

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) THURSDAY, THE 27TH
JUSTICE CAVANAGH) DAY OF MAY, 2021

B E T W E E N :

MIDCAP FUNDING IV TRUST

Applicant

- and -

AVAD CANADA LTD.

Respondent

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

**ORDER
(approval of reports and fees, distribution and discharge)**

THIS MOTION made by MNP Ltd. in its capacity as the court appointed receiver (the “**Receiver**”) of AVAD Canada Ltd. (the “**Debtor**”) for an order, *inter alia*, (i) approving the the first report dated May 21, 2021 (the “**First Report**”) of the Receiver and the activities of the Receiver described therein; (ii) approving the fees and disbursements of the Receiver and its counsel, (iii) approving the distribution of the

remaining proceeds available in the estate of the Debtor and (iv) discharging MNP Ltd. as Receiver of the undertaking, property and assets of the Debtor was heard this via videoconference due to COVID-19.

ON READING the First Report, the affidavits of the Receiver and its counsel as to fees (the "Fee Affidavits"), and on hearing the submissions of counsel for the Receiver, no one else appearing although served as evidenced by the affidavit of service, filed;

NOTICE AND SERVICE

1. **THIS COURT ORDERS** that the time for service of the motion record in respect of this motion and the First Report is abridged and validated so that the motion is properly returnable today, and that further service thereof is dispensed with.

APPROVAL OF THE RECEIVER'S REPORT AND OF THE FEES AND DISBURSEMENTS OF THE RECEIVER AND ITS COUNSEL

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

3. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel and the estimated fees to completion, as set out in the Report and the Fee Affidavits, are hereby approved.

DISTRIBUTION OF FUNDS

4. **THIS COURT ORDERS** that, after payment of the fees and disbursements herein approved, the Receiver shall pay the monies remaining in its hands as follows:

- a) \$65,594.54 to Cambridge Global Payments, and
- b) the balance available upon completion of the receivership proceedings to MNP Ltd. in its capacity as the trustee in bankruptcy of the Debtor.

DISCHARGE

5. **THIS COURT ORDERS** that upon payment of the amounts set out in paragraph 4 hereof and upon the Receiver filing a certificate certifying that it has completed the other activities described in the Report, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtor, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of MNP Ltd. in its capacity as Receiver.

6. **THIS COURT ORDERS AND DECLARES** that MNP Ltd. is hereby released and discharged from any and all liability that MNP Ltd. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of MNP Ltd. while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing,

MNP Ltd. is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.]

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(Commercial List)

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