

**SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY & INSOLVENCY**

**IN THE MATTER OF THE PROPOSAL OF
ATLANTIC CRANE & MATERIAL HANDLING LIMITED, LABRADOR CRANES 2005
LIMITED and LCB RENTALS LIMITED**

SALE APPROVAL AND VESTING ORDER
(Section 65.13 of the Bankruptcy and Insolvency Act)

UPON MOTION made by Atlantic Crane & Material Handling Limited, Labrador Cranes 2005 Limited, and LCB Rentals Limited (the “**Applicants**”) pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) for **an order for directions and, if necessary, for an order:**

1. rescinding the Court’s Sale Approval and Vesting Order granted September 29, 2021;
2. approving the sale transaction (the “**Transaction**”) contemplated by an Asset Purchase Agreement dated as at August 4, 2021 (the “**APA**”), appended as Appendix “B” to the Second Report of MNP Limited (the “**Trustee**”), said APA being between the Applicants and Russell Industries Corp. or its assignee (the “**Purchaser**”), with the exception that the words “the sum of One Million Two Hundred and Fifty Thousand Dollars (\$1,250,000.00)” in paragraph 1.16 thereof shall be deleted and the words “the sum of One Million One Hundred and Fifty Thousand Dollars (\$1,150,000.00)” shall be substituted therefor, the Transaction transferring to the Purchaser all of the Applicants’ right, title and interest in and to the assets and business undertaking of the Applicants defined as the “**Purchased Assets**” within the APA and the Schedules thereto (the “**Purchased Assets**”);
3. foreclosing and barring certain interests in the Purchased Assets and vesting in the Purchaser, or the Purchaser’s assignee, nominee or designate, as the case may be, the Applicants’ right, title and interest in and to the Purchased Assets free and clear of any Claims or Encumbrances (as herein defined) security, charge or other restriction pursuant to Section 65.13(7) of the BIA; and
4. directing and empowering the Trustee to receive and hold in trust the proceeds from sale.

UPON READING the October 7, 2021 Report of the Trustee and other materials filed in this proceeding and on hearing the submissions of counsel for the Applicants, and such other counsel who were present and

wished to be heard;

AND UPON READING the affidavit of service of Tim Hill sworn on October 8, 2021 confirming that all of the Applicants' secured creditors which are likely to be affected by the Transaction and this Sale Approval and Vesting Order were duly served with notice of this Motion;

AND UPON IT APPEARING that the Trustee has expressed its approval of the Transaction and the process leading to the Transaction, and has recommended the Transaction for approval by the Court;

IT IS HEREBY ORDERED THAT:

1. The time for service of the Notice of Motion is hereby abridged and validated so that this Motion is properly returnable today and further service thereof is hereby dispensed with.
2. Unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meanings given to them in the APA, provided that the words "Claim" shall mean any and all claims against the Applicants, "Encumbrances" shall mean any and all encumbrances against the Purchased Assets, and "Person" shall have the meaning as defined in the Nova Scotia *Interpretation Act*, but also to include Her Majesty the Queen in all rights, and "Encumbrances", "Claims" and "Persons" shall mean the plural thereof.
3. The Transaction is hereby approved, and the execution and delivery of the APA by the Applicants is hereby authorized and approved, with such minor amendments as the Applicants and the Purchaser may agree to with the consent of the Trustee. The Applicants are hereby authorized and directed to take such additional steps and execute such additional documents, including a deed, bill of sale, assignment or general conveyance document, as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, or to the Purchaser's assignee, nominee or designate, as the case may be, pursuant to the APA.
4. Upon the delivery of a Trustee's certificate to the Applicants and the Purchaser substantially in the form attached as **Schedule "B"** hereto (the "**Trustee's Certificate**") and closing the Transaction in accordance with the APA, all of the Applicants' right, title and interest in and to the Purchased Assets, and the right, title and interest of all those claiming through the Applicants in and to such Purchased Assets are forever barred and foreclosed, and the Purchased Assets shall vest absolutely in the Purchaser, or the Purchaser's assignee, nominee or designate as the case may be, free and clear of and from any and all Claims, and all ownership claims, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, pledges, trusts, constructive trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, encumbrances, obligations, liabilities, demands, guarantees, set-off, executions, levies, charges, or other financial or monetary claims, adverse claims or rights of use, real property licences or encumbrances, including but not limited to forced sale provisions, rights of first refusal, or non-disturbance agreements, whether arising prior to or subsequent to the commencement of the BIA proceedings, and whether or not they have attached or been perfected, registered or filed and whether secured, unsecured, legal, equitable, possessory or otherwise, including, without limiting the

generality of the foregoing: (i) any encumbrances or charges created by Order of the Court in this proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Nova Scotia), the *Personal Property Security Act* (New Brunswick) or any other personal property registry system, or the *Land Registration Act* (Nova Scotia), the *Land Titles Act* (New Brunswick), the *Registry Act* (New Brunswick) or any other real property registration system, affecting or relating to the Purchased Assets, including but not limited to those listed in **Schedule “C”** hereto; and (iii) any statutory liens, trusts or deemed trusts, including but not limited to those of Canada Revenue Agency and the Workers’ Compensation Board of Nova Scotia, or availing pursuant to the *Labour Standards Code* (Nova Scotia) or the *Employment Standards Act* (New Brunswick), all to the extent permitted by law (all of which are collectively referred to as the “**Encumbrances**”), provided that the “Claims” and the “Encumbrances” referred to herein shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule “D”** hereto and shall not include any obligations or liabilities assumed by the Purchaser pursuant to the APA. For greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets, which include but are not limited to those Encumbrances listed in Schedule “C” hereto, be and are hereby expunged and discharged as against the Purchased Assets effective upon delivery of the Trustee’s Certificate and any Person holding such Claims and Encumbrances is from that time permanently barred from seeking any remedy against the Purchaser or the Purchased Assets. For greater certainty, nothing in this Order shall be read to release or discharge any Claim or Encumbrance against any of the remaining property and assets of the Applicants which do not constitute Purchased Assets.

5. The Registrar of Deeds or the Registrar of Land Titles (New Brunswick) shall record or register this Sale Approval and Vesting Order in the Registry Office pursuant to the *Registry Act* (New Brunswick) or in the Land Titles Office pursuant to the *Land Titles Act* (New Brunswick), as applicable, and shall enter the Purchaser as the owner of any real property forming part of the Purchased Assets in fee simple, and is hereby directed to delete and expunge all Encumbrances from title to such real property other than the permitted encumbrances identified in Schedule “D” hereto. Upon the recording or registration of this Sale Approval and Vesting Order with a copy of the executed Trustee’s Certificate attached in the Registry Office or the Land Titles Office, as applicable, all rights, title and interest in and to the applicable real property forming part of the Purchased Assets shall vest absolutely in the Purchaser, free and clear of and from any and all Encumbrances, other than the permitted encumbrances identified in Schedule “D” hereto. In this regard, the aid of the New Brunswick Court of Queen’s Bench is hereby respectfully requested to make such orders and to provide such assistance as may be necessary or desirable to recognize and give effect to this Order and to assist: (i) the Trustee and its agents in carrying out the terms of this Order; and (ii) the Purchaser in giving effect to the transfer of title of the New Brunswick Real Property pursuant to the APA, as approved herein, the vesting in the Purchaser of the New Brunswick Real Property free and clear of any and all Encumbrances in accordance with Section 65.13(7) of the BIA, and the foreclosure of interests and barring of proceedings against the Purchaser and the New Brunswick Real Property provided for herein.

6. For the purposes of determining the nature and priority of Claims and Encumbrances, from and after the delivery of the Trustee’s Certificate, the net proceeds from the sale of the Purchased Assets shall stand in the

place and stead of the Purchased Assets, and for greater certainty, from and after the delivery of the Trustee's Certificate, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. The Trustee is hereby authorized and empowered to hold in trust the net proceeds from the sale of the Purchased Assets delivered to it pursuant to the APA pending further Order of the Court.

7. The Trustee, in addition to its prescribed rights and obligations under the BIA and the express powers provided to it under Orders issued by this Honourable Court in this proceeding, is hereby directed and empowered to receive and hold for the purposes set out herein, in the trust account of the Trustee, the net closing proceeds from the Transaction and to hold same in trust pending further order(s) of this Court.

8. The Trustee shall file with the Court a copy of the Trustee's Certificate forthwith after delivery thereof to the Applicants and the Purchaser.

9. The Trustee may rely on written notice from the Applicants and the Purchaser regarding the satisfaction of the Purchase Price and the fulfillment of conditions to closing under the APA and shall incur no liability with respect to the delivery of the Trustee's Certificate.

10. Pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicants are authorized and permitted to disclose and transfer to the Purchaser customer information and human resources and payroll information in the Applicants' records to the extent necessary or desirable in relation to the continued servicing of customers and the employment or potential employment of such employees by the Purchaser as set forth in the APA. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner that is consistent with the prior use of such information by the Applicants.

11. Notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the BIA in respect of the Applicants and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Applicants,

the entering into of the APA, the transfer of the Purchased Assets to the Purchaser or the Purchaser's assignee, nominee or designate as the case may be, the foreclosure and barring of Claims as against the Purchased Assets, and the vesting of the Purchased Assets in the Purchaser, or the Purchaser's assignee, nominee or designate as the case may be, pursuant to this Order and the various subsections of Section 65 of the BIA, shall

be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and shall not be void or voidable by creditors of the Applicants, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA, any other applicable federal or provincial legislation or otherwise at law or equity, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant, to any applicable federal or provincial legislation.

12. The aid and recognition of any court, tribunal, registrar, regulatory or administrative body having jurisdiction in Canada or outside Canada, and all courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance as may be necessary or desirable, to recognize and give effect to this Order and to assist: (i) the Trustee and its agents in carrying out the terms of this Order; (ii) the Purchaser in giving effect to the transfer of title pursuant to the APA, as approved herein, the vesting in the Purchaser of the Purchased Assets free and clear of any and all Encumbrances in accordance with Section 36(6) of the BIA, and the foreclosure of interests and barring of proceedings against the Purchaser and the Purchased Assets provided for herein.

13. This Order and all of its provisions are effective as of 12:01 a.m. local time on the date of this Order.

DATED at Halifax, Province of Nova Scotia, this 12th day of October, 2021.

DEPUTY REGISTRAR

SCHEDULE "B"

Trustee's Certificate

2021

Hfx. No. 507069
Estate No. 51-2743163
Court No. 44783
District of Nova Scotia
Division No. 01-Halifax

**SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY & INSOLVENCY**

**IN THE MATTER OF THE PROPOSAL OF
ATLANTIC CRANE & MATERIAL HANDLING LIMITED, LABRADOR CRANES 2005
LIMITED and LCB RENTALS LIMITED**

TRUSTEE'S CERTIFICATE

RECITALS

A. MNP Limited was appointed as the Proposal Trustee (the "**Trustee**") of Atlantic Crane & Material Handling Limited, Labrador Cranes 2005 Limited, and LCB Rentals Limited (the "**Applicants**") in respect of these *Bankruptcy and Insolvency Act* Proceedings.

B. Pursuant to an Order of the Court dated October 12, 2021 (the "**Sale Approval and Vesting Order**") the Court approved an asset sale transaction (the "**Transaction**") between the Applicants, as vendors, and Russell Industries Corp. or its assignee, as the purchaser (the "**Purchaser**"), as reflected in an Asset Purchase Agreement dated as at August 4, 2021, (the "**APA**"), as subsequently amended and restated in the Sale Approval and Vesting Order, for the purchase and sale of the Applicants' right, title and interest in and to the assets and business undertaking of the Applicants described in the APA and the Sale Approval and Vesting Order (the "**Purchased Assets**"), foreclosed and forever barred as against the Purchased Assets and the Purchaser all "Claims" and "Encumbrances", (both terms as defined in the Sale Approval and Vesting Order), and provided for the vesting in the Purchaser or the Purchaser's assignee, nominee or designate as the case may be, of the Applicants' right, title and interest in and to the Purchased Assets free and clear of any such Claims or Encumbrances, which foreclosure and vesting is to be effective with respect to the Purchased Assets upon the delivery to the Purchaser, or the Purchaser's assignee, nominee or designate as the case may be, of a certificate issued by the Trustee confirming (i) that the conditions

to closing as set out in the APA have been satisfied or waived by the Applicants and the Purchaser (as applicable); and (ii) the Transaction has been completed to the satisfaction of the Trustee.

C. Pursuant to the Sale Approval and Vesting Order, the Trustee may rely on written notice from the Applicants and the Purchaser regarding fulfilment of conditions to closing under the APA.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APA.

THE TRUSTEE CERTIFIES the following:

1. The Purchaser, or the Purchaser's assignee, nominee or designate as the case may be, has paid and the Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the APA;
2. The Applicants and the Purchaser have each delivered written notice to the Trustee that all applicable conditions under the APA have been satisfied and/or waived, as applicable; and
3. The Transaction has been completed to the satisfaction of the Trustee.
4. The Purchaser's assignee, nominee or designate is _____.

This Certificate was delivered by the Trustee on October _____, 2021 at ___ o'clock in the ___noon.

MNP Limited, in its capacity as Proposal Trustee of Atlantic Crane & Material Handling Limited, Labrador Cranes 2005 Limited, and LCB Rentals Limited and not in its personal or corporate capacity.

Per:

SCHEDULE "C"

Encumbrances to be Expunged and Discharged as Against the Purchased Assets

All encumbrances, of every nature and kind, with the exception of the Permitted Encumbrance described in Schedule "D" of the APA, and any encumbrance over the Excluded Assets described in Schedule "E" of the APA.

SCHEDULE "D"

Permitted Encumbrances

A first mortgage in favour of Business Development Bank of Canada charging 280 Grandview Avenue, St. John, New Brunswick, with PID No. 00036236,