

Superior Court
(Commercial Division)

Canada
Province of Québec
District of Montréal
No: 500-11-062636-234
500-11-063060-236

In the matter of the *Companies' Creditors Arrangement Act*, RSC, 1985, c C-36 of :

**BRUNSWICK HEALTH GROUP INC.
BRUNSWICK MEDICAL CENTER INC.
DMSC REAL ESTATE INC.
THE CHILDREN'S CLINIC @ POINTE-CLAIRE INC.
SANOMED SOLUTIONS INC.
BRUNSWICK MEDICAL CENTRE @ GLEN INC.
BRUNSWICK RESEARCH INC.
BRUNSWICK MINOR SURGERY CENTER INC.
BRUNSWICK ENDOSCOPY INC.
6892094 CANADA INC.**

Debtors

BRUNSWICK LABS & TESTS INC.

Debtor

RAYMOND CHABOT INC.

Monitor / Applicant

MNP LTD.

BLT NOI Trustee

C.S. ADJAMI INC.

Trustee of 8981515 Canada Inc.

**THE REGISTRAR OF THE REGISTER OF PERSONAL AND MOVABLE REAL RIGHTS
(QUÉBEC)**

Mis-en-cause

Application for the Issuance of an Amended and Restated Approval and Vesting Order
(Companies' Creditors Arrangement Act, RSC, 1985, c C-36, ss 11, 36)

To the Honourable Justice Christian Immer of the Superior Court, sitting in the Commercial Division for the District of Montréal, the Applicant respectfully submits:

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I. Introduction

1. Brunswick Health Group Inc. (**Brunswick Health Group**), Brunswick Medical Center Inc. (**BMC**), DMSC Real Estate Inc. (**DMSC**), The Children's Clinic @ Pointe-Claire Inc. (**TCC Pointe-Claire**), SanoMed Solutions Inc. (**SanoMed**), Brunswick Medical Centre @ Glen Inc. (**BMC Glen**), Brunswick Research Inc. (**Brunswick Research**), Brunswick Minor Surgery Center Inc. (**Brunswick Minor Surgery**), Brunswick Endoscopy Inc. (**Brunswick Endoscopy**) and 6892094 Canada Inc. (**689 Canada**) and together with Brunswick Health Group, BMC, TCC Pointe-Claire, SanoMed, Brunswick Research, Brunswick Minor Surgery and Brunswick Endoscopy, the **BHG Target Entities**, the BHG Target Entities together with DMSC and BMC Glen are collectively referred to herein as the **BHG Debtors** and the BHG Debtors together with 8981515 Canada Inc. (**TCC Montréal**) are collectively referred to herein as **Brunswick Group** operate a full-service medical center that includes its own medical clinics, third party medical clinics and medical-related tenants. Brunswick Group is one of the largest medical centers in Québec, and one of the largest in Canada, with 120,000 square feet of operations located in its own state of the art medical facility located in Pointe-Claire.
2. Brunswick Labs & Tests Inc. (**BLT**), is a company affiliated to Brunswick Group which offers laboratory and testing services and subcontracts its activities to CDL Laboratories Inc. (**CDL**).
3. Pursuant to the present *Application for the Issuance of an Amended and Restated Approval and Vesting Order* (the **Application**), Raymond Chabot Inc., in its capacity as monitor to the BHG Debtors (the **Monitor**) is seeking the issuance of:
 - (a) an order, *inter alia*:
 - (i) approving (a) the purchase and sale and other transactions (the **Purchase and Sale Transactions**) contemplated in the *Second Amended and Restated Share Purchase Agreement* (the **Re-Amended Purchase Agreement**) dated as of January 31, 2024 entered into by and between (A) 15529301 Canada Inc., as purchaser (the **Purchaser**), (B) Brunswick Health Group, (C) Vince Trevisonno, (D) 9508503 Canada Inc., as guarantor (the **Guarantor**), (E) Laurent Amram and (F) BLT, a redacted copy of which is communicated herewith as **Exhibit P-1**; and (b) the pre-closing reorganization steps contemplated in Schedule A to the Re-Amended Purchase Agreement (such transactions being collectively referred to as the **Reorganization**) (the Purchase and Sale Transactions together with the Reorganization are collectively referred to as the **Proposed Transaction**), in accordance with the terms of the proposed amended and restated approval and vesting order (the **Proposed A&R AVO**) communicated herewith as **Exhibit P-2**. A version comparing the Proposed A&R AVO to the model Approval and Vesting Order developed by the Liaison Committee of the Commercial Division of the Superior Court is communicated herewith as **Exhibit P-3**;
 - (ii) authorizing the Monitor to pay certain amounts owing to the beneficiaries of certain court-ordered charges;

- (iii) granting certain expanded powers to the Monitor further to the closing of the Proposed Transaction; and
- (iv) authorizing Mr. Vince Trevisonno to execute certain documents for and on behalf of certain holders of Brunswick Health Group Class B shares.

(b) an *ordonnance de radiation*, similar to the Proposed A&R AVO, in accordance with the terms of the proposed *Ordonnance de radiation amendée et reformulée* communicated herewith as **Exhibit P-4**, which is intended to satisfy certain language requirements in connection with the registration of the Proposed A&R AVO, if rendered, at the various public registries and the discharge and reduction of the security contemplated by the Proposed A&R AVO.

II. Procedural History

4. On July 14, 2023, each of the entities of Brunswick Group signed a Notice of intention to make a proposal (**NOI**) under the relevant provisions of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the **BIA**) and, on the same day, C.S. Adjami Inc. filed the NOI with the Office of the Superintendent of Bankruptcy and was appointed as trustee thereto (the **NOI Trustee**), as appears from the Court record.
5. Absent the commencement of proceedings under the BIA by filing NOIs (the **NOI Proceedings**) and the protection afforded to it by the automatic stay of proceedings, Brunswick Group would have been unable to continue its operations while it completed the implementation of its restructuring plan, for the benefit of all of its stakeholders including its creditors, employees, the physicians affiliated to Brunswick Group (the **Physicians**) and the thousands of patients who visit its clinics every year.
6. On August 9, 2023, Brunswick Group filed a *Motion for an Order Consolidating the NOI Proceedings for Administrative Purposes and Extending the Time Limit to File a Proposal*, pursuant to which they requested, *inter alia*, a first extension of the stay period. The short extension was requested to give sufficient time to the parties involved to negotiate the terms of an interim financing facility.
7. On August 11, 2023, the Honourable Christian Immer, J.S.C. issued the *Order Consolidating the NOI Proceedings for Administrative Purposes and Extending the Time Limit to File a Proposal* which *inter alia*:
 - (a) consolidated, for administrative purposes only, the NOI Proceedings in a single proceeding under the Court file number 500-11-062636-234; and
 - (b) extended the time limit to file a proposal and the corresponding stay of proceedings until and including August 18, 2023.
8. On August 16, 2023, Brunswick Group filed a *Motion for an Order (i) Extending the NOI Proceedings, (ii) Approving an Administration Charge, an Interim Financing, an Interim Financing Charge and a Financial Advisor Charge, (iii) Appointing a Representative Counsel, (iv) Appointing an Interim Receiver and (v) Related Relief* (the **NOI Relief Motion**).

9. On August 17, 2023, the Honourable Christian Immer, J.S.C. issued an Order (the **NOI Charges Order**) which *inter alia*:
- (a) extended the time limit to file a proposal and the corresponding stay of proceedings until and including October 2, 2023;
 - (b) authorized the Debtors to borrow from the The Toronto-Dominion Bank (**TD Bank**) and Business Development Bank of Canada (**BDC** and together with TD Bank, the **Interim Lenders**) up to a maximum principal amount of \$1,000,000 on the terms and conditions set forth in the Interim Financing Terms Sheet dated August 16, 2023 (the **Interim Financing Term Sheet**) and created a priority charge on all of the Debtor's assets, property and undertakings (the **Property**) in the aggregate amount of \$1,250,000 in favour of the Interim Lenders (the **Interim Lenders' Charge**);
 - (c) created a priority charge in favour of C.S. Adjami Inc., in its capacity as NOI trustee to the entities of Brunswick Group as well as Interim Receiver, and McCarthy Tétrault LLP, in its capacity as counsel to Brunswick Group, over the Property in the amount of \$150,000 (as subsequently increased, the **NOI Administration Charge**) as security for the payment of their professional fees and disbursements;
 - (d) created a priority charge in favour of PricewaterhouseCoopers Corporate Finance Inc. (**PwC**) in the amount of \$350,000 on the Property (the **Financial Advisor Charge**) as security for the payment of its fees and disbursements;
 - (e) authorized the Debtor to pay an amount of \$700,000 representing the billings collected by Brunswick Group prior to the filing of the NOIs from the RAMQ as well as from hospital and private billing, which was scheduled to be paid to the Physicians on July 21, 2023 (the **Cycle 28 Payment**) in installments as provided in the Interim Financing Term Sheet, and pay amounts due to each Physician in connection therewith subject to each Physician undertaking to continue to provide medical services at the clinics owned by the Debtors until (i) the closing of a transaction or (ii) the date on which it is determined that no transaction in respect of the Debtors' medical operations will occur; and
 - (f) appointed C.S. Adjami Inc., trustee, to act as interim receiver (the **Interim Receiver**) in connection with the payment of RAMQ and private billings to occur during the NOI Proceedings to certain Physicians.
10. On September 29, 2023, Brunswick Group filed a *Motion for an Order Extending the NOI Proceedings*.
11. On October 2, 2023, Me Patrick Gosselin, Registrar, issued an *Order Extending the NOI Proceedings* which extended the time limit to file a proposal and the corresponding stay of proceedings until and including October 10, 2023.
12. On October 6, 2023, Brunswick Group filed a *Motion for an Order Extending the NOI Proceedings*.

13. On October 10, 2023, Me Vincent-Michel Aubé, Registrar, issued an *Order Extending the NOI Proceedings* which *inter alia* extended the time limit to file a proposal and the corresponding stay of proceedings until and including November 3, 2023.
14. On October 30, 2023, BLT signed a NOI under the relevant provisions of the BIA and, on the same day, MNP Ltée. filed the NOI with the Office of the Superintendent of Bankruptcy and was appointed as trustee thereto (the **BLT Trustee**).
15. On October 31, 2023, Brunswick Group filed a *Motion for an Order Extending the NOI Proceedings and Increasing the Administration Charge*.
16. On November 1, 2023, the Honourable Christian Immer, J.S.C. issued an Order which *inter alia* extended the time limit to file a proposal and the corresponding stay of proceedings until and including November 22, 2023 and increased the NOI Administration Charge to \$200,000.
17. On November 19, 2023, Brunswick Group filed a *Motion for the Issuance of an Approval and Vesting Order and for an Order Extending the NOI Proceedings and Amending the Financial Advisor Charge* (the **Approval Motion**).
18. On November 22, 2023, the Honourable Christian Immer, S.C.J., rendered an Order extending the time limit for the Debtors to file a proposal and the corresponding stay of proceedings until and including November 28, 2023.
19. On November 28, 2023, the Honourable Christian Immer, S.C.J., issued *inter alia* the following orders:
 - (a) an *Approval and Vesting Order* (the **RVO**) with respect to (a) the purchase and sale and other transactions contemplated in the amended and restated share purchase agreement (the **Amended Purchase Agreement**) dated as of November 27, 2023 entered into by and between (i) the Purchaser, (ii) Brunswick Health Group, (iii) Vince Trevisonno, and (iv) the Guarantor, and (b) the pre-closing reorganization steps contemplated in Schedule A to the Amended Purchase Agreement; and
 - (b) an Order which *inter alia* extended the time limit to file a proposal and the corresponding stay of proceedings until and including December 15, 2023, and amended the Financial Advisor Charge.
20. On December 12, 2023, Brunswick Group filed a *Motion for the Issuance of an Order Extending the NOI Proceedings*.
21. On December 14, 2023, the Honourable Christian Immer, S.C.J. issued an Order which *inter alia* extended the time limit to file a proposal and the corresponding stay of proceedings until and including December 27, 2023.
22. On December 23, 2023, Brunswick Group filed a *Motion for the Issuance of an Order Extending the NOI Proceedings*.

23. On December 27, 2023, the Honourable Christian Immer, S.C.J. issued an Order which *inter alia* extended the time limit to file a proposal and the corresponding stay of proceedings until and including January 12, 2023.
24. On January 9, 2024, TD Bank and BDC, in their capacity as secured creditors of Brunswick Group, filed an *Application to Continue Proceedings Commenced Under the Bankruptcy and Insolvency Act and for a Transition Order Under the Companies' Creditors Arrangement Act*.
25. On January 12, 2024, the Honourable Christian Immer, S.C.J. issued an order (the **Transition Order**) which *inter alia*:
- (a) continued the proceedings under the BIA of the BHG Debtors under the *Companies' Creditors Arrangement Act* (the **CCAA**) thereby commencing proceeding under the CCAA in respect of the BHG Debtors (the **CCAA Proceedings**);
 - (b) stayed all proceedings in respect of the BHG Debtors and their directors and officers until and including January 22, 2024 (the **Stay Period**);
 - (c) appointed Raymond Chabot Inc. as monitor of the BHG Debtors;
 - (d) created a priority charge in favour of Raymond Chabot Inc., in its capacity as Monitor, and McCarthy Tétrault LLP, in its capacity as counsel to the Monitor, over the Property in the amount of \$300,000 (the **CCAA Administration Charge**) as security for the payment of their professional fees and disbursements incurred in connection with the CCAA Proceedings;
 - (e) approved the Amended and Restated Interim Financing Term Sheet (the **ARIF Term Sheet**); and
 - (f) appointed Stein & Stein Inc. as representative counsel in the CCAA Proceedings (the **Representative Counsel**) to represent the interest of the Physicians and created a priority charge in favour of Stein & Stein Inc. in the amount of \$35,000 on the Property (the **Representative Counsel Charge**) as security for the payment of its fees and disbursements.
26. On January 22, 2024 the Honourable Christian Immer, S.C.J. issued an order (the **Amended and Restated Transition Order**) which *inter alia* amended and restated the Transition Order and extended the Stay Period until and including March 22, 2024.

III. Background and Context

27. On November 28, 2023, the Court rendered the RVO *inter alia* approving the Amended Purchase Agreement and the purchase and sale and other transactions contemplated thereby. The sale and investment solicitation process (**SISP**) leading to the Amended Purchase Agreement as well as the relevant background and context leading to the issuance of the RVO are set out in detail in the Approval Motion.

28. Notwithstanding the foregoing, the Purchaser was unable to complete the purchase and sale and other transactions contemplated in the Amended Purchase Agreement and the RVO.
29. Discussions between the Purchaser, the Monitor, the BHG Debtors, the BLT NOI Trustee and BLT as well as TD Bank and BDC have been ongoing since then with a view to identifying a solution which would allow for the closing of a transaction in respect of Brunswick Group's medical activities as a going concern in short order.
30. As previously reported to the Court, in early January 2024, the Purchaser informed the other parties that it secured financing for a significant portion of the purchase price and counsel to the purchaser confirmed holding this amount in trust for the purpose of closing a transaction.
31. Given the foregoing, the parties continued their discussions and agreed on the terms and conditions of a *Memorandum of Understanding* dated January 25, 2024, between (i) the Purchaser, (ii) Brunswick Health Group, (iii) Vince Trevisonno, (iv) the Guarantor, (v) Laurent Amram, (vi) BLT and (vii) the Monitor (the **MOU**), which set out the terms and conditions pursuant to which the parties agreed to amend the Amended Purchase Agreement as well as the additional terms and conditions which should be included in the Re-Amended Purchase Agreement.
32. On January 31, 2024, (i) the Purchaser, (ii) Brunswick Health Group, (iii) Vince Trevisonno, (iv) the Guarantor, (v) Laurent Amram and (vi) BLT entered into the Re-Amended Purchase Agreement in accordance with the terms and conditions of the MOU. The Proposed Transaction closed in escrow on the same day, subject to this Court's approval.

IV. The Proposed Transaction¹

A. Description of the Proposed Transaction

33. The Proposed Transaction effectively provides for the purchase of substantially all key assets of Brunswick Health Group and BMC, TCC Pointe-Claire, SanoMed, Brunswick Research, Brunswick Minor Surgery, Brunswick Endoscopy and 689 Canada (collectively, the **Target Subsidiaries**) as well as BLT and the assumption of specified liabilities (other than all other liabilities, which are to be vested out to newly incorporated corporations) by way of the Proposed A&R AVO (**Exhibit P-2**), the culmination of which will result in the Purchaser, acquiring all of the issued and outstanding shares of Brunswick Health Group (and indirectly of the Target Subsidiaries) and BLT, which will emerge from the CCAA Proceedings or BIA proceedings (Brunswick Health Group, the Target Subsidiaries and BLT, after having emerged, being the **Purchased Entities**), as applicable, as contemplated by the Re-Amended Purchase Agreement.
34. The structure of the Proposed Transaction is identical to that of the transaction contemplated pursuant to the Amended Purchase Agreement approved by the Court pursuant to the RVO.

¹ Capitalized terms used in this section and not otherwise defined herein shall have the meanings ascribed to them in the 2nd Purchase Agreement.

35. The main differences between the Amended Purchase Agreement and the Re-Amended Purchase Agreement are in respect of the consideration offered (both the amount and the timing of the satisfaction of the consideration) as well as the granting of certain additional assurances and guarantees.

B. Steps of the Reorganization

36. The steps of the pre-closing Reorganization, which are detailed in Schedule A to the Re-Amended Purchase Agreement (**Exhibit P-1**), can be summarized as follows:

- (a) Brunswick Health Group incorporates four corporations:²

- (i) “**BHG ResidualCo**” which will ultimately hold and assume the BHG Excluded Liabilities and the TCC Glen Shares, with authorized share capital consisting of a class of voting and fully participating common shares and a class of non-voting and fully participating common shares;
- (ii) “**BLT ResidualCo**” which will ultimately hold and assume the BLT Excluded Assets, BLT Excluded Liabilities and BLT Excluded Contracts, , with authorized share capital consisting of a class of voting and fully participating common shares;
- (iii) “**DMSC ResidualCo**” which will hold the DMSC Shares, with authorized share capital consisting of a class of voting and fully participating common shares; and
- (iv) “**ResidualCo**” which will hold and assume the Excluded Assets, other than the DMSC Shares and the TCC Glen Shares, the Excluded Contracts and the Excluded Liabilities, other than the BHG Excluded Liabilities, with authorized share capital consisting of a class of voting and fully participating common shares.

- (b) Brunswick Health Group subscribes to one (1) Class A Share of BHG ResidualCo, 100 BLT ResCo Common Shares, one (1) DMSC ResCo Common Share and one (1) ResCo Common Share.

- (c) Brunswick Health Group transfers all issued and outstanding shares of DMSC, BMC Glen and 898 Canada to BHG ResidualCo in exchange for the issuance 227,499 Class A Shares of BHG ResidualCo and 505,905 Class B Shares of BHG ResidualCo on a tax deferred roll-over basis pursuant to section 85 of the ITA (and the corresponding provisions of any applicable provincial or territorial Law).

- (d) BHG ResidualCo transfers all issued and outstanding shares of:

- (i) DMSC to DMSC ResidualCo in exchange for the issuance of 99 DMSC ResCo Common Shares on a tax deferred roll-over basis pursuant to section 85 of the ITA (and the corresponding provisions of any applicable provincial or territorial Law); and

² This step has already been completed.

- (ii) BMC Glen to ResidualCo in exchange for the issuance of 99 ResCo Common Shares on a tax deferred roll-over basis pursuant to section 85 of the ITA (and the corresponding provisions of any applicable provincial or territorial Law).
 - (e) The Target Subsidiaries transfer the Excluded Assets, the Excluded Liabilities and the Excluded Contracts, to ResidualCo, and ResidualCo assumes the Excluded Liabilities and the Excluded Contracts.
 - (f) Brunswick Health Group transfers the BHG Excluded Liabilities to BHG ResidualCo, and BHG ResidualCo assumes the BHG Excluded Liabilities.
 - (g) BLT transfers the BLT Excluded Assets, the BLT Excluded Liabilities and the BLT Excluded Contracts to BLT ResidualCo, and BLT ResidualCo assumes the BLT Excluded Liabilities and the BLT Excluded Contracts
 - (h) BHG ResidualCo transfers all of the issued and outstanding shares of BHG ResidualCo to the Brunswick Health Group's shareholders for nominal consideration;
 - (i) Brunswick Health Group's shareholders transfer their shares in the share capital of Brunswick Health Group to BHG ResidualCo in exchange for the issuance 227,500 Class A Shares of BHG ResidualCo and 505,905 Class B Shares of BHG ResidualCo on a tax deferred roll-over basis pursuant to section 85 of the ITA (and the corresponding provisions of any applicable provincial or territorial Law); and
 - (j) BHG ResidualCo sells all of the issued and outstanding shares in the share capital of Brunswick Health Group to the Purchaser and the BLT Shareholder sells all of the issued and outstanding shares in the share capital of BLT to the Purchaser.
37. The Purchase and Sale Transactions, including the steps of the Reorganization, are illustrated in the step plan diagram communicated herewith as **Exhibit P-5**.

C. The Effect of the Proposed Transaction on the Creditors of Brunswick Group and BLT

38. Pursuant to the Proposed Transaction all liabilities and excluded contracts of Brunswick Health Group, the Target Subsidiaries and BLT, other than the liabilities specifically assumed under the Purchase Agreement (i.e. the BHG Excluded Liabilities, the Excluded Liabilities or the BLT Excluded Liabilities and the Excluded Contracts or BLT Excluded Contracts) will vest into BHG ResidualCo, BLT ResidualCo or ResidualCo, as applicable, with the same attributes and rights resulting from existing defaults of Brunswick Health Group, the Target Subsidiaries and BLT, as applicable, and the Purchased Entities shall be discharged from such BHG Excluded Liabilities, Excluded Liabilities and BLT Excluded Liabilities.
39. Ultimately, the BHG Excluded Liabilities will be transferred to and assumed by BHG ResidualCo, the Excluded Liabilities will be transferred to and assumed by ResidualCo and the BLT Excluded Liabilities will be transferred to and assumed by BLT ResidualCo.

40. Conversely, the Purchased Entities shall own, to the exclusion of all other persons, free and clear of and from any encumbrances, all right title and interest in and to all of their respective assets and property, other than the Excluded Assets and the BLT Excluded Assets, which will be owned by BHG ResidualCo, DMSC ResidualCo, ResidualCo or BLT ResidualCo, as applicable.
41. The shares of DMSC, BMC Glen and 898 Canada are part of the Excluded Assets and will be transferred to DMSC ResidualCo, ResidualCo and BHG ResidualCo as part of the Reorganization.
42. As a result:
 - (a) the creditors of Brunswick Health Group, unless their claims towards Brunswick Health Group are assumed by the corresponding Purchased Entity, will become creditors of BHG ResidualCo upon closing of the Proposed Transaction;
 - (b) the creditors of the Target Subsidiaries, unless their claims towards the Target Subsidiaries are assumed by the corresponding Purchased Entities, will become creditors of ResidualCo upon closing of the Proposed Transaction; and
 - (c) the creditors of BLT, unless their claims towards BLT are assumed by the corresponding Purchased Entity, will become creditors of BLT ResidualCo upon closing of the Proposed Transaction.
43. Given that Brunswick Group's secured creditors are unlikely to be paid in full, no distribution to Brunswick Group's pre-filing unsecured creditors is expected, except for pre-filing payments owed to physicians of Brunswick Group, which are essential to the continuation of the business as a going concern, and the payment of their pre-filing claim is a condition under the Purchase Agreement.
44. Pursuant to the Proposed Transaction, holders of Brunswick Health Group's common shares are not expected to receive any payments for, or distribution on, their common shares in connection with the NOI Proceedings, but will hold shares, on a *pro rata* basis, in BHG ResidualCo. Brunswick Health Group does not expect any residual value for holders of its common shares.
45. Notwithstanding the foregoing, the post-closing structure of the Proposed Transaction will ensure that, in the event the proceeds from the sale of the Pointe-Claire Facility are sufficient to reimburse in full the secured creditors, any excess proceeds after payment in full of DMSC's creditors would be able to be distributed in the same manner as if the Proposed Transaction had been structured as a traditional asset sale.
46. BLT has no secured creditors and its unsecured creditors consist of Brunswick Health Group, Glaxo Smith Inc., CDL and FCDQ.
47. FCDQ's unsecured debt is guaranteed under the Canada Emergency Business Account program implemented during the COVID-19 pandemic, such that it will suffer no prejudice as a result of the Proposed Transaction.

48. The assets of BLT being acquired in the context of the Proposed Transaction are of limited value and the structure of the Proposed Transaction will allow for the monetization of the BLT Excluded Assets for the benefit of its stakeholders in the context of a bankruptcy or otherwise.

D. The Proposed Transaction Should be Approved

49. In the present circumstances, the Proposed Transaction represents the best alternative available for Brunswick Group's and BLT's stakeholders resulting from a SISP which was conducted in a fair and reasonable manner and thoroughly canvassed the market for available options.
50. The Proposed Transaction constitutes a "real" restructuring, preserving the going concern of Brunswick Group's medical operations for the benefit of a significant number of Brunswick Group's stakeholders:
- (a) Brunswick Group's active employees, all or substantially all of whom will be retained on substantially the same terms as their current employment terms with the preservation of employee plans currently in place;
 - (b) Brunswick Group's approximately 170 affiliated physicians who practice in Brunswick Group's clinics and provide medical consults, tests and procedures will continue to provide their services to the public under the govern of the Purchaser;
 - (c) Brunswick Group's suppliers for whom the continuation of Brunswick Group's operations is more beneficial than a liquidation because they will continue their business relationship with Brunswick Groups; and
 - (d) the community in the greater Montreal region who relies on the medical clinics of Brunswick Group for their healthcare needs, especially in the context of the healthcare capacity shortage in the province of Québec.
51. Furthermore, the proceeds of the Proposed Transaction are expected to be sufficient to result in a distribution to Brunswick Group's secured creditors. This amount is intended to be distributed by the NOI Trustee pursuant to a distribution order to be sought following closing of the Proposed Transaction.
52. The "reverse vesting" structure of the Proposed transaction is warranted in the current circumstances given that:
- (a) it allows for the preservation of the Purchased Entities' carry-forward tax losses, which were an essential consideration for the Purchaser entering into the Proposed Transaction;
 - (b) it is more efficient and will allow Brunswick Group to preserve its limited financial resources and allow a closing to occur prior to the end of the 6-month time limit to complete a restructuring under the BIA. In fact, absent the reverse vesting structure, the implementation of the Proposed Transaction would be considerably more costly and complicated and the closing could be delayed by several weeks, if not months;

- (c) it is reassuring for Brunswick Group's stakeholders, which include namely the physicians and the patients, in that it provides greater certainty to Brunswick Group's stakeholders that Brunswick Group will continue to operate, emerge from its restructuring as a financially strong operator of medical clinics. It is expected that the day-to-day operations will continue on a "business as usual" basis immediately after closing;
 - (d) it will avoid the delays associated with the transfer of Brunswick Group's existing permits and licences, including the GMF and GMF-R accreditations; and
 - (e) it avoids any transfer relating to patient files and obtaining any consents required from patients and/or any ethical breaches that could result therefrom for the physicians.
53. The Monitor submits that the economic result of the Proposed Transaction is at least as favourable, if not more favourable, than any other viable alternative. No other indication of interest received was higher than the consideration under the Proposed Transaction.
 54. In establishing the structure of the transaction, Brunswick Group has taken into consideration the various stakeholders. The structure aims to ensure that all are treated fairly and equitably under the circumstances.
 55. Finally, as stated above, the carry-forward tax losses were an essential consideration for the Purchaser entering into the Proposed Transaction and this factor has been taken into account in the consideration offered by the Purchaser. Furthermore, the consideration reflects the importance and value of the permits, licences and accreditations being preserved, including the GMF and GMF-R accreditations.
 56. As regards BLT, the Proposed Transaction was conditional on the acquisition of the shares of BLT given the relationship between BLT, CDL and Brunswick Group.
 57. TD Bank and BDC, in their capacity as secured lenders and Interim Lenders, have informed the NOI Trustee that they support the Proposed Transaction.
 58. Under the present circumstances, the Proposed Transaction represents the best alternative available for the Brunswick Group's stakeholders resulting from a SISF which was conducted in a fair and reasonable manner and thoroughly canvassed the market for available options.
- V. The Authorization to Pay Certain Amounts Owing under Certain Court-Ordered Charges**
59. The Monitor is seeking this Court's authorization to pay the amounts owing to the Interim Lenders under the ARIF Term Sheet as well as the amounts owing to the beneficiaries of the NOI Administration Charge, the Financial Advisor Charge (collectively, the **NOI Charges**), the Representative Counsel Charge and the CCAA Administration Charge.
 60. These amounts would be paid (i) from the initial proceeds of the Transaction, in accordance with schedule B appended to the Monitor's report, and (ii) from the available cash generated by the immovable operations of DMSC going forward.

61. Upon the closing of the Transaction: (i) the Interim Financing as well as the amounts owed to PwC secured by the Financial Advisor Charge will become due and payable and (ii) there will no longer be a need for a Representative Counsel.
62. Furthermore, the NOI Proceedings are terminated and completed since the issuance by this Court of the Transition Order, which approved the continuation of the NOI Proceedings under the CCAA, and there remains amounts owing by Brunswick Group to the beneficiaries of the NOI Administration Charge.
63. Finally, in light of unexpected permanent negative variance in the BHG Debtors' cash flows, the Monitor and its counsel have had to defer the payment of all of their professional fees and disbursements incurred to date in connection with these CCAA Proceedings.
64. Given the foregoing, it is respectfully submitted that it is appropriate and reasonable in the circumstances to authorize the Monitor to pay the amounts owing to the Interim Lender and to the beneficiaries of the NOI Charges, the Representative Counsel Charge and the CCAA Administration Charge from (i) the initial proceeds of the Transaction and (ii) the available cash generated by the immovable operations of DMSC going forward.
65. Upon complete payment of the amounts owed to the Interim Lenders under the ARIF Term Sheet and to the beneficiaries of the NOI Charges and the Representative Counsel Charge, the Interim Lenders' Charge, the NOI Charges and the Representative Counsel Charge (collectively, the **Proposed Released Charges**) will no longer be required or serve a useful purpose
66. In light of the foregoing, the Monitor submits that it is appropriate that the Proposed Released Charges be terminated, released and discharged upon the issuance by the Monitor of a certificate confirming that all amounts secured by the Proposed Released Charges have been paid.

VI. The Monitor Should be Granted Expanded Powers Further to the Closing of the Proposed Transaction

67. Brunswick Group's management and certain employees, including those responsible for the accounting of the businesses, are shared amongst all of the entities of Brunswick Group.
68. Further to the closing of the Proposed Transaction, if approved by this Court, management and employees would become employees of the Purchaser and would therefore act on behalf of the Purchaser representing the tenants.
69. In order to ensure that there is no conflict of interest further to the closing of the Proposed Transaction, there will need to be a separation between the businesses now owned by the Purchaser and the business of DMSC, which entity remains a debtor under the CCAA Proceedings.
70. In light of the foregoing, it is respectfully submitted that the Monitor should be granted expanded powers which will allow it, as required, to conduct and control the business and financial affairs of DMSC, BHG ResidualCo and DMSC ResidualCo.

VII. Conclusion

71. For the reasons outlined herein, the Monitor respectfully submits that it is both appropriate and necessary that this Court render the orders sought pursuant to the Application.
72. Given the need to advance the restructuring process and to proceed with the Proposed Transaction as quickly as possible, it is respectfully requested that this Court order the provisional execution of the orders sought pursuant to the Application, notwithstanding any appeal.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

RENDER an Order substantially similar to the Proposed A&R AVO, **Exhibit P-2**;

RENDER an Order substantially similar to the proposed *Ordonnance de radiation amendée et reformulée*, **Exhibit P-4**;

THE WHOLE without legal costs, save in case of contestation.

Montréal, February 6, 2024

McCarthy Tétrault, s.e.n.c.r.l., s.r.l.

McCarthy Tétrault LLP

Lawyers for the Monitor

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Superior Court
(Commercial Division)

Canada
Province of Québec
District of Montréal
No: 500-11-062636-234
500-11-063060-236

In the matter of the *Companies' Creditors Arrangement Act*, RSC, 1985, c C-36 of :

**BRUNSWICK HEALTH GROUP INC.
BRUNSWICK MEDICAL CENTER INC.
DMSC REAL ESTATE INC.
THE CHILDREN'S CLINIC @ POINTE-CLAIRE INC.
SANOMED SOLUTIONS INC.
BRUNSWICK MEDICAL CENTRE @ GLEN INC.
BRUNSWICK RESEARCH INC.
BRUNSWICK MINOR SURGERY CENTER INC.
BRUNSWICK ENDOSCOPY INC.
6892094 CANADA INC.**

Debtors

BRUNSWICK LABS & TESTS INC.

Debtor

RAYMOND CHABOT INC.

Monitor / Applicant

MNP LTD.

BLT NOI Trustee

C.S. ADJAMI INC.

Trustee of 8981515 Canada Inc.

**THE REGISTRAR OF THE REGISTER OF PERSONAL AND MOVABLE REAL RIGHTS
(QUÉBEC)**

Mis-en-cause

Affidavit

I, the undersigned, Vince Trevisonno, President of Brunswick Health Group Inc. et al and of Brunswick Labs & Tests Inc., domiciled for the purpose hereof at 955 St-Jean Boulevard, Suite 308, Pointe-Claire, Québec, H9R 5K3, solemnly affirm that all the facts alleged in the present

Application for the Issuance of an Amended and Restated Approval and Vesting Order are, to the best of my knowledge, true.

AND I HAVE SIGNED, BY TECHNOLOGICAL MEANS
AT MONTRÉAL,

Vince Trevisonno

SOLEMNLY AFFIRMED TO BEFORE ME BY
TECHNOLOGICAL MEANS AT MONTREAL, this
7th day of February, 2024

COMMISSIONER OF OATHS
FOR THE PROVINCE OF QUÉBEC

Superior Court
(Commercial Division)

Canada
Province of Québec
District of Montréal
No: 500-11-062636-234
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Debtors

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Monitor / Applicant

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Trustee of 8981515 Canada Inc.

**THE REGISTRAR OF THE REGISTER OF PERSONAL AND MOVABLE REAL RIGHTS
(QUÉBEC)**

Mis-en-cause

Notice of Presentation

TO: The Service List

TAKE NOTICE that the present *Application for the Issuance of an Amended and Restated Approval and Vesting Order* will be presented for adjudication before the Quebec Superior Court,

sitting in the commercial division for the district of Montréal, at the Montréal Courthouse located at 1, Notre-Dame Street East, Montreal, Québec, H2Y 1B6 **on February 9, 2024 at a time and in a room to be communicated to the Service List.**

Montréal, February 6, 2024

McCarthy Tétrault, s.e.n.c.r.l., s.r.l.

McCarthy Tétrault LLP

Lawyers for the Monitor

Superior Court
(Commercial Division)

Canada
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Mis-en-cause

List of Exhibits

(Application for the Issuance of an Amended and Restated Approval and Vesting Order)

EXHIBITS	DESCRIPTION
Exhibit P-1	Re-Amended Purchase Agreement (<i>Redacted</i>)
Exhibit P-2	Proposed A&R AVO
Exhibit P-3	Proposed A&R AVO compared to the model Approval and Vesting Order developed by the Liaison Committee of the Commercial Division of the Superior Court
Exhibit P-4	Proposed <i>Ordonnance de radiation amendée et reformulée</i>
Exhibit P-5	Step Plan Diagram of Purchase and Sale Transactions

Montréal, February 6, 2024

McCarthy Tétrault, s.e.n.c.r.l., s.r.l.

McCarthy Tétrault LLP
Lawyers for the Monitor

N° : 500-11-062636-234
SUPERIOR COURT
(COMMERCIAL DIVISION)
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

**In the matter of the *Companies' Creditors
Arrangement Act*, RSC, 1985, c C-36 of :**

Brunswick Health Group Inc. et al.

Debtors

-and-

Raymond Chabot Inc.

Monitor / Applicant

**APPLICATION FOR THE ISSUANCE OF AN AMENDED
AND RESTATED APPROVAL AND VESTING ORDER**

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