

COURT FILE NUMBER **2203-13244**  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE EDMONTON  
PLAINTIFF / **ROYAL BANK OF CANADA**  
APPLICANT  
DEFENDANTS / **927676 ALBERTA LTD. and GEORDIE**  
RESPONDENTS **NOKES**



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DOCUMENT **APPLICATION FOR  
APPOINTMENT OF RECEIVER  
AND MANAGER OF PROPERTY**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
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File No. 404600.000930

**NOTICE TO RESPONDENTS (See Service List attached hereto as Schedule "A")**

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Justice.

To do so, you must be in Court when the application is heard as shown below:

Date	September 13, 2022
Time	2:00 p.m.
Where	The Edmonton Law Courts, via WebEx video conference
Before Whom	The Honourable Mr. Justice D. R. Mah

Go to the end of this document to see what else you can do and when you must do it.

**Remedy claimed or sought:**

1. The Plaintiff/Applicant, Royal Bank of Canada (the “**Bank**” or “**RBC**”), seeks an Order substantially in the form attached hereto as Schedule “**B**” for the following relief:
  - (a) deeming service of this Application, together with all supporting materials, to be good and sufficient;
  - (b) appointing MNP Ltd. as the receiver and manager of lands legally described as:
 

PLAN B  
BLOCK 12  
LOT 67  
EXCEPTING THEREOUT ALL MINES AND MINERALS

and municipally described as 10018 112 Street NW, Edmonton, Alberta, T5K 1L9 (the “**Property**”), together with all assets, undertakings, and properties of 927 (as hereinafter defined) located thereon, and any rents, profits and other receipts arising therefrom; and
  - (c) such further and other relief as counsel may advise and this Honourable Court may deem just.

**Grounds for making this application:**

2. The Defendant, 927676 Alberta Ltd. (“**927**”), is a corporation incorporated pursuant to the laws of the Province of Alberta, with a registered office located in St. Albert, Alberta.
3. The Defendant, Geordie Nokes, is an individual resident in Banff, Alberta. At all material times, Mr. Nokes was the sole shareholder and director of 927, as well as a guarantor of the obligations of a mortgage pledged by 927, as more particularly described below.
4. Pursuant to a commitment letter dated October 20, 2018, the Bank advanced a mortgage loan in the principal amount of \$1,000,000.00, with a fixed rate interest of 4.95% per annum, calculated semi-annually (the “**Loan**”).
5. The Loans were secured by, among other things, various general security agreements and a collateral mortgage, as follows:

- (a) a first mortgage and charge (the “**Mortgage**”) in the amount of \$1,000,000.00 on the Property, which has a building with 17 legal residential rental units (the “**Devonshire**”);
- (b) a general assignment of rents and leases from the Property dated November 2, 2016 (the “**Assignment**”);
- (c) a site specific security agreement dated November 2, 2016 (the “**Security Agreement**”), pursuant to which 927 granted a first security interest in favour of the Bank on all present and after-acquired personal property situated on, used in connection or arising from the Property;
- (d) a guarantee of mortgage dated November 2, 2016 (the “**Guarantee**”), pursuant to which Mr. Nokes provided a personal guarantee of the principal amount advanced under the Mortgage, together with interest and other chargeable costs arising thereunder

(collectively referred to herein as the “**Security**”).

- 6. The Bank registered its interest pursuant to the Mortgage and the Assignment on title to the Property on December 8, 2016, and its interest pursuant to the Security Agreement at the Alberta Personal Property Registry on November 9, 2016.
- 7. 927 has defaulted under the terms of the Loan, the Mortgage and the Security. In particular, among other things:
  - (a) failing to pay the balances due and owing under the Loan as and when due;
  - (b) failing to satisfy the financial reporting requirements under the Loan; and
  - (c) permitting third party mortgages to be registered on title to the Property.
- 8. As a result of 927’s defaults, on January 17, 2022, the Bank issued a demand for 927, with a copy to Mr. Nokes, to provide proof of refinancing in respect of 927’s various mortgages with the Bank, including the Mortgage. 927 did not receive any proof of refinancing from 927.
- 9. As of June 20, 2022, the total amount owing under the Loan, the Security and the Guarantee was \$932,784.68, together with all interest, legal fees and other chargeable costs continuing

to accrue thereon (the “**Indebtedness**”). No payment has been made to the Bank by 927, Mr. Nokes or otherwise to satisfy any of the Indebtedness, nor have they presented the Bank with any alternative plan or financing to address the Indebtedness.

10. Given the above-noted defaults, the Bank is at liberty to enforce its rights, including seeking the appointment of a receiver and manager in respect of the Property.
11. Given the serious deterioration of the financial condition of 927 and lack of visibility into the state and condition of the Property, and the rental agreements for the Devonshire, the Bank has significant concerns that letting 927 maintain control will cause value to further erode, and potential priority payables to accrue. The only efficient way of preserving and realizing upon the Security in an orderly manner that preserves value for the Bank and other interested parties, and without incurring any significant payment obligations ranking in priority to the Bank, is through the appointment of a receiver and manager limited to the Property.
12. It is just and convenient for this Honourable Court to appoint a receiver and manager in respect of the Property.
13. MNP Ltd. has consented to act as receiver and manager of the Property, together with all assets, undertakings, and properties of 927 located thereon, and any rents, profits and other receipts arising therefrom.

**Material or evidence to be relied on:**

14. The Affidavit of Debra Cerny, sworn on August 25, 2022;
15. The Consent to Act as Receiver and Manager executed by MNP Ltd.; and
16. Such further and other materials or evidence as counsel may advise and this Honourable Court may permit.

**Applicable rules:**

17. *Alberta Rules of Court*, AR 124/2010, and in particular Part I, Rules 6.3, 11.27 and 11.29; and
18. Such further and other rules as counsel may advise and this Honourable Court may permit.

**Applicable Acts and regulations:**

19. *Law of Property Act*, RSA 2000, c L-7, section 49;
20. *Personal Property Security Act*, RSA 2000, c P-7, section 65(7);
21. *Judicature Act*, RSA 2000, c J-2, section 13(2); and
22. Such further and other Acts or regulations as counsel may advise and this Honourable Court may permit.

**Any irregularity complained of or objection relied on:**

23. None.

**How the application is proposed to be heard or considered:**

24. By WebEx video conference, before the Honourable Mr. Justice D. R. Mah, on affidavit evidence with some or all of the parties present.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

**SCHEDULE "A"**

**SERVICE LIST**

(See attached)

COURT FILE NUMBER

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

EDMONTON

PLAINTIFF

ROYAL BANK OF CANADA

DEFENDANTS

927676 ALBERTA LTD. and GEORDIE NOKES

### SERVICE LIST

<p><b>Borden Ladner Gervais LLP</b> Suite 1900, Centennial Place, East Tower 520 - 3 Avenue SW Calgary, AB T2P 0R3</p> <p>Robyn Gurofsky – <a href="mailto:rgurofsky@blg.com">rgurofsky@blg.com</a> Tiffany Bennett – <a href="mailto:tibennett@blg.com">tibennett@blg.com</a></p>	<p>Counsel to the Plaintiff, Royal Bank of Canada</p>
<p><b>MNP Ltd.</b> 1300, 10235 – 101 Street NW Edmonton, AB T5J 3G1</p> <p>Karen Alyward – <a href="mailto:karen.aylward@mnp.ca">karen.aylward@mnp.ca</a></p>	<p>Proposed Receiver</p>
<p><b>Emery Jamieson LLP</b> 2400, 10235 – 101 Street NW Edmonton, AB T5J 3G1</p> <p>Kyle Kawanami – <a href="mailto:kkawanami@emeryjamieson.com">kkawanami@emeryjamieson.com</a></p>	<p>Counsel to the Proposed Receiver, MNP</p>
<p><b>927676 Alberta Ltd.</b> c/o Registered Office 400, 1 Tache Street St. Albert, AB T8N 1B4</p>	<p>Defendant</p>
<p><b>Geordie Nokes</b> 408 Otter Street PO Box 875 Banff, AB T1L 1A9</p>	<p>Defendant</p>

## SERVICE LIST

<b>Coinamatic Canada Inc.</b> 301 Matheson Blvd W Mississauga, ON L56R 3G3	Caveator
<b>Coinamatic Canada Inc.</b> 10011 – 56 Avenue Edmonton, AB T6E 5L7	Caveator
<b>Jana Luptakova</b> 726 Millyard Vancouver, BC V5Z 4A1	Subsequent Mortgagee
<b>Chalaas Capital Corporation</b> 1800 – 401 West Georgia Street Vancouver, BC V6B 5A1	Subsequent Mortgagee
<b>Olympia Trust Company</b> P.O. Box 2581, STN Central Calgary, AB T2P 1C8	Subsequent Mortgagee
<b>Kelly McMurdo</b> 12664 – 25 Avenue Surrey, BC V4A 2K4	Subsequent Mortgagee
<b>GJS Holdings Inc.</b> 305 – 85 Cranford Way Sherwood Park, AB T8H 0H9	Secured Creditor

## EMAIL LIST ONLY

[debra.cerny@rbc.com](mailto:debra.cerny@rbc.com); [rgurofsky@blg.com](mailto:rgurofsky@blg.com); [tibennett@blg.com](mailto:tibennett@blg.com); [karen.aylward@mnp.ca](mailto:karen.aylward@mnp.ca);  
[kkawanami@emeryjamieson.com](mailto:kkawanami@emeryjamieson.com)



**SCHEDULE "B"**

**FORM OF RECEIVERSHIP ORDER**

(See attached)

COURT FILE NUMBER

Clerk's Stamp

COURT

COURT OF QUEEN'S BENCH OF  
ALBERTA

JUDICIAL CENTRE

EDMONTON

PLAINTIFF /  
APPLICANT

**ROYAL BANK OF CANADA**

DEFENDANTS /  
RESPONDENTS

**927676 ALBERTA LTD. and GEORDIE  
NOKES**

DOCUMENT

**RECEIVERSHIP ORDER**

ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

Robyn Gurofsky / Tiffany Bennett  
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File No. 404600.000930

**DATE ON WHICH ORDER WAS PRONOUNCED:** \_\_\_\_\_

**LOCATION WHERE ORDER WAS PRONOUNCED:** EDMONTON, ALBERTA

**NAME OF JUSTICE WHO MADE THIS ORDER:** \_\_\_\_\_

**UPON** the Application of the Plaintiff, Royal Bank of Canada (“**RBC**”), filed on [●] (the “**Application**”); **AND UPON** having read the Application, the Affidavit of Debra Cerny, filed on [●], the Affidavit of Service of Kayley Woods, filed on [●], and other pleadings and materials filed in the within Action; **AND UPON** noting the consent of MNP Ltd. to act as receiver and manager herein; **AND UPON** having heard counsel for the Plaintiff and counsel for the Defendants; **AND UPON** having considered section 49 of the *Law of Property Act*, RSA 2000, c L-7 (the “**Law of Property Act**”), section 65(7) of the *Personal Property Security Act*, RSA 2000, c P-7 (the “**Personal Property Security Act**”), and section 13(2) of the *Judicature Act*, RSA 2000, c J-2 (the “**Judicature Act**”);

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

1. The time for service of the notice of the Application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient, and this Application is properly returnable today.

**APPOINTMENT**

2. Pursuant to section 49 of the *Law of Property Act*, section 65(7) of the *Personal Property Security Act*, and section 13(2) of the *Judicature Act*, MNP Ltd. is hereby appointed receiver and manager (“**Receiver**”), without security, of the lands legally described as

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and municipally described as 10018 112 Street NW, Edmonton, Alberta, T5K 1L9 (the “**Lands**”), together with all assets, undertakings, and properties of the Defendant, 927626 Alberta Ltd. (the “**Debtor**” or “**927**”), located thereon, and any rents, profits and other receipts arising therefrom.

3. RBC is deemed not to be a mortgagee in possession or trespasser.

**RECEIVER’S POWERS**

4. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Lands and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - (a) take possession and exercise control over the Lands and any and all proceeds, receipts and disbursements arising out of or from the Lands;
  - (b) to receive, preserve, protect and maintain control of the Lands, or any part or parts thereof, including but not limited to, the changing of locks and security codes, the

relocating of personal property thereon to safeguard it, the engaging independent security personnel, the taking physical inventories and the placement such insurance coverage as may be necessary or desirable;

- (c) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order. Any expenditure, loan or advance which shall be made or incurred by the Receiver in so doing shall be allowed in passing its accounts and together with its remuneration, shall form a charge on the Lands, in priority to all security on the Lands;
- (d) to have unrestricted access to the Lands for the purpose of exercising its power as Receiver;
- (e) to do all things necessary to complete, improve, preserve and maintain the Lands;
- (f) to borrow or advance such sums of money as it may in its discretion deem necessary to complete, improve, preserve and maintain the Lands and undertaking thereon, limited to the amount of the Receiver's Borrowings Charge (as hereinafter defined);
- (g) to grant mortgages or renew mortgages over the Lands;
- (h) to lease and re-let the Lands or any part thereof;
- (i) to terminate the leases or obtain possession, or both, with respect to the Lands or any part thereof;
- (j) to receive and collect all monies and accounts now owed or hereafter owing to the 927 in respect of the Lands, including, without limitation, any rents, profits and other receipts arising from the Lands or any part thereof, and to exercise all remedies of 927 in collecting such monies, including without limitation, to enforce any security held by 927 in respect of the Lands;

- (k) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Lands or the Receiver, and to settle or compromise any such proceedings.
- (l) to borrow such sums as it may in its discretion deem necessary to improve, preserve and maintain the Lands;
- (m) to market the Lands, including advertising and soliciting offers in respect of the Lands or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (n) to sell, convey, transfer, lease or assign the Lands or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$10,000.00; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price exceeds the applicable amount set out in the preceding clause;
- (o) to apply for any vesting order or other orders necessary to convey the Lands or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Lands;
- (p) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Lands and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (q) to register a copy of this Order and any other orders in respect of the Lands against title to any of the Lands, and when submitted by the Receiver for registration this Order shall be immediately registered by the Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in

any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles shall accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity;

- (r) to register a copy of this Order and any other Orders in respect of the Lands against title to any of the Lands;
- (s) with respect to the Lands, to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and , if thought desirable by the Receiver, in the name of 927;
- (t) to enter into agreements with any trustee in bankruptcy appointed in respect of 927, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for the Lands;
- (u) to enter into any agreements or incur obligations necessary or reasonably incidental to the exercise of the aforementioned authorities and powers; and
- (v) such other powers as may be deemed just and necessary by this Court from time to time.

#### **DUTY TO PROVIDE ACCESS AND COOPERATION TO THE RECEIVER**

5. (i) 927, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) having care, control or possession of the books and records of 927 in respect of the Lands shall, within 48 hours of service of this Order deliver over to the Receiver all the books, documents, contracts, orders, and any other papers, records and information of any kind in respect of the Lands (the foregoing, collectively, the “**Records**”), and all damage or security deposits and post-dated cheques received from

or in respect of the Lands which he has in his power or possession relating to or on the Lands.

6. All Persons shall forthwith advise the Receiver of the existence of the Records in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph or in paragraph 5 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.
7. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names, and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. No proceeding or enforcement process in any court or tribunal (each a "**Proceeding**") shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

## **NO PROCEEDINGS AGAINST THE DEBTOR OR THE LANDS**

9. No Proceeding against or in respect of the Debtor's interest in the Lands, or in any way connected to or affecting the Lands, shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor's interest in the Lands or in any way connected to or affecting the Lands are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph; and (ii) affect a Regulatory Body's investigation in respect of the Debtor or an action, suit or proceeding that is taken in respect of the Debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. "**Regulatory Body**" means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a Province.

## **NO EXERCISE OF RIGHTS OF REMEDIES**

10. All rights and remedies of any Person, whether judicial or extra-judicial, statutory or non-statutory (including, without limitation, set-off rights) against or in respect of the Debtor's interest in the Lands, or in any way connected to or affecting the Lands or the Receiver are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided, however, that nothing in this Order shall:
- (a) empower the Debtor to carry on any business that the Debtor is not lawfully entitled to carry on;
  - (b) prevent the filing of any registration to preserve or perfect a security interest;
  - (c) prevent the registration of a claim for lien; or
  - (d) exempt the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment.



11. Nothing in this Order shall prevent any party from taking an action against the Debtor where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

#### **NO INTERFERENCE WITH THE RECEIVER**

12. No Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor with respect to the Lands, except with the written consent of the Debtor and the Receiver, or leave of this Court

#### **CONTINUATION OF SERVICES**

13. All persons having:
- (a) statutory or regulatory mandates for the supply of goods and/or services; or
  - (b) oral or written agreements or arrangements with the Debtor, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Debtor

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Debtor or exercising any other remedy provided under such agreements or arrangements. The Debtor shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Debtor in accordance with the payment practices of the Debtor, or such other practices as may be agreed upon by the supplier or service provider and each of the Debtor and the Receiver, or as may be ordered by this Court.

## RECEIVER TO HOLD FUNDS

14. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Lands and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

## EMPLOYEES

15. Subject to employees’ rights to terminate their employment, all employees of the Debtor in any way connected to or affecting the Lands shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”). other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the *BIA* or under the *Wage Earner Protection Program Act*, S.C. 2005, c. 47.
16. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Lands and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete the sale of the Property (the “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete the Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of the Lands shall be entitled to continue to use the

personal information provided to it, and related to the Lands purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

17. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
- (i) before the Receiver's appointment; or
  - (ii) after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Lands, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
- (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:
    - A. complies with the order, or
    - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;

- (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by,
  - A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
  - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- (iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

- 18. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Lands. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law.

#### **RECEIVER'S ACCOUNTS**

- 19. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Lands, which charge shall not exceed an aggregate amount of \$100,000.00, as security for their professional fees and disbursements incurred at the normal rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Lands in priority to all mortgages, liens, charges and encumbrances, statutory or otherwise, in favour of any Person in respect of the Lands.

20. The Receiver and its legal counsel shall pass their accounts from time to time.
21. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.
22. The Receiver shall pay the proceeds of any sales, rents, profits and other monies collected or received by it as follows:
  - (a) first, toward any fees and disbursements contemplated by paragraph 19 hereof;
  - (b) second, in payment of normal operating expenses including insurance, utilities, arrears thereof and such costs and expenses as may be allowed by this Court;
  - (c) third, in payment of taxes, local improvement charges and other municipal assessments accruing due or owing in respect of the Lands;
  - (d) fourth, in reduction of the claims of RBC for the outstanding balance owing pursuant to RBC's security, as such costs and expenses (including legal costs on a solicitor-and-own-client, full indemnity basis) as may be allowed by this Court; and
  - (e) fifth, the balance (if any) remaining shall be paid into Court subject to further Order of this Court, upon application by an interested party.

#### **FUNDING OF THE RECEIVERSHIP**

23. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000.00 (or such greater amount as this Court may by further order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Lands shall be

and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person in respect of the Lands.

24. Neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
25. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “A” hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.
26. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.
27. The Receiver shall be allowed to repay any amounts borrowed by way of Receiver’s Certificates out of the Lands or any proceeds, including any proceeds from the sale of any assets without further approval of this Court.

#### **GENERAL**

28. The Receiver may, from time to time, apply to this Honourable Court for directions and guidance in the discharge of its duties hereunder.
29. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, AR 124/2010, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Receiver’s reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
30. Nothing in this Order shall prevent the Receiver from acting as a receiver or trustee in bankruptcy of 927 pursuant to the *BIA*.

31. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.
32. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.
33. RBC shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of RBC's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis, including legal costs on a solicitor-and-own-client full indemnity basis, to be paid by the Receiver from the proceeds of any sales, rents, profits and other monies collected or received by it in accordance with paragraph 22 of this Order.
34. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
35. A copy of this Order shall be served upon the tenants presently occupying or in possession of the Lands or any part thereof, which service may be sufficiently effected by placing a copy of this Order in the mail receptacle at each rental units of all buildings comprising the Lands.
36. Forthwith upon service of a copy of this Order upon the tenants as aforesaid, any and all rental payments which may then be due or may thereafter fall due from time to time relating to the Lands or any part thereof shall be paid to the Receiver as aforesaid and shall be deemed to be an effective payment of such rental to the landlord.

37. In the event that any tenant shall be served with a copy of this Order and neglects or refuses to pay rents due or to become due hereunder, the Receiver may distrain for rent in arrears in the same manner and with the same right of recovery as a landlord.
38. The within Action shall not be stayed but be allowed to proceed until all arrears of the mortgage and related costs are paid.
39. Any interested party shall be at liberty to apply from time to time as they may deem appropriate or necessary in the circumstances, upon five days' notice to RBC, the Receiver and the Defendants.
40. For greater certainty, unless and until such time as the Receiver is appointed as receiver or receiver-manager of 927 pursuant to the *BIA*, the Receiver shall not be required to satisfy any notice requirements under the *BIA*, including but not limited to notice to the Superintendent of Bankruptcy and the creditors of 927 pursuant to section 245 of the *BIA*.



**SCHEDULE “A”****RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. **THIS IS TO CERTIFY** that MNP Ltd., the receiver and manager (the “**Receiver**”) of the lands legally described as

PLAN B  
 BLOCK 12  
 LOT 67  
 EXCEPTING THEREOUT ALL MINES AND MINERALS

and municipally described as 10018 112 Street NW, Edmonton, Alberta, T5K 1L9 (the “**Lands**”), appointed by Order of the Court of Queen’s Bench of Alberta dated [●] made in action number [●] (the “**Order**”), has received as such Receiver from the holder of this certificate (the “**Lender**”) the principal sum of \$[●], being part of the total principal sum of \$[●] that the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly not in advance on the [●] day of each month] after the date hereof at a notional rate per annum equal to the rate of [●] per cent above the prime commercial lending rate of Bank of [●] from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the Lands (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order, and the right of the Receiver to indemnify itself out of such Lands in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at [●].

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Lands as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

MNP Ltd., solely in its capacity as Receiver of the Lands (as defined in the Order), and not in its personal capacity

Per: \_\_\_\_\_  
Name:  
Title: