

COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, and the *Competition Tribunal Rules*, SOR/2008-141;

AND IN THE MATTER OF the proposed amalgamation where the Jean Coutu Group (PJC) Inc. will become a wholly-owned affiliate of Metro Inc.;

AND IN THE MATTER OF the filing and registration of a consent agreement pursuant to sections 92 and 105 of the *Competition Act*.

B E T W E E N :

THE COMMISSIONER OF COMPETITION

COMPETITION TRIBUNAL  
TRIBUNAL DE LA CONCURRENCE  
REGISTERED / ENREGISTRÉ  
FILED / PRODUIT

Date: April 23, 2018  
CT-2018-007

Andrée Bernier for / pour  
REGISTRAR / REGISTRAIRE

OTTAWA, ONT.

# 3

Applicant

– and –

METRO INC.

Respondent

CONSENT AGREEMENT

**RECITALS:**

- A. Metro Inc. (“Metro”) and The Jean Coutu Group (PJC) Inc. (“PJC”) proposes the amalgamation of a wholly-owned affiliate of Metro and PJC. (the “Transaction”)
- B. The Commissioner has concluded that the Transaction is likely to result in a substantial lessening and/or prevention of competition in pharmacy distribution and banner services in Amos, Berthierville, Baie St-Paul, Carleton-sur-Mer, Coaticook, Disraeli, La Baie et La Sarre, and that the implementation of this Agreement is necessary to ensure that any substantial lessening and/or prevention of competition will not result from the Transaction.
- C. Metro does not admit but will not for the purposes of this Agreement, including execution, registration, enforcement, variation or rescission, contest the Commissioner’s conclusions that (i) the Transaction is likely to result in a substantial lessening and/or prevention of competition in pharmacy distribution and banner services in Amos, Berthierville, Baie St-Paul, Carleton-sur-Mer,

Coaticook, Disraeli, La Baie et La Sarre; and (ii) the implementation of this Agreement is necessary to ensure that any substantial lessening and/or prevention of competition will not result from the Transaction.

- D. Nothing in this Agreement affects any investigation, inquiry or proceeding other than under section 92 of the Act in respect of the Transaction.

**THEREFORE** Metro and the Commissioner agree as follows:

**I. DEFINITIONS**

[1] Whenever used in this Agreement, the following words and terms have the meanings set out below:

- (a) **“Act”** means the *Competition Act*, R.S.C. 1985, c. C-34, as amended;
- (b) **“Affiliate”** means, in respect of a Person, any other Person controlling, controlled by or under common control with such first Person, whether directly or indirectly, and **“control”** means directly or indirectly hold securities or other interests in a Person (i) to which are attached more than 50% of the votes that may be cast to elect directors or persons exercising similar functions or (ii) entitling the holder to receive more than 50% of the profits of the Person or more than 50% of its assets on dissolution;
- (c) **“Agreement”** means this Consent Agreement, including the schedules hereto, and references to a “Part”, “Section”, “Paragraph” or “Schedule” are, unless otherwise indicated, references to a part, section, paragraph or schedule of or to this Agreement;
- (d) **“Business Day”** means a day on which the Competition Bureau’s Gatineau, Quebec office is open for business;
- (e) **“Closing”** means the completion of the Transaction under the Transaction Agreement;
- (f) **“Closing Date”** means the date on which Closing occurs;
- (g) **“Commissioner”** means the Commissioner of Competition appointed under the Act and includes his authorized representatives;
- (h) **“Confidential Information”** means competitively sensitive, proprietary and all other information that is not in the public domain, and that is owned by or pertains to a Person or a Person’s business, and includes, but is not limited to, manufacturing, operations and financial information, customer lists, price lists, contracts, cost and revenue information, marketing methods, patents, technologies, processes, or other trade secrets;

- (i) **“Divestiture”** means i) the sale, conveyance, transfer, assignment or other disposal of the Divestiture Assets to a Purchaser or Purchasers who offer pharmacy distribution and banner services, pursuant to this Agreement and with the prior approval of the Commissioner, such that Metro will have no direct or indirect interest in the Divestiture Assets; and ii) termination of Franchise Agreements related to Divestiture Assets;
- (j) **“Divestiture Agreement”** means a binding and definitive agreement between Metro and a Purchaser to effect the Divestiture pursuant to this Agreement and subject to the prior approval of the Commissioner;
- (k) **“Divestiture Applicant”** means Metro during the Initial Sale Period or the Divestiture Trustee during the Divestiture Trustee Sale Period;
- (l) **“Divestiture Assets”** means all the rights, title, and interests regarding real property of which Metro is owner or lessee, related to the pharmacies listed in Schedule A or in Confidential Schedule B;
- (m) **“Divestiture Process Agreement”** means the agreement described in Section 7 of this Agreement;
- (n) **“Divestiture Trustee”** means the Person appointed pursuant to Part III of this Agreement (or any substitute appointed thereto) and any employees, agents or other Persons acting for or on behalf of the Divestiture Trustee;
- (o) **“Divestiture Trustee Sale Period”** means the 6 month period commencing upon expiry of the Initial Sale Period;
- (p) **“Divestiture Trustee Sale”** means the Divestiture to be conducted by the Divestiture Trustee pursuant to Part III of this Agreement;
- (q) **“First Reference Date”** shall have the meaning set out in Paragraph 23(d) of this Agreement;
- (r) **“Franchise Agreement”** means the franchise agreement related to a pharmacy listed in Schedule A or in Confidential Schedule B;
- (s) **“Initial Sale Period”** means the period that commences at Closing and ends at the time set out in Confidential Schedule C to this Agreement;
- (t) **“Metro”** means Metro Inc. and its Affiliates and their directors, officers, employees, agents, representatives, successors and assigns;
- (u) **“Monitor”** means the Person appointed pursuant to Part IX of this Agreement (or any substitute appointed thereto), and any employees, agents or other Persons acting for or on behalf of the Monitor, provided that if no Monitor is appointed, other than in Part IX of this Agreement Monitor means the Commissioner;

- (v) **“Monitor Agreement”** means the agreement described in Section 33 of this Agreement;
- (w) **“Parties”** means the Commissioner and Metro collectively, and **“Party”** means any one of them;
- (x) **“Person”** means any individual, corporation or partnership, sole proprietorship, trust or other unincorporated organization capable of conducting business, and any Affiliates thereof;
- (y) **“PJC”** means The Jean Coutu Group (PJC) Inc., and its Affiliates and directors, officers, employees, agents, representatives, successors and assigns;
- (z) **“Purchaser”** means a Person that acquires in whole or in part the Divestiture Assets in accordance with the Divestiture Agreement and this Agreement and that offers pharmacy distribution and banner services;
- (aa) **“Records”** means records within the meaning of subsection 2(1) of the Act;
- (bb) **“Second Reference Date”** shall have the meaning set out in Paragraph 23(e) of this Agreement;
- (cc) **“Third Party”** means any Person other than the Commissioner, Metro or a Purchaser.
- (dd) **“Transaction”** means the transaction described in the first recital to this Agreement;
- (ee) **“Transaction Agreement”** means the Combination Agreement dated October 2, 2017 between Metro and PJC; and
- (ff) **“Tribunal”** means the Competition Tribunal established by the *Competition Tribunal Act*, R.S.C. 1985, c.19 (2<sup>nd</sup> Supp.), as amended.

## II. OBLIGATION TO COMPLETE DIVESTITURE

- [2] Metro shall use commercially reasonable efforts to complete the Divestiture.
- [3] During the Initial Sale Period, Metro shall use commercially reasonable efforts to complete the Divestiture in accordance with the provisions of this Part and Schedule A, and Confidential Schedules B and C and subject to Part IV.
- [4] Notwithstanding the terms of the Franchise Agreements, Metro will not apply any sanction, penalty or other fee to a pharmacist whose Franchise Agreement is terminated as part of a Divestiture, other than the usual adjustments related to amounts due by either party at the time of the Divestiture.

- [5] During the Initial Sale Period, Metro shall provide to the Commissioner and to the Monitor every 21 days a written report describing the progress of its efforts to effect the Divestiture. The report shall include a description of contacts, negotiations, due diligence and offers regarding the Divestiture Assets, the name, address and phone number of all parties contacted and of prospective Purchasers who have come forward. Metro shall, within 3 Business Days, respond to any request by the Commissioner for additional information regarding the status of Metro's efforts to complete the Divestiture. An officer or other duly authorized representative of Metro shall certify that he or she has examined the information provided in any such response and that such information is, to the best of his or her knowledge and belief, correct and complete in all material respects.

**III. DIVESTITURE TRUSTEE SALE PROCESS**

- [6] In the event that Metro fails to complete the Divestiture during the Initial Sale Period, the Commissioner shall appoint a Divestiture Trustee to complete the Divestiture in accordance with this Agreement. Such appointment may be made at any time prior to the expiry of the Initial Sale Period or on such later date as the Commissioner determines.
- [7] Within 5 Business Days after the appointment of the Divestiture Trustee, Metro shall submit to the Commissioner for approval the terms of a proposed Divestiture Process Agreement with the Divestiture Trustee and the Commissioner that confers on the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effect the Divestiture.
- [8] Within 5 Business Days after receipt of the proposed Divestiture Process Agreement referred to in Section 7, the Commissioner shall advise Metro whether or not he approves the terms. If the Commissioner does not approve the terms of the proposed Divestiture Process Agreement, he shall prescribe alternative terms that Metro shall incorporate into a final Divestiture Process Agreement with the Divestiture Trustee and the Commissioner.
- [9] Without limiting the Commissioner's discretion to require additional terms, Metro consents to the following terms and conditions regarding the Divestiture Trustee's rights, powers and duties, and shall include such terms in the Divestiture Process Agreement:
- (a) The Divestiture Trustee shall complete the Divestiture as expeditiously as possible, and in any event prior to expiry of the Divestiture Trustee Sale Period.
  - (b) The Divestiture Trustee shall use reasonable efforts to negotiate terms and conditions for the Divestiture that are as favourable to Metro as are reasonably available at that time; however, the Divestiture shall not be subject to any minimum price. The Divestiture Trustee's opinion of what constitutes favourable terms and conditions and what constitutes

reasonably available terms and conditions, is subject to review and approval by the Commissioner.

- (c) Subject to oversight and approval by the Commissioner, the Divestiture Trustee shall have full and exclusive authority during the Divestiture Trustee Sale Period:
  - (i) to complete the Divestiture in accordance with the provisions of this Part, Schedule A and Confidential Schedule B;
  - (ii) to solicit interest in a possible Divestiture by whatever process or procedure the Divestiture Trustee believes is suitable to allow a fair opportunity for one or more prospective good faith Purchasers to offer to acquire the Divestiture Assets and for greater certainty, in determining whether to pursue negotiations with a prospective Purchaser, may have regard to the approval criteria in Section 24;
  - (iii) to enter into a Divestiture Agreement with a Purchaser that will be legally binding on Metro;
  - (iv) to negotiate reasonable commercial covenants, representations, warranties and indemnities to be included in a Divestiture Agreement;
  - (v) to negotiate covenants, representations, warranties and indemnities necessary for the release or termination of Franchise Agreements; and,
  - (vi) to employ, at the expense of Metro, such consultants, accountants, legal counsel, investment bankers, business brokers, appraisers, and other representatives and assistants as the Divestiture Trustee believes are necessary to carry out the Divestiture Trustee's duties and responsibilities.
- (d) Where any Person makes a good faith inquiry respecting a possible purchase of Divestiture Assets, the Divestiture Trustee shall notify such Person that the Divestiture is being made and shall provide to such Person a copy of this Agreement, with the exception of the provisions hereof that are confidential pursuant to Section 59 of this Agreement.
- (e) Where, in the opinion of the Divestiture Trustee, a Person has a good faith interest in purchasing Divestiture Assets and negotiating a new Franchise Agreement for a pharmacy listed in Schedule A or Confidential Schedule B, and has executed a confidentiality agreement, in a form satisfactory to the Commissioner, with the Divestiture Trustee protecting any Confidential Information that such Person may receive in the course of its due diligence review of the Divestiture Assets, the Divestiture Trustee shall:

- (i) promptly provide to such Person all information respecting the Divestiture Assets or the Franchise Agreement that is determined by the Divestiture Trustee to be relevant and appropriate;
  - (ii) permit such Person to make reasonable inspection of the Divestiture Assets and of all financial, operational or other non-privileged Records and information, including Confidential Information, that may be relevant to the Divestiture; and
  - (iii) give such Person as full and complete access as is reasonable in the circumstances to the personnel involved in managing the Divestiture Assets or the Franchise Agreement.
- (f) The Divestiture Trustee shall have no obligation or authority to operate or maintain the Divestiture Assets.
- (g) The Divestiture Trustee shall provide to the Commissioner and to the Monitor, within 14 days after the later of the Divestiture Trustee's appointment and the commencement of the Divestiture Trustee Sale Period and thereafter every 21 days, a written report describing the progress of the Divestiture Trustee's efforts to complete the Divestiture. The report shall include a description of contacts, negotiations, due diligence and offers regarding the Divestiture Assets, the name, address and phone number of all parties contacted and of prospective Purchasers who have come forward. The Divestiture Trustee shall, within 3 Business Days, respond to any request by the Commissioner for additional information regarding the status of the Divestiture Trustee's efforts to complete the Divestiture.
- (h) The Divestiture Trustee shall notify Metro and the Commissioner immediately upon the signing of any letter of intent or agreement in principle relating to the Divestiture Assets, and shall provide to Metro a copy of any executed Divestiture Agreement upon receipt of the Commissioner's approval of the Divestiture contemplated in such Divestiture Agreement.
- [10]** Metro shall not be involved in the Divestiture process during the Divestiture Trustee Sale Period or in any negotiations with prospective Purchasers undertaken by the Divestiture Trustee, nor will Metro have contact with prospective Purchasers during the Divestiture Trustee Sale Period.
- [11]** Subject to any legally recognized privilege, Metro shall provide to the Divestiture Trustee full and complete access to all personnel, Records, information (including Confidential Information) and facilities relating to the Divestiture Assets, to enable the Divestiture Trustee to conduct its own investigation of the Divestiture Assets and to provide access and information to prospective Purchasers.

- [12] Metro shall take no action that interferes with or impedes, directly or indirectly, the Divestiture Trustee's efforts to complete the Divestiture.
- [13] Metro shall fully and promptly respond to all requests from the Divestiture Trustee and shall provide all information the Divestiture Trustee may request. Metro shall identify an individual who shall have primary responsibility for fully and promptly responding to such requests from the Divestiture Trustee on behalf of Metro.
- [14] Metro will do all such acts and execute all such documents, and will cause the doing of all such acts and the execution of all such documents as are within its power to cause the doing or execution of, as may be reasonably necessary to ensure that the Divestiture Assets are divested in the Divestiture Trustee Sale Period and that agreements entered into by the Divestiture Trustee are binding upon and enforceable against Metro.
- [15] Metro shall be responsible for all reasonable fees and expenses properly charged or incurred by the Divestiture Trustee in the course of carrying out the Divestiture Trustee's duties and responsibilities under this Agreement. The Divestiture Trustee shall serve without bond or security, and shall account for all fees and expenses incurred. Metro shall pay all reasonable invoices submitted by the Divestiture Trustee within 30 days after receipt and, without limiting this obligation, Metro shall comply with any agreement it reaches with the Divestiture Trustee regarding interest on late payments. In the event of any dispute: (i) such invoice shall be subject to the approval of the Commissioner; and (ii) Metro shall promptly pay any invoice approved by the Commissioner. Any outstanding monies owed to the Divestiture Trustee by Metro shall be paid out of the proceeds of the Divestiture.
- [16] Metro shall indemnify the Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation or defence of any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from malfeasance, gross negligence or bad faith by the Divestiture Trustee.
- [17] Metro shall indemnify the Commissioner and hold the Commissioner harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation or defence of any claim, whether or not resulting in any liability.
- [18] If the Commissioner determines that the Divestiture Trustee has ceased to act or has failed to act diligently, the Commissioner may remove the Divestiture Trustee and appoint a substitute Divestiture Trustee. The provisions of this Agreement



respecting the Divestiture Trustee shall apply in the same manner to any substitute Divestiture Trustee.

- [19] Metro may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, legal counsel, investment bankers, business brokers, appraisers, and other representatives and assistants to sign an appropriate confidentiality agreement in a form satisfactory to the Commissioner; provided, however, that such agreement shall not restrict the Divestiture Trustee from providing any information to the Commissioner.
- [20] The Commissioner may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, legal counsel, investment bankers, business brokers, appraisers, and other representatives and assistants to sign an appropriate confidentiality agreement relating to materials and information the Divestiture Trustee may receive from the Commissioner in connection with the performance of the Divestiture Trustee's duties.
- [21] Notwithstanding any term of this Agreement, the rights, powers and duties of the Divestiture Trustee under this Agreement shall not expire until the Divestiture is completed.

#### **IV. COMMISSIONER APPROVAL OF DIVESTITURE**

- [22] The Divestiture may proceed only with the prior approval of the Commissioner in accordance with this Part. For greater certainty, if a Divestiture is a notifiable transaction nothing in this Agreement affects the operation of Part IX of the Act.
- [23] The Divestiture Applicant shall comply with the following process for seeking and obtaining a decision of the Commissioner regarding his approval of a proposed Divestiture:
  - (a) The Divestiture Applicant shall promptly:
    - (i) inform the Commissioner of any negotiations with a prospective Purchaser that may lead to a Divestiture; and
    - (ii) forward to the Commissioner copies of any agreement that is signed with a prospective Purchaser, including non-binding expressions of interest.
  - (b) The Divestiture Applicant shall immediately notify the Commissioner that it intends to enter into a Divestiture Agreement with a prospective Purchaser, or has entered into an agreement that, if approved by the Commissioner, will be a Divestiture Agreement within the meaning of this Agreement. If the Divestiture Applicant has entered into or intends to enter into more than one agreement in respect of the same Divestiture Assets, the Divestiture Applicant shall identify the agreement in respect of

which it seeks the Commissioner's approval and the remainder of this Part shall apply only to that agreement unless the Divestiture Applicant designates a substitute agreement.

- (c) The notice described in Paragraph 23(b) shall be in writing and shall include: the identity of the proposed Purchaser; the details of the proposed Divestiture Agreement and any related agreements; and information concerning whether and how the proposed Purchaser would, in the view of the Divestiture Applicant, likely satisfy the terms of this Agreement.
- (d) Within 14 days following receipt of the notice described in Paragraph 23(b), the Commissioner may request additional information concerning the proposed Divestiture from any or all of Metro, the Monitor, the prospective Purchaser and, in the Divestiture Trustee Sale Period, the Divestiture Trustee. These Persons shall each provide any additional information requested from them. When they have provided a complete response to the Commissioner's request, these Persons shall comply with the following procedures:
  - (i) the Divestiture Trustee shall provide written confirmation to the Commissioner that the Divestiture Trustee has provided to the Commissioner all additional information requested from the Divestiture Trustee;
  - (ii) the Monitor shall provide written confirmation to the Commissioner that the Monitor has provided to the Commissioner all additional information requested from the Monitor;
  - (iii) an officer or other duly authorized representative of Metro shall certify that he or she has examined the additional information provided by Metro in response to the Commissioner's request and that such information is, to the best of his or her knowledge and belief, correct and complete in all material respects;
  - (iv) an officer or other duly authorized representative of the prospective Purchaser shall certify that he or she has examined the additional information provided by the prospective Purchaser in response to the Commissioner's request and that such information is, to the best of his or her knowledge and belief, correct and complete in all material respects.

The date on which the last of the Divestiture Trustee, Metro, the Monitor and the prospective Purchaser provides to the Commissioner a confirmation or certification required under this Paragraph is the "**First Reference Date**".

- (e) Within 7 days after the First Reference Date, the Commissioner may request further additional information concerning the proposed Divestiture

from any or all of the Persons identified in Paragraph 23(d). These Persons shall each provide any further additional information requested from them. When they have provided a complete response to the Commissioner's request, if any, these Persons shall comply with the procedures outlined in Paragraph 23(d) in regard to the further additional information provided. The date on which the last of the Divestiture Trustee, Metro, the Monitor and the prospective Purchaser provides to the Commissioner a confirmation or certification required under this Paragraph is the "**Second Reference Date**".

- (f) The Commissioner shall notify the Divestiture Applicant of the approval of, or the objection to, the proposed Divestiture as soon as possible, and in any event within 14 days after the date on which the Commissioner receives the notice described in Paragraph 23(b) or, if he requests any additional information under Paragraph 23(d) or further additional information under Paragraph 23(e), within 14 days after the later of:
  - (i) the First Reference Date; and
  - (ii) the Second Reference Date, if any.
- (g) The Commissioner's determination as to whether to approve a proposed Divestiture shall be in writing.

[24] In exercising his discretion to determine whether to approve a proposed Divestiture, the Commissioner shall take into account the likely impact of the Divestiture on competition, and may consider any other factor he considers relevant. Prior to granting his approval, the Commissioner must also be satisfied that:

- (a) the proposed Purchaser is fully independent of and operates at arm's length from Metro;
- (b) Metro will have no direct or indirect interest in the Divestiture Assets following the Divestiture;
- (c) the proposed Purchaser has the managerial, operational and financial capability, and with a new Franchise Agreement for a pharmacy listed in Schedule A or Confidential Schedule B, to compete effectively in pharmacy distribution and banner services in the markets in question;
- (d) the proposed Purchaser will (i) if the Commissioner grants his approval during the Initial Sale Period, complete the Divestiture prior to the expiry of the Initial Sale Period; or (ii) if the Commissioner grants his approval during the Divestiture Trustee Sale Period, complete the Divestiture during the Divestiture Trustee Sale Period.

**V. CONFIDENTIALITY OBLIGATIONS**

- [25] After the Closing Date, Metro shall ensure that confidential information, relating exclusively to Franchise Contracts or Divestiture Assets of all pharmacies listed in Schedule A and Confidential Schedule B, are not communicated to the other Metro franchisees in municipalities where Schedule A pharmacies operate, nor to Metro employees participating in the development or marketing of pharmacy distribution and banner services for any other pharmacy under another banner in municipalities where Schedule A pharmacies operate.
- [26] Notwithstanding the foregoing, section 25 shall not prevent Metro from communicating confidential information to its employees participating in development or marketing of pharmacy distribution and banner services in municipalities where Schedule A pharmacies operate where, in the opinion of the Monitor, this communication is necessary to (i) complete the Divestiture or (ii) fulfill Metro's obligations under Part VII of this Agreement.

**VI. THIRD PARTY CONSENTS**

- [27] It shall be a condition in any Divestiture Agreement (whether negotiated by Metro or by the Divestiture Trustee) that Metro shall, as a condition of closing, obtain any consents and waivers from Third Parties that are necessary to permit the assignment to, and assumption by, a Purchaser of all Material Contracts, Approvals and Authorizations relating to the Divestiture Assets; provided, however, that Metro may satisfy this requirement by certifying that the Purchaser has executed agreements directly with one or more Third Parties which make such assignment and assumption unnecessary.

**VII. PRESERVATION OF THE DIVESTITURE ASSETS**

- [28] In order to preserve the Divestiture Assets pending completion of the Divestiture, Metro shall maintain the economic viability, marketability and competitiveness of the Divestiture Assets and related pharmacies, as well as any alternative choice, and shall comply with any decision of or direction given by the Monitor that relates to preservation of the Divestiture Assets and related pharmacies, as well as any alternative choice. Until the closing, Metro shall make reasonable efforts to ensure that PJC retains Divestiture Assets and the related pharmacy, as well as any alternative choice, in accordance with Part VII of this agreement. Without limiting the generality of the foregoing, Metro shall:
- (a) maintain and hold the Divestiture Assets, as well as any alternative choice, in good condition and repair, normal wear and tear excepted, and to standards at least equal to those in place at Closing;
  - (b) ensure that the management and operation of the Divestiture Assets and Franchise Agreements, as well as any alternative choice, continues in the

ordinary course of business and in a manner that is, in the view of the Monitor, reasonably consistent in nature, scope and magnitude with past practices and generally accepted industry practices, and in compliance with all applicable laws;

- (c) not knowingly take or allow to be taken any action that, in the view of the Monitor, adversely affects the competitiveness, operations, financial status or value, viability and saleability of the Divestiture Assets and related pharmacies, as well as any alternative choice;
- (d) ensure that the Divestiture Assets, as well as any alternative choice, are not engaged in any type of business other than the type of business conducted as of the date of this Agreement, except with the prior approval of the Monitor and the Commissioner;
- (e) maintain all approvals, registrations, consents, licences, permits, waivers, and other authorizations that are, in the Monitor's view subject to consultation with Metro, advisable for the operation of the Divestiture Assets and related Franchise Agreements, as well as any alternative choice;
- (f) take all commercially reasonable steps to honour all Franchise Agreements and to maintain quality and service standards for pharmacies related to the Divestiture Assets, as well as any alternative choice, that are, in the view of the Monitor, at least equal to the standards that existed during the fiscal year prior to this Agreement;
- (g) not curtail marketing, sales, promotional or other activities related to the Franchise Agreements, as well as any alternative choice, except with the prior approval of the Monitor;
- (h) not alter, or cause to be altered, the management of the Divestiture Assets or Franchise Agreements, as well as any alternative choice, that existed on April 5, 2018, except with the prior approval of the Monitor;
- (i) not terminate or alter any employment, salary or benefit agreements, as they existed at the date of this Agreement, for Persons employed in connection with the Divestiture Assets, and the Franchise Agreements, as well as any alternative choice except with the prior approval of the Monitor;
- (j) ensure that the Divestiture Assets and the Franchise Agreements, as well as any alternative choice, are staffed with sufficient employees to ensure their viability and competitiveness, including by replacing departing employees whose duties are directly related to the Divestiture Assets and Franchise Agreements with other qualified employees provided that the Monitor has approved both the qualifications and the need for such replacement employees;

- (k) maintain inventory levels and payment terms consistent with the practices of Metro that existed, with respect to the Divestiture Assets and the Franchise Agreements, as well as any alternative choice, during the fiscal year prior to the date of this Agreement; and
- (l) maintain, in accordance with Canadian generally accepted accounting principles applicable to Metro, separate and adequate financial ledger books and records of material financial information with respect to the Divestiture Assets and Franchise Agreements, as well as any alternative choice.

**[29]** Pending completion of the Divestiture, Metro shall not, without the Commissioner's prior written approval:

- (a) create any new encumbrances on the Divestiture Assets or the Franchise Agreements, as well as any alternative choice, other than ordinary course obligations that are not due or delinquent;
- (b) enter into, withdraw from, amend or otherwise take steps to alter any obligations in material contracts relating to the Divestiture Assets or related pharmacies, as well as any alternative choice, except as necessary to comply with this Agreement; or
- (c) make any material changes to the Divestiture Assets or the Franchise Agreements, as well as any alternative choice, except as required to comply with this Agreement.

**[30]** Metro shall provide sufficient financial resources, including general funds, capital funds, working capital and reimbursement for any operating, capital or other losses, to maintain the Divestiture Assets and the Franchise Agreements, as well as any alternative choice, in accordance with this Part. If the Monitor believes that Metro has not provided, is not providing or will not provide sufficient financial and other resources under this Part, the Monitor shall forthwith refer the matter to the Commissioner, who shall make a final determination respecting the financial and other resources that Metro must provide. Metro shall comply with any determination made by the Commissioner on this issue.

### **VIII. FAILURE OF DIVESTITURE TRUSTEE SALE**

**[31]** If, by the end of the Divestiture Trustee Sale Period, the Divestiture has not been completed, or if the Commissioner is of the opinion that the Divestiture likely will not be completed prior to the end of the Divestiture Trustee Sale Period, the Commissioner may apply to the Tribunal, at his election, for either (i) such order as is necessary to complete the Divestiture; or (ii) such order as is necessary to ensure that the Transaction is not likely to prevent or lessen competition substantially.

**IX. MONITOR**

- [32] The Commissioner shall appoint a Monitor, responsible for monitoring compliance by Metro with this Agreement. Such appointment may occur at any time following registration of this Agreement. A reference in this Agreement to specific monitoring functions or tasks that are to be undertaken by the Monitor shall in no way detract from the Monitor's general right, power and duty to monitor all aspects of Metro's compliance with this Agreement.
- [33] Within 5 Business Days after the appointment of the Monitor, Metro shall submit to the Commissioner for approval the terms of a proposed Monitor Agreement with the Monitor and the Commissioner that confers on the Monitor all rights and powers necessary to permit the Monitor to monitor compliance by Metro with this Agreement.
- [34] Within 5 Business Days after receipt of the proposed Monitor Agreement referred to in Section 33, the Commissioner shall advise Metro whether or not he approves the terms of the proposed Monitor Agreement. If the Commissioner does not approve the terms of the proposed Monitor Agreement, he shall prescribe alternative terms for the Monitor Agreement that Metro shall incorporate into a final Monitor Agreement with the Monitor and the Commissioner.
- [35] Metro consents to the following terms and conditions regarding the Monitor's rights, powers and duties and shall include such terms in the Monitor Agreement:
- (a) The Monitor shall have the power and authority to monitor Metro's compliance with this Agreement, and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor in a manner consistent with the purposes of this Agreement and in consultation with the Commissioner.
  - (b) The Monitor shall have the authority to employ, at the expense of Metro, such consultants, accountants, legal counsel and other representatives and assistants as the Monitor believes are necessary to carry out the Monitor's duties and responsibilities.
  - (c) The Monitor shall have no obligation or authority to operate or maintain the Divestiture Assets.
  - (d) The Monitor shall act for the sole benefit of the Commissioner, maintain all confidences and avoid any conflict of interest.
  - (e) The Monitor shall have no duties of good faith (except as required by law), of a fiduciary nature, or otherwise, to Metro.
  - (f) The Monitor shall provide to the Commissioner every 30 days after the date of the Monitor's appointment until completion of the Divestiture, and

thereafter every year following the Divestiture's anniversary, a written report concerning performance by Metro of its obligations under this Agreement. The Monitor shall, within 3 Business Days, respond to any request by the Commissioner for additional information regarding Metro's compliance.

- [36] Subject to any legally recognized privilege, Metro shall provide to the Monitor full and complete access to all personnel, Records, information (including Confidential Information) and facilities relevant to monitoring Metro's compliance with this Agreement.
- [37] Metro shall take no action that interferes with or impedes, directly or indirectly, the Monitor's efforts to monitor Metro's compliance with this Agreement.
- [38] Metro shall fully and promptly respond to all requests from the Monitor and shall provide all information the Monitor may request. Metro shall identify an individual who shall have primary responsibility for fully and promptly responding to such requests from the Monitor on behalf of Metro.
- [39] Metro may require the Monitor and each of the Monitor's consultants, accountants, legal counsel and other representatives and assistants to sign an appropriate confidentiality agreement in a form satisfactory to the Commissioner; provided, however, that such agreement shall not restrict the Monitor from providing any information to the Commissioner.
- [40] The Commissioner may require the Monitor and each of the Monitor's consultants, accountants, legal counsel and other representatives and assistants to sign an appropriate confidentiality agreement relating to materials and information the Monitor may receive from the Commissioner in connection with the performance of the Monitor's duties.
- [41] Metro shall be responsible for all reasonable fees and expenses properly charged or incurred by the Monitor in the course of carrying out the Monitor's duties under this Agreement. The Monitor shall serve without bond or security, and shall account for all fees and expenses incurred. Metro shall pay all reasonable invoices submitted by the Monitor within 30 days after receipt and, without limiting this obligation, Metro shall comply with any agreement it reaches with the Monitor regarding interest on late payments. In the event of any dispute: (i) such invoice shall be subject to the approval of the Commissioner; and (ii) Metro shall promptly pay any invoice approved by the Commissioner. Any outstanding monies owed to the Monitor by Metro shall be paid out of the proceeds of the Divestiture.
- [42] Metro shall indemnify the Monitor and hold the Monitor harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Monitor's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation or defence



of any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from malfeasance, gross negligence or bad faith by the Monitor.

- [43] If the Commissioner determines that the Monitor has ceased to act or has failed to act diligently, the Commissioner may remove the Monitor and appoint a substitute Monitor. The provisions of this Agreement respecting the Monitor shall apply in the same manner to any substitute Monitor.
- [44] The Monitor shall serve for the duration of this Agreement.

**X. COMPLIANCE**

- [45] Within 5 Business Days after the Closing Date, Metro shall provide written confirmation to the Commissioner of the date on which the Transaction was completed.
- [46] Metro shall provide a copy of this Agreement to each of its own and its Affiliates' directors, officers, employees and agents having managerial responsibility for any obligations under this Agreement, as well as the Third Parties concerned, including Metro and PJC franchisees in the Schedule A municipalities within 3 Business Days after the date of registration of this Agreement. Metro shall ensure that its directors, officers, employees and agents with responsibility for any obligations under this Agreement receive sufficient training respecting Metro's responsibilities and duties under this Agreement, and the steps that such individuals must take in order to comply with this Agreement.
- [47] Metro shall not, for a period of 10 years after the completion of the Divestiture, directly or indirectly acquire any interest in the Divestiture Assets without the prior written approval of the Commissioner.
- [48] For a period of 2 years after the completion of the Divestiture, Metro shall not, without providing advance written notification to the Commissioner in the manner described in this Section, directly or indirectly:
- (a) acquire any assets or shares of, or any other interest in, including signing a Franchise Agreement (other than for the pharmacies listed in Schedule A and Confidential Schedule B that are not subject to Divestiture), with any pharmacy company in Amos, Berthierville, Baie St-Paul, Carleton-sur-Mer, Coaticook, Disraeli, La Baie et La Sarre;
  - (b) consummate any merger or other combination regarding pharmacies in Amos, Berthierville, Baie St-Paul, Carleton-sur-Mer, Coaticook, Disraeli, La Baie et La Sarre.

If a transaction described in (a) or (b) is one for which notice is not required under section 114 of the Act, Metro shall supply to the Commissioner the information

described in section 16 of the *Notifiable Transactions Regulations* at least 30 days before completing such transaction. Metro shall certify such information in the same manner as would be required if section 118 of the Act applied. The Commissioner may accept a competitive impact brief from Metro instead of such information. The Commissioner may, within 30 days after receiving the information described in this Section, request that Metro supply additional information that is relevant to the Commissioner's assessment of the transaction. In the event that the Commissioner issues such a request for additional information, Metro shall supply information to the Commissioner in the form specified by the Commissioner and shall not complete such transaction until at least 30 days after Metro has supplied all such requested information in the form specified by the Commissioner.

**[49]** 6 months after the date of registration of this Agreement, and annually 6 months after the anniversary of the date of registration, and at such other times as the Commissioner may require, Metro shall file an affidavit or certificate, substantially in the form of Schedule D to this Agreement, certifying its compliance with Parts V, and X of this Agreement and setting out the following information in detail:

- (a) the steps taken to ensure compliance;
- (b) the controls in place to verify compliance; and
- (c) the names and titles of employees who have oversight of compliance.

**[50]** If any of Metro, the Divestiture Trustee or the Monitor becomes aware that there has been a breach or possible breach of any of the terms of this Agreement, such Person shall, within 5 Business Days after becoming aware of the breach or possible breach, notify the Commissioner thereof, and shall provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach, provided that notification of a possible breach is not required if such Person determines within those 5 Business Days that it could not reasonably be considered a breach of any of the terms of this Agreement. Metro shall provide confirmation of its compliance with this provision in all affidavits and certificates of compliance filed with the Commissioner pursuant to Section 49 of this Agreement.

**[51]** Metro shall notify the Commissioner at least 30 days prior to:

- (a) any proposed dissolution of Metro; or
- (b) any other change in Metro if such change may affect compliance obligations arising out of this Agreement including, but not limited to, a reorganization, material acquisition, disposition or transfer of assets, or any fundamental change of Metro's incorporating statute.

[52] For purposes of determining or securing compliance with this Agreement, and subject to any legally recognized privilege, Metro shall, upon written request given at least 5 Business Days in advance to Metro, permit any authorized representative(s) of the Commissioner, without restraint or interference:

- (a) to access, during regular office hours of Metro on any Business Day(s), all facilities and to inspect and copy all Records in the possession or control of Metro related to compliance with this Agreement, which copying services shall be provided by Metro at its expense; and
- (b) to interview such officers, directors or employees of Metro as the Commissioner requests regarding such matters.

**XI. DURATION**

[53] This Agreement shall become effective on the date when it is registered, and shall remain in effect for 10 years following the Divestiture, except that:

- (a) Parts II, III, IV, and VII of this Agreement shall be effective only until the Divestiture is completed;

**XII. NOTICES**

[54] A notice or other communication required or permitted to be given under this Agreement is valid if it is:

- (a) in writing and delivered by personal delivery, registered mail, courier service, facsimile or electronic mail; and
- (b) addressed to the receiving party at the address(es) listed below, or to any other address designated by the receiving party in accordance with this Section.

if to the Commissioner:

Commissioner of Competition  
Competition Bureau Canada  
Place du Portage, 21st Floor  
50 Victoria Street, Phase I  
Gatineau, Quebec K1A 0C9

Attention: Commissioner of Competition  
Fax: (819) 953-5013  
Email address: ic.avisdefusionmergernotification.ic@canada.ca

with a copy to:

Executive Director and Senior General Counsel  
Competition Bureau Legal Services  
Department of Justice  
Place du Portage, 22nd Floor  
50 Victoria Street, Phase I  
Gatineau, Quebec K1A 0C9  
Fax: (819) 953-9267  
Email address: ic.cb\_lsu\_senior\_general\_counsel-  
                  avocat\_general\_principal\_usj\_bc.ic@canada.ca

if to Metro:

Metro Inc.  
Place Carillon, 4th Floor  
7151, Jean-Talon East  
Anjou, Quebec H1M 3N8

Attention: Simon Rivet  
Fax: (514) 356-5841  
Email address: srivet@metro.ca

with a copy to:

Norton Rose Fulbright Canada LLP  
1, Place Ville Marie, Suite 2500  
Montreal, Quebec H3B 1R1

Attention: Thierry Dorval  
Telephone: (514) 847-4528  
Fax: (514) 286-5474  
Email address: thierry.dorval@nortonrosefulbright.com

**[55]** A notice or other communication under this Agreement is effective on the day that it is received by the receiving party and is deemed to have been received as follows:

- (a) if it is delivered in person, by registered mail or by courier, upon receipt as indicated by the date on the signed receipt;
- (b) if it is delivered by facsimile, upon receipt as indicated by the time and date on the facsimile confirmation slip; or
- (c) if it is delivered by electronic mail, when the recipient, by an email sent to the email address for the sender stated in this Section or by a notice delivered by another method in accordance with this Section, acknowledges having received that email, with an automatic “read receipt” not constituting acknowledgment of an email for purposes of this Section.

If a notice or other communication is received after 5:00 p.m. local time, or on a day that is not a Business Day, it shall be deemed to have been received on the next Business Day.

- [56] Notwithstanding Sections 54 and 55, a notice or other communication that is not communicated in accordance with Sections 54 and 55 is valid if a representative of the party to this Agreement that is the recipient of such communication confirms the receipt of such communication and does not, at the time of such confirmation, request that it be delivered differently.

### XIII. GENERAL

[57] In this Agreement:

- (a) **Number and Gender** – Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
- (b) **Time Periods** – Computation of time periods shall be in accordance with the *Interpretation Act*, R.S.C. 1985, c. I-21, and the definition of “holiday” in the *Interpretation Act* shall include Saturday.

[58] The Commissioner shall file this Agreement with the Tribunal for registration in accordance with section 105 of the Act. Metro hereby consents to such registration. Following the filing of this Agreement, the Commissioner shall promptly issue a letter to Metro indicating that, subject to the implementation of this Agreement, the Commissioner does not intend to make an application under section 92 of the Act in respect of the Transaction.

[59] Information in Confidential Schedule C shall be made public upon the expiry of the Initial Sale Period. Information in Confidential Schedule B shall be made public upon the expiry of the Divestiture Trustee Sale Period.

[60] The Commissioner may, after informing Metro, extend any of the time periods contemplated by this Agreement other than Sections 47, 48 and 53. If any time period is extended, the Commissioner shall promptly notify Metro of the revised time period.

[61] Nothing in this Agreement precludes Metro or the Commissioner from bringing an application under section 106 of the Act. Metro will not, for the purposes of this Agreement, including execution, registration, enforcement, variation or rescission, contest the Commissioner’s conclusions that: (i) the Transaction is likely to result in a substantial lessening and/or prevention of competition in pharmacy distribution and banner services in Amos, Berthierville, Baie St-Paul, Carleton-sur-Mer, Coaticook, Disraeli, La Baie and La Sarre; and (ii) the implementation of this Agreement is necessary to ensure that any substantial lessening and/or prevention of competition will not result from the Transaction.

- [62]** Metro attorns to the jurisdiction of the Tribunal for the purposes of this Agreement and any proceeding initiated by the Commissioner relating to this Agreement.
- [63]** Until Closing, Metro shall make reasonable efforts to ensure that PJC preserves Confidential Information in a manner consistent with Part V of this Agreement
- [64]** This Agreement constitutes the entire agreement between the Commissioner and Metro, and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral, with respect to the subject matter hereof.
- [65]** This Agreement shall be governed by and interpreted in accordance with the laws of Quebec and the laws of Canada applicable therein, without applying any otherwise applicable conflict of law rules.
- [66]** In the event of a dispute regarding compliance with or the interpretation, implementation or application of this Agreement, the Commissioner or Metro may apply to the Tribunal for directions or an order. In the event of any discrepancy between the English language version of this Agreement and the French language version of this Agreement, the French language version of this Agreement shall prevail. In no event shall any dispute suspend the Initial Sale Period or the Divestiture Trustee Sale Period.
- [67]** This Agreement may be executed in two or more counterparts, each of which shall be an original instrument, but all of which shall constitute one and the same Agreement.

The undersigned hereby agree to the filing of this Agreement with the Tribunal for registration.

DATED this day of \_\_\_\_\_, 201\_\_\_\_

**COMMISSIONER OF COMPETITION**

\_\_\_\_\_

Name: John Pecman

Title: Commissioner of Competition

**METRO INC.**

\_\_\_\_\_

We have authority to bind the corporation

Name: Eric R. La Flèche

Title: President and Chief Executive Officer

Name : François Thibault

Title : Executive Vice President, Chief Financial Officer and Treasurer

## SCHEDULE A

The agreements provided for each of the pharmacies in this Schedule come from Metro and PJC and, according to them, represent Divestiture Assets related to the pharmacies listed.

*Amos, QC*

<b>Primary Pharmacies</b>	
<b>1. 82, 1<sup>ère</sup> avenue Est (Brunet)</b>	
	<b>Lease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur Pharmaceutique inc. and Société en commandite Place Centre-ville d'Amos (May 8, 1991)
	<b>Lease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur Pharmaceutique inc. and Amopharm Inc. (December 12, 2013)
<b>2. 641 4<sup>e</sup> avenue Ouest (Brunet Clinique)</b>	
	<b>Lease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and 9152-6046 Québec inc. (April 24, 2009)
	<b>Lease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and Amopharm inc. (December 12, 2013)

*Berthierville, QC*

<b>Primary Pharmacies</b>	
<b>1. 550 rue Frontenac (Brunet)</b>	
	<b>Lease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and 9212-6978 Québec inc. (October 27, 2009)
	<b>Sublease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and Pharmacie Caroline Lagacé pharmacienne inc. (October 27,2009)



*Baie-St-Paul, QC*

<b>Primary Pharmacies</b>	
<b>1. 1020 Mgr de-Laval (Brunet)</b>	
	<b>Lease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and Crombie Property Holdings Limited (February 9, 1994)
	<b>Lease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and 9120-4040 Québec inc. (October 11, 2016)

*Carleton-sur-Mer, QC*

<b>Primary Pharmacies</b>	
<b>1. 674 boulevard Perron (Brunet)</b>	
	<b>Lease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and Metro Québec Immobilier inc. (March 14, 2018)
	<b>Lease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceu-tique inc. and 9336-0626 Québec inc. (April 7, 2016)

*Coaticook, QC*

<b>Primary Pharmacies</b>	
<b>1. 65 rue Wellington (Brunet)</b>	
	<b>Lease Agreement</b> (as transferred and amended from time to time) between Immeubles Rocendel (1997) inc. and Metro Québec Immobilier inc. (June 2, 1988)
	<b>Internal Sublease Agreement</b> between McMahon Distributeur pharmaceutique inc. and Metro Québec Immobilier inc. (December 4, 2012)
	<b>Sublease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and 2737-0261 Québec inc. (June 1, 2012)

*Disraeli, QC*

<b>Primary Pharmacies</b>	
<b>2. 400 avenue Champlain (PJC)</b>	
	<b>Lease</b> between le Groupe Jean Coutu (PJC) inc. and Alexandre Du Brule (February 20, 2010)

*La Baie, QC*

<b>Primary Pharmacies</b>	
<b>1. 2100 rue Bagot (Brunet)</b>	
	<b>Lease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and 9295-1078 Québec inc. (May 22, 1996)
	<b>Sublease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and 9047-0667 Québec inc. (February 26, 1997)
<b>2. 435 rue Albert (Brunet)</b>	
	<b>Lease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceu-tique inc. and Immeuble MCJR inc. (September 25, 2006)
	<b>Sublease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and 9047-0667 Québec inc. (November 21, 2006)

*La Sarre, QC*

<b>Primary Pharmacies</b>	
<b>1. 255 3<sup>e</sup> rue Est (Brunet)</b>	
	<b>Lease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and Centre commercial Carrefour La Sarre inc. (September 30, 2003)
	<b>Sublease Agreement</b> (as transferred and amended from time to time) between McMahon Distributeur pharmaceutique inc. and 9163-8387 Québec inc. (November 10, 2011)

**CONFIDENTIAL SCHEDULE B**

**[CONFIDENTIAL]**

**CONFIDENTIAL SCHEDULE C**

**INITIAL SALE PERIOD**

**[CONFIDENTIAL]**

SCHEDULE D

FORM OF COMPLIANCE CERTIFICATION/AFFIDAVIT

I, **[name]**, of **[place]**, hereby certify<sup>1</sup> in accordance with the terms of the Registered Consent Agreement dated • between **[Metro]** and the Commissioner of Competition, that:

1. I am the **[title]** of **[Metro]**, and have personal knowledge of the matters deposed to herein, unless they are stated to be on information and belief, in which cases I state the source of such information and believe it to be true.
2. On **[date]**, **[Metro]** entered into a Consent Agreement (the “Consent Agreement”) with the Commissioner of Competition (the “Commissioner”) in connection with **[describe Transaction]** (the “Transaction”).
3. The Transaction closed on **[date]** (the “Closing Date”).<sup>2</sup>
4. The Franchise Termination (as defined in the Consent Agreement) to **[Purchaser]** was completed on **[date]**.
5. Pursuant to Section **[56]** of the Consent Agreement, Metro is required to file **[annual reports/reports when requested by the Commissioner]** certifying its compliance with Parts VII, VIII and XI of the Consent Agreement.

**Oversight of Compliance**

6. **[Names/titles]** have primary responsibility for overseeing compliance with this Agreement.

**Closing Date**

7. Pursuant to Section **[52]** of the Consent Agreement, Metro is required to provide written confirmation to the Commissioner of the date on which the Transaction was completed. Such notice was provided on **[date]**.

**Circulation of Consent Agreement**

8. Pursuant to Section **[53]** of the Consent Agreement, Metro is required to provide a copy of the Consent Agreement to each of its own and its Affiliates’ directors, officers, employees and agents having managerial responsibility for any obligations under the Consent Agreement, within 5 Business Days after the date

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<sup>1</sup> If this is drafted as an affidavit, the words “hereby certify” should be removed and should be replaced with “make oath and say”. An affidavit should be sworn under oath. A certification should be certified by a Commissioner for taking affidavits.

<sup>2</sup> Paragraphs **3, 4, 7 and 8** need only be included in the first certification/affidavit.

of registration of the Consent Agreement. The Consent Agreement was circulated by **[whom]** to **[provide list]** on **[dates]**.

9. Pursuant to Section **[53]** of the Consent Agreement, Metro is required to ensure that its directors, officers, employees and agents with responsibility for any obligations under the Consent Agreement receive sufficient training respecting Metro's responsibilities and duties under the Consent Agreement. The following training has been provided: **[provide list of who was trained and by whom as well as a general statement of the content of the training]**

**Confidentiality Agreements**

10. **[NTD]**

**Notification of Breach**

11. Based on my personal knowledge and my inquiries of **[provide names]**, I am not aware of any breach or possible breach of any of the terms of the Consent Agreement within the meaning of Section **[58]** of the Consent Agreement.

DATED ●.

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**Commissioner of Oaths**

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**Name and Title of Certifying Officer**