

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE

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FRIDAY, THE 8TH

JUSTICE PENNY

DAY OF JULY, 2022

B E T W E E N :

ROYAL BANK OF CANADA

Applicant

- and –

CNS IRON FABRICATION LTD. and CLAEYS FAMILY HOLDINGS INC.

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by MNP Ltd. in its capacity as the court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of CNS Iron Fabrication Ltd., and Claeys Family Holdings Inc. (the “**Debtors**”) for an order:

1. approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and 1000221800 Ontario Inc. o/a SP Steel Manufacturing and Engineering (the “**Purchaser**”) dated June 20, 2022;
2. vesting in the Purchaser the Debtors’ right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”);
3. approving the activities of the Receiver as set out in the Report of the Receiver dated June 30, 2022 (the “**Report**”);
4. approving the activities of the Receiver as set out in the Confidential Supplement dated June 30, 2022 (the “**Confidential Supplement**”);

5. sealing the Confidential Supplement;
6. approving the Receiver's Statement of Receipts and Disbursements (the "**SRD**");
7. approving the fees and disbursements of the Receiver and its counsel; and
8. approving the distribution of available proceeds in the estate of the Debtors;

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report, the Confidential Supplement, the affidavits of the Receiver and its counsel as to fees (the "**Fee Affidavits**"), and on hearing the submissions of counsel for the Receiver, the Applicant and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Victoria Gifford sworn June 30, 2022, filed:

SERVICE

1. **THIS COURT ORDERS AND DECLARES** that the time for service of the notice of motion and the motion record is hereby abridged and validated so that the motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF TRANSACTION AND VESTING OF PURCHASED ASSETS

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement 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 the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual,

statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Gilmore dated May 13, 2022; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’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.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver’s Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company’s records pertaining to the Debtors’ past and current employees. 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 which is in all material respects identical to the prior use of such information by the Debtors.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) 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.

SEALING OF CONFIDENTIAL APPENDICES

8. **THIS COURT ORDERS** that the Confidential Supplement, be and is hereby sealed until the earlier of: (i) the Receiver filing the Receiver's Certificate with the Court pursuant to paragraph 5 above; or (ii) further Order of the Court.

APPROVAL OF RECEIVER ACTIVITIES AND FEES

9. **THIS COURT ORDERS** that the activities of the Receiver, as set out in the Report, and Confidential Supplement, are hereby approved.

10. **THIS COURT ORDERS** that the SRD is hereby approved.

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

RESERVE AND DISTRIBUTION TO ROYAL BANK OF CANADA

12. **THIS COURT AUTHORIZES AND DIRECTS** the Receiver to hold the sum of CDN\$200,000.00 as the CRA Reserve (as defined in Article 6.1.2 of the Report).

13. **THIS COURT ORDERS** that upon payment of the fees and disbursements herein approved, and creation of the CRA Reserve, the Receiver shall distribute the remaining proceeds in its hands to the Applicant on account of the Debtors' outstanding indebtedness owing to the Applicant.

FOREIGN RECOGNITION

14. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States 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 or to assist the Receiver and its agents in carrying out the terms of this Order.



A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to consist of a large initial 'P' followed by a series of loops and a final '3'.

Schedule A – Form of Receiver’s Certificate

Court file no. CV-22-00680668-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and –

CNS IRON FABRICATION LTD. and CLAEYS FAMILY HOLDINGS INC.

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Gilmore of the Ontario Superior Court of Justice (the “**Court**”) dated May 13, 2022, MNP Ltd. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of CNS Iron Fabrication Ltd., and Claeys Family Holdings Inc. (the “**Debtors**”).

B. Pursuant to an Order of the Court dated June 29, 2022 (the “**Approval Order**”), the Court approved the agreement of purchase and sale made as of June 20, 2022 (the “**Sale Agreement**”) between the Receiver and 1000221800 Ontario Inc. o/a SP Steel Manufacturing and Engineering (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 the Sale Agreement 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, terms with initial capitals have the meanings set out in the Sale Agreement, or the Approval Order.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver, and the sealing of the Confidential Supplement, as provided for in paragraph 8 of the Approval Order, can be dissolved.
4. This Certificate was delivered by the Receiver at _____ on _____.

MNP Ltd., in its capacity as Receiver of the undertaking, property and assets of CNS Iron Fabrication Ltd., and Claeys Family Holdings Inc., and not in its personal capacity

Per: _____
Name:
Title: