Potential Bidder, any Phase 1 Bidder, any Phase 2 Bidder, or any other party, other than as specifically set forth in a definitive agreement, or the Stalking Horse APA. Except as specifically set forth in a definitive agreement, any party that submits a bid in the Sale Process expressly acknowledges and agrees that the Receiver has not made any commitment or otherwise incurred any obligation to consider or conclude any transaction with that party.
42. Participants in the Sale Process are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Phase 1 Bid or Phase 2 Bid, due diligence activities, and any further negotiations or other actions, whether or not they lead to the consummation of a transaction. Except for the payment of the Break Fee to the Stalking Horse Bidder, if payable, pursuant to the Stalking Horse APA, no party will be entitled for any reason (including, without limitation, any modification of the procedures contemplated herein) to reimbursement for any costs or expenses incurred in reliance upon the procedures set forth in these Bidding Procedures, as such procedures may be modified from time to time.
43. The Receiver shall have the right to modify the Sale Process if, in its reasonable business judgment, such modification will enhance the process or better achieve the objectives of the Sale Process, provided that the service list in this receivership proceeding shall be advised of any substantive modification to the procedures set forth herein.
44. Nothing contained in the Sale Process Order or these Bidding Procedures shall create any rights in any person (including, without limitation, any bidder in the Sale

Process and any rights as third party beneficiaries or otherwise) other than the rights expressly granted to a Successful Bidder under the Sale Process Order.

45. Except as otherwise provided in an order of the Court, the Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of the Sale Process Order, the Sale Process and the Bidding Procedures.
46. The Receiver shall not have any liability whatsoever to any person or party, including without limitation, to any Potential Bidder, Phase 1 Bidder, Phase 2 Bidder, a bidder who submits a Successful Bid, or any creditor, or other stakeholder, for any act or omission related to this Sale Process. By submitting a bid, each Potential Bidder shall be deemed to have agreed that it has no claim against the Receiver for any reason, matter or thing whatsoever.
47. This Sale Process will be interpreted so as to comply and be consistent with any applicable laws, regulations, orders or public health directives related to the COVID-19 pandemic and may be amended at any time by the Receiver to the extent necessary or advisable to comply with same.

## APPENDIX I

### Auction Procedures

1. If the Receiver determines to conduct an Auction pursuant to the Bidding Procedures, the Receiver will notify the Phase 2 Qualified Bidders who made a Phase 2 Qualified Bid that an Auction will be conducted. The Auction will be convened by the Receiver and conducted virtually by video conference at 10:00 AM (Eastern Time) on a date that is determined by the Receiver, provided that that it is not later than seven (7) business days after the Phase 2 Bid Deadline, or such other place and time as the Receiver may advise. Capitalized terms used but not defined have the meaning given to them in the Bidding Procedures.
2. The Stalking Horse Bidder shall be entitled to participate in the Auction in accordance with these Auction Procedures, which shall govern the conduct of the Auction in all respects.
3. The Auction shall be conducted in accordance with the following procedures:
  - (a) **Participation at the Auction.** Only Phase 2 Qualified Bidders, including the Stalking Horse Bidder, are eligible to participate in the Auction. The Receiver shall provide all Phase 2 Qualified Bidders with the details of the Lead Bid by 5:00 PM (Eastern Time) three (3) business days after the Phase 2 Bid Deadline. Except for the Stalking Horse Bidder, each Phase 2 Qualified Bidder must inform the Receiver whether it intends to participate in the Auction no later than 12:00 PM (Eastern Time) on the business day prior to the Auction. Only the authorized representatives of each of the Phase 2 Qualified Bidders, the Receiver and their respective counsel and other advisors shall be permitted to attend the Auction.
  - (b) **Bidding at the Auction.** Bidding at the Auction shall be conducted in rounds. The Lead Bid shall constitute the “Opening Bid” for the first round and the highest Overbid (as defined below) at the end of each round shall constitute the “Opening Bid” for the following round. In each round, a Phase 2 Qualified Bidder may submit no more than one Overbid. Any Phase 2 Qualified Bidder who bids in a round (including the Phase 2 Qualified Bidder that submitted the Opening Bid for such round) shall be entitled to participate in the next round of bidding at the Auction.
  - (c) **Receiver Shall Conduct the Auction.** The Receiver and its advisors shall direct and preside over the Auction. At the start of each round of the Auction, the Receiver shall provide the terms of the Opening Bid to all participating Phase 2 Qualified Bidders at the Auction. The determination of which Phase 2 Qualified Bid constitutes the Opening Bid for each round shall take into account any factors that the Receiver reasonably deems relevant to the value of the Phase 2 Qualified Bid, including, among other things, the following:
    - (i) the amount and nature of the consideration;
    - (ii) the proposed assumption of any liabilities and the related implied impact on recoveries for creditors;
    - (iii) the Receiver’s assessment of the certainty of the Phase 2 Qualified Bidder

to close the proposed transaction; (iv) the likelihood, extent, and impact of any potential delays in closing; (v) the net economic effect of any changes from the Opening Bid of the previous round, and (vi) such other considerations as the Receiver deems relevant in its reasonable business judgment (collectively, the “**Bid Assessment Criteria**”). All Bids made at the Auction subsequent to the Receiver’s announcement of the Opening Bid shall be “**Overbids**” and shall be made and received on an open basis, and all material terms of the highest and best Overbid shall be fully disclosed to all other Phase 2 Qualified Bidders that are participating in the Auction. The Receiver shall maintain a record of the Opening Bid and all Overbids made and announced at the Auction.

- (d) **Terms of Overbids.** To submit an Overbid, in any round of the Auction, a Phase 2 Qualified Bidder must comply with the following conditions:
- i. **Minimum Overbid Increment:** Any Overbid shall be made in minimum increments of \$25,000 of total consideration above the Opening Bid, in order to facilitate the Auction (the “**Minimum Overbid Increment**”). The value of total consideration, taking into account cash and non-cash consideration, shall be determined by the business judgement of the Receiver. The amount of the total consideration or value of any Overbid shall not be less than the cash purchase price consideration or value of the Opening Bid, plus the Minimum Overbid Increment(s) at that time, plus any additional Minimum Overbid Increments.
  - ii. **Phase 2 Bid Requirements Apply:** Except as modified herein, an Overbid must comply with the Phase 2 Bid Requirements described in the Bidding Procedures, provided, however, that the Bid Deadline shall not apply. Any Overbid made by a Phase 2 Qualified Bidder must provide that it remains irrevocable and binding on the Phase 2 Qualified Bidder and open for acceptance as a Back-Up Bid (as defined below) until the closing of the Successful Bid.
  - iii. **Announcing Overbids:** At the end of each round of bidding, the Receiver shall announce the identity of the Phase 2 Qualified Bidder and the material terms of the then highest and/or best Overbid, including the nature of the contemplated transaction, the Property proposed to be acquired and the obligations proposed to be assumed, and the basis for calculating the total consideration offered in such Overbid based on, among other things, the Bid Assessment Criteria.
  - iv. **Consideration of Overbids:** The Receiver reserves the right to make one or more adjournments of the Auction in durations set by the Receiver to, among other things: (i) allow individual Phase 2 Qualified Bidders to consider how they wish to proceed; (ii) consider and determine the current highest and/or best Overbid at any given time during the Auction; and, (iii) give Phase 2 Qualified Bidders the

opportunity to provide the Receiver with such additional evidence as they may require that the Phase 2 Qualified Bidder has obtained all required internal corporate approvals, has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing Overbid amount. The Receiver may have clarifying discussions with a Phase 2 Qualified Bidder, and the Receiver may allow a Phase 2 Qualified Bidder to make technical clarifying changes to its Overbid following such discussions. PHASE 2 QUALIFIED BIDDERS MUST OBTAIN ALL NECESSARY APPROVALS AND FUNDING COMMITMENTS IN ADVANCE OF THE AUCTION.

- v. **Failure to Bid:** If at the end of any round of bidding a Phase 2 Qualified Bidder (other than the Phase 2 Qualified Bidder that submitted the then highest and/or best Overbid or Opening Bid, as applicable) fails to submit an Overbid, then such Phase 2 Qualified Bidder shall not be entitled to continue to participate in the next round of the Auction.
- (e) **Additional Procedures.** The Receiver may adopt rules for the Auction at or prior to the Auction that will better promote the goals of the Auction, including rules pertaining to the structure of the Auction, provided they are not inconsistent with any of the provisions of the Bidding Procedures and provided further that no such rules may change the requirement that all material terms of the then highest and/or best Overbid at the end of each round of bidding will be fully disclosed to all other Phase 2 Qualified Bidders.
- (f) **Back-Up Bid.** If only one bid is submitted after any round of offers then that bid shall be the Successful Bid. The next highest bid, as determined by the Receiver (the “**Back-Up Bid**”), shall be required to keep its offer open and available for acceptance until the closing of the transaction contemplated by the Successful Bid.
- (g) **Closing the Auction.** The Auction shall be closed after the Receiver has:
  - (i) reviewed the final Overbid of each Phase 2 Qualified Bidder, and
  - (ii) identified the Successful Bid and the Back-Up Bid and the Receiver has advised the Phase 2 Qualified Bidders participating in the Auction of such determination.
- (h) **Finalizing Documentation.** Promptly following a bid of a Phase 2 Qualified Bidder being declared the Successful Bid, or the Back-Up Bid, the Phase 2 Qualified Bidder shall execute and deliver such revised and updated definitive transaction agreements, as may be required to reflect and evidence the Successful Bid or Back-Up Bid. For greater certainty, every Bid made at Auction is deemed to be a signed and binding bid based on the bidder’s original Phase 2 Qualified Bid, except as modified at the Auction.

**THE MANUFACTURERS LIFE INSURANCE COMPANY** - and -  
Applicant

**RIVERSIDE PROFESSIONAL CENTRE INC.**

Respondent

Court File No.: CV-21-00668726-00CL

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

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**ORDER**  
**(Stalking Horse Sale Process Approval)**

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