

COURT FILE NUMBER 2203 04647

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLAINTIFF ROYAL BANK OF CANADA

DEFENDANTS 1692260 ALBERTA LTD., BIRKILL HOLDINGS LTD., R. BIRKILL PROFESSIONAL CORPORATION, 1015314 ALBERTA LTD., and RICHARD BIRKILL

DOCUMENT **SALE APPROVAL AND VESTING ORDER (Sale by Receiver)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT MLT Aikins LLP
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Attention: Dana Nowak / Molly McIntosh
File: 31617-38



DATE ON WHICH ORDER WAS PRONOUNCED: May 24, 2022

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: Mr. Justice K. Feth

UPON THE APPLICATION by MNP Ltd. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertakings, property and assets of 1692260 Alberta Ltd. (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**APA**”) between the Receiver and CLS Holdings Ltd. (the “**Purchaser**”) and appended to the Confidential Addendum to the Report of the Receiver dated May 16, 2022 (respectively the “**Confidential Addendum**” and “**First Report**”), and vesting in the Purchaser (or its nominee) the Debtor’s right, title and interest in and to the assets described in the APA (the “**Purchased Assets**”); **AND UPON HAVING READ** the Receivership Order dated March 24, 2022 (the “**Receivership Order**”), the First Report, the Confidential Addendum to the First Report, and the Affidavit of Service of Maritza Garcia sworn on May 16, 2022; **AND UPON HEARING** the submissions of counsel for the Receiver and Agriculture Financial Services Corporation, and any other counsel present; **AND UPON** no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service, filed;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTION

2. The Transaction is hereby approved and execution of the APA by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transaction and conveyance of the Purchased Assets to the Purchaser (or its nominee).

VESTING OF PROPERTY

3. Upon delivery of a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Closing Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets [listed in **Schedule "B"** hereto] shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "**Claims**") including, without limiting the generality of the foregoing:
 - a. any encumbrances or charges created by the Receivership Order;
 - b. any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;
 - c. any liens or claims of lien under the *Builders' Lien Act* (Alberta); and
 - d. those Claims listed in **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in **Schedule "D"** (collectively, "**Permitted Encumbrances**"))

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

4. Upon delivery of the Receiver's Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Receiver's Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Purchased Assets subject only to Permitted Encumbrances. Without limiting the foregoing:
 - a. the Registrar of Land Titles ("**Land Titles Registrar**") for the lands defined below shall and is hereby authorized, requested and directed to forthwith:
 - i. cancel existing Certificates of Title No. 132 296 924 for those lands and premises municipally described as 50A Street, Wandering River , and legally described as:

PLAN 8721985
BLOCK 2
LOT 1A
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 0.68 HECTARES (1.68 ACRES) MORE OR LESS

(the "**Lands**");
 - ii. issue a new Certificate of Title for the Lands in the name of the Purchaser (or its nominee) (the "**New Certificate of Title**");
 - iii. transfer to the New Certificate of Title the existing instruments listed in **Schedule "D"**, to this Order, and to issue and register against the New Certificate of Title such new caveats, utility rights of ways, easements or other instruments as are listed in **Schedule "D"**; and
 - iv. discharge and expunge the Encumbrances listed in **Schedule "C"** to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the APA against the existing Certificate of Title to the Lands;

- b. the Registrar of the Alberta Personal Property Registry (the “**PPR Registrar**”) shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than Permitted Encumbrances) in the estate or interest of the Debtor in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.
5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the APA. Presentment of this Order and the Receiver’s Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.
6. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the APA.
7. Upon delivery of the Receiver’s Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to 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.
8. For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Purchased Assets from and after delivery of the Receiver’s Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from 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. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets

without further order of this Court, provided however the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order.

9. Except as expressly provided for in the APA or by section 5 of the Alberta *Employment Standards Code*, the Purchaser (or its nominee) shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtor.
10. Upon completion of the Transaction, the Debtor and all persons who claim by, through or under the Debtor in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
11. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtor, or any person claiming by, through or against the Debtor.
12. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.
13. The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to the Purchaser (or its nominee).
14. Notwithstanding:
 - a. the pendency of these proceedings and any declaration of insolvency made herein;
 - b. the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "BIA"), in respect of the Debtor, and any bankruptcy order pursuant to any such applications;
 - c. any assignment in bankruptcy made in respect of the Debtor; and

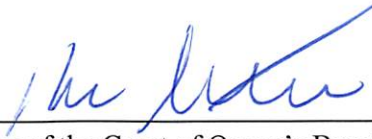
d. the provisions of any federal or provincial statute:

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

15. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
16. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, 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 order and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
17. Service of this Order shall be deemed good and sufficient by:
 - a. Serving the same on:
 - i. the persons listed on the service list created in these proceedings;
 - ii. any other person served with notice of the application for this Order;
 - iii. any other parties attending or represented at the application for this Order;
 - iv. the Purchaser or the Purchaser's solicitors; and
 - b. Posting a copy of this Order on the Receiver's website at:
<https://mnpdebt.ca/en/corporate/corporate-engagements/birkill-holdings-ltd>.

and service on any other person is hereby dispensed with.

18. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



Justice of the Court of Queen's Bench of Alberta

SCHEDULE "A"

(to Sale Approval and Vesting Order)

Form of Receiver's Certificate

COURT FILE NUMBER 2203 04647

COURT COURT OF QUEEN'S BENCH OF ALBERTA

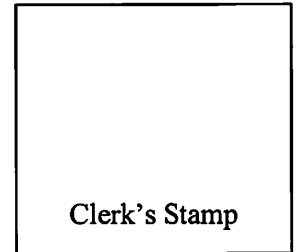
JUDICIAL CENTRE EDMONTON

PLAINTIFF ROYAL BANK OF CANADA

DEFENDANTS 1692260 ALBERTA LTD.,
 BIRKILL HOLDINGS LTD.,
 R. BIRKILL PROFESSIONAL CORPORATION,
 1015314 ALBERTA LTD., and
 RICHARD BIRKILL

DOCUMENT **RECEIVER'S CERTIFICATE**

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF PARTY
FILING THIS DOCUMENT MLT Aikins LLP
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 Edmonton, AB T5J 3G1
 Phone: 780-969-3500
 Fax: 780-969-3549
 Attention: Dana M. Nowak / Molly McIntosh
 File: 31617-38



RECITALS

- A. Pursuant to an Order of the Honourable Justice M.E. Burns of the Court of Queen's Bench of Alberta, Judicial District of Edmonton (the "Court") dated March 24, 2022, MNP Ltd. was appointed as the receiver (the "Receiver") of the undertakings, property and assets of 1692260 Alberta Ltd. (the "Debtor").

- B. Pursuant to an Order of the Court dated May 24, 2022, the Court approved the agreement of purchase and sale (the "APA") between the Receiver and CLS Holdings Ltd. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set

out in Article 8 of the APA have been satisfied or waived by the Receiver and the Purchaser; and
(iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the APA.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the APA;
2. The conditions to Closing as set out in Article 8 of the APA have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ on _____.

**MNP Ltd. in its capacity as Receiver
of the undertakings, property and
assets of 1692260 Alberta Ltd. and not
in its personal capacity.**

Per: _____
Name: Eric Sirrs, CIRP, LIT
Title: Senior Vice President

SCHEDULE "B"

(to Sale Approval and Vesting Order)

Purchased Assets

"Purchased Assets" means the entire right, title and interest of 169 in and to the Properties, including the Chattels, Inventory, Accounts Receivable, and Prepaid Expenses, but excluding the Excluded Assets, where:

- (i) **"Properties"** is defined as 169's entire right, title and interest in and to the land legally described as NE 37-71-17 W4, Plan 8721985, Block 2, Lot 1A, and the buildings and Chattels used in connection therewith;
- (ii) **"Chattels"** is defined as "all chattels, furniture in, on, or upon the Properties and which are used in operating or maintain the Properties, except to the extent any of the foregoing are or relate to Excluded Assets, including all light fixtures, plumbing fixtures, furnace boiler equipment, heating and ventilating and air-conditioning equipment, boiler machinery and equipment, sprinklers, drainage and other mechanical and electrical systems and any other chattels or tangible property;
- (iii) **"Inventory"** is defined as "all inventories of the Vendor in connection with the business, whether situated on the Properties or not, as of the Closing Date, including finished goods, work in progress, raw materials, maintenance items, and advertising materials;
- (iv) **"Accounts Receivables"** is defined as "all accounts receivable and other rights to payment owed to 169 only in respect of the Properties, including but not limited to all post-receivership accounts receivable of the Properties as at Closing which are included in the Purchased Assets and to be purchased according to the purchase price adjustment referred to in Section 3.3."
- (v) **"Prepaid Expenses"** is defined as "all expenses prepaid by the Vendor in respect of the Properties and other rights to payment owed to 169; and
- (vi) **"Excluded Assets"** is defined as:
 - a. all cash and cash equivalents, including for greater certainty the proceeds of any sales of assets (including the sale of the Purchased Assets);
 - b. all deposits for rentals of the Cabins located on the Properties that are to be completed before the Closing Date;
 - c. all income, GST, corporate capital tax and other tax installments paid by 169 and the right to receive any refund of income, GST, corporate capital or other taxes paid by 169;
 - d. all rights of action and claims (and benefits arising therefrom) of 169 against third persons by reason of any facts or circumstances that occurred or existed prior to the Closing Date whether or not an action or any other proceeding is commenced before such time, including insurance claims;

- e. all rights of 169 or the Vendor under any life and property insurance policies and all claims, benefits and rights thereunder and proceeds therefrom (including any cash surrender values);
- f. all rights of the Vendor under this Agreement and the Ancillary Agreements, instruments and certificates delivered pursuant to this Agreement;
- g. any ownership interest which 169 has in any other corporation, entity or business venture;
- h. the minute books, corporate records, financial statements, and accounting records of 169;
- i. leased assets, if any; and
- j. any asset of 169 not capable of being transferred by the Vendor as a result of not being assignable or transferable without the approval or consent of a third party which consent cannot be obtained prior to Closing. In such event the Vendor shall assist the Purchaser in applying for, and use all reasonable efforts to obtain, such consents or approvals, in a form satisfactory to Purchaser acting reasonably, after Closing. Despite this, the Vendor will have no liability to the Purchaser for failing to obtain such consent to assignment and the Purchase Price will not be abated therefor.

SCHEDULE "C"**(to Sale Approval and Vesting Order)****Dischargeable Encumbrances on Title**

Registration No.	Date (D/M/Y)	Particulars
132 296 925	18/09/2013	Mortgage Mortgagee – Agriculture Financial Services Corporation
132 296 926	18/09/2013	Notice of Security Interest re: Fixtures In Favour Of – Agriculture Financial Services Corporation
162 231 277	23/08/2016	Amending Agreement Affects Instrument: 132 296 926
162 267 799	26/09/2016	Amendment Affects Instrument: 132 296 926
182 005 897	09/01/2018	Amendment Affects Instrument: 132 296 926
222 081 031	07/04/2022	Tax Notification By – Athabasca County
(Pending) D001MZQ	02/03/2022	Certificate of Lis Pendens

SCHEDULE "D"
(to Sale Approval and Vesting Order)
Permitted Encumbrances on Title

None.