

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)

MONDAY, THE 29TH

JUSTICE HAINEY)

DAY OF MARCH, 2021

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c.
C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
KING STREET COMPANY INC., THE KING STREET HOSPITALITY GROUP INC.,
BONTA TRADING CO. INC., 2268218 ONTARIO INC., 1733667 ONTARIO LIMITED, THE
KING STREET FOOD COMPANY INC., THE KING STREET RESTAURANT COMPANY
INC., 2112047 ONTARIO LTD., JI YORKDALE INC., JI SQUARE ONE INC., 1771669
ONTARIO INC., CXBO INC., 2608765 ONTARIO INC., 2272224 ONTARIO INC., 2327729
ONTARIO INC., 2577053 ONTARIO INC., 2584858 ONTARIO INC., 2621298 ONTARIO
INC., 2641784 ONTARIO INC., and 2656966 ONTARIO INC.

Applicants

APPROVAL AND VESTING ORDER

THIS MOTION, made by the Applicants, for an Order, *inter alia*: (i) approving the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement (the "**Sale Agreement**") among the Applicants listed in Schedule A (collectively and in such capacity, the "**Vendors**") and 2817334 Ontario Inc., 2817336 Ontario Inc., 2817337 Ontario Inc., 2817340 Ontario Inc., 2817341 Ontario Inc., 2817342 Ontario Inc., 2817343 Ontario Inc., 2817347 Ontario Inc., 2817348 Ontario Inc., 2825420 Ontario Inc., and 2825664 Ontario Inc. (collectively, the "**Purchasers**") dated March 23, 2021 and appended to the Affidavit of Peter Tsebelis sworn March 23, 2021 (the "**Tsebelis March 23 Affidavit**"), and (ii) vesting in the Purchasers the Vendors' rights, titles and interests in and to the Purchased Assets (as defined in



the Sale Agreement), was heard this day by judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

ON READING the Motion Record of the Applicants, the Tsebelis March 23 Affidavit and the Exhibits attached thereto, the Third Report of MNP Ltd., in its capacity as Monitor of the Applicants (the “**Monitor**”) dated March 24, 2021 (the “**Third Report**”), and on being advised that those parties disclosed on the Service List attached to the Motion Record were given notice, and on hearing the submissions of counsel for the Applicants, the Monitor, and Third Eye Capital Corporation and those other parties listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Katherine Yurkovich sworn March 26, 2021, filed:

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record in support of this motion be and are hereby abridged and validated, such that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that, unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meaning given to them in the Sale Agreement.
3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Vendors is hereby authorized and approved, with such minor amendments as the Vendors and the Purchasers, with the approval of the Monitor may deem necessary. The Vendors are hereby authorized and directed, and the Monitor is authorized and empowered, 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 Purchasers.
4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor’s certificate to the Purchasers substantially in the form attached as Schedule B hereto (the “**Monitor’s Certificate**”), all of the Vendors’ rights, titles and interests in and to the Purchased Assets, as broken down by type of Purchased Asset in Schedule C hereto, shall vest absolutely in the applicable Purchaser listed in Schedule C hereto for each such type of Purchased Asset, 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 this Court dated November 6, 2020, as amended and restated by an Order dated November 13, 2020, and as further amended by an Order dated February 12, 2021 (collectively, the "**Initial Order**"); (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; and (iii) those Claims listed on Schedule D hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the Permitted Encumbrances listed on Schedule E hereto) 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.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the Cash Priority Payables Amount shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the Cash Priority Payables Amount 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.

6. **THIS COURT ORDERS** that the Monitor is authorized and directed to hold the Cash Priority Payables Amount pursuant to the terms of the Sale Agreement and to make payments from that amount to discharge Cash Priority Payables in accordance with the direction contemplated by section 3.2(c)(ii) of the Sale Agreement.

7. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

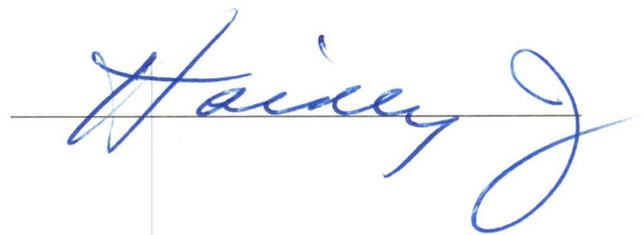
8. **THIS COURT ORDERS** that the Vendors, be and are hereby authorized and directed to, upon delivery of the Monitor's Certificate by the Monitor to the Vendors, distribute the TEC DIP Debt Amount to Third Eye Capital Corporation in its capacity as agent for and on behalf of the DIP Lenders in full and final satisfaction of the TEC DIP Debt (the "**Distribution**").

9. **THIS COURT ORDERS** that, effective as at the time of the Distribution, the DIP Lenders' Charge (as defined in the Initial Order) shall be deemed to have been terminated, released and discharged.
10. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Vendors and the Purchasers regarding fulfillment of conditions to closing under the Sale Agreement, and shall incur no liability with respect to the delivery of the Monitor's Certificate.
11. **THIS COURT ORDERS AND DECLARES** that (a) nothing in this Order shall amend or vary, or be deemed to amend or vary, the terms of any real property lease; and (b) none of the real property leases shall be transferred, conveyed, assigned or vested in the Purchasers by operation of this Order.
12. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Vendors and the Monitor are authorized and permitted to disclose and transfer to the Purchasers all human resources and payroll information in the Vendors' records pertaining to the Vendors' past and current employees, The Purchasers 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 Vendors.
13. **THIS COURT ORDERS** that, notwithstanding:
- (a) the pendency of these proceedings;
 - (b) any applications for bankruptcy orders now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act (Canada)* ("**BIA**") in respect of the Vendors and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignments in bankruptcy made in respect of the Vendors;

the vesting of the Purchased Assets in the Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Vendors and shall not be void or voidable by creditors of the Vendors, 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 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.

14. **THIS COURT ORDERS** that Confidential Appendix A to the Third Report is hereby sealed and shall not form part of the public record until such time as the Monitor's Certificate has been filed with the Court, or further order of this Court.

15. **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 Vendors and Monitor and their respective 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 Vendors and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Vendors and the Monitor and their respective agents in carrying out the terms of this Order.



SCHEDULE A

The Vendors

1. King Street Company Inc.
2. 2268218 Ontario Inc.
3. 1733667 Ontario Limited
4. The King Street Food Company Inc.
5. The King Street Restaurant Company Inc.
6. 2112047 Ontario Ltd.
7. Ji Yorkdale Inc.
8. Ji Square One Inc.
9. 1771669 Ontario Inc.
10. CXBO Inc.
11. 2608765 Ontario Inc.
12. 2272224 Ontario Inc.
13. 2327729 Ontario Inc.
14. 2577053 Ontario Inc.
15. 2584858 Ontario Inc.
16. 2621298 Ontario Inc.
17. 2641784 Ontario Inc.
18. 2656966 Ontario Inc.

Schedule B – Form of Monitor’s Certificate

Court File No. CV-20-00650945-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

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KING STREET FOOD COMPANY INC., THE KING STREET RESTAURANT COMPANY
INC., 2112047 ONTARIO LTD., JI YORKDALE INC., JI SQUARE ONE INC., 1771669
ONTARIO INC., CXBO INC., 2608765 ONTARIO INC., 2272224 ONTARIO INC., 2327729
ONTARIO INC., 2577053 ONTARIO INC., 2584858 ONTARIO INC., 2621298 ONTARIO
INC., 2641784 ONTARIO INC., and 2656966 ONTARIO INC.

Applicants

MONITOR’S CERTIFICATE

RECITALS

- A.** Pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice (the "**Court**") dated November 6, 2020, MNP Ltd. was appointed as the monitor (the "**Monitor**") of the Applicants in respect of these CCAA Proceedings.
- B.** Pursuant to an Order of the Court dated March 29, 2021 (the "**Approval and Vesting Order**"), the Court approved the sale transaction contemplated by an asset purchase agreement dated as of March 23, 2021 (the "**Sale Agreement**") between the Applicants listed in Schedule A to the Approval and Vesting Order and 2817334 Ontario Inc., 2817336 Ontario Inc., 2817337 Ontario Inc., 2817340 Ontario Inc., 2817341 Ontario Inc., 2817342 Ontario Inc., 2817343 Ontario Inc., 2817347 Ontario Inc., 2817348 Ontario Inc., 2825420 Ontario Inc., and 2825664 Ontario Inc. (collectively, the "**Purchasers**") and provided for the vesting in the Purchasers of the Vendors’ rights,

titles and interests in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchasers of a certificate confirming (i) the payment by the Purchasers of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in sections 6.1, 6.2 and 6.3 of the Sale Agreement have been satisfied or waived by the Vendors and the Purchasers (as applicable); and (iii) the Transaction has been completed to the satisfaction of the Monitor.

- C. Pursuant to the Approval and Vesting Order, the Monitor may rely on written notice from the Vendors and the Purchasers regarding fulfillment of conditions to closing under the Sale Agreement.
- D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Purchasers have paid and the Monitor and the Vendors, as applicable, have received the Purchase Price payable on the Closing Date pursuant to the Sale Agreement;
2. The Monitor has received the direction contemplated by section 3.2(c)(ii) of the Sale Agreement;
3. The conditions to Closing as set out in sections 6.1, 6.2 and 6.3 of the Sale Agreement have been satisfied or waived by the Vendors and the Purchasers, as applicable; and
4. The Transaction has been completed to the satisfaction of the Monitor.
5. This Certificate was delivered by the Monitor at _____ [TIME] on _____, 2021.

**MNP LTD., in its capacity as Monitor of the
Vendors, and not in its personal or corporate
capacity**

Per: _____

Name:

Title:

Schedule C – Purchased Assets Vesting in Each Purchaser

#	[Type of Purchased Assets	Purchaser in Whom Such Purchased Assets Shall Vest in Accordance With Paragraph 4 of the Approval and Vesting Order
1.	Buca Cucina St. Clair Purchased Assets	2817241 Ontario Inc.
2.	Buca King Purchased Assets	2817337 Ontario Inc.
3.	Buca Vaughan Purchased Assets	2817342 Ontario Inc.
4.	Buca Yorkville Purchased Assets	2817340 Ontario Inc.
5.	CXBO Purchased Assets	2817348 Ontario Inc.
6.	Jacob's Purchased Assets	2817336 Ontario Inc.
7.	La Banane Purchased Assets	2817343 Ontario Inc.
8.	Man Ray Purchased Assets	2817347 Ontario Inc.
9.	CIBC Square Purchased Assets	2825664 Ontario Inc.
10.	The One Purchased Assets	2825420 Ontario Inc.
11.	Miscellaneous Intellectual Property, Equipment and Other Assets	2817334 Ontario Inc.

Schedule D – Claims to released, discharged and expunged from Purchased Assets upon delivery of the Monitor’s Certificate

#	Secured Party	Debtor(s)	File No.
1.	7324375 CANADA INC O/A SANI-SERVICE	1733667 ONTARIO LIMITED O/A JACOBS & CO. STEAKHOUSE JACOBS & CO. STEAKHOUSE	717603588 PPSA
2.	CHEF CHOICE EQUIPMENT RENTALS INC.	1733667 ONTARIO CXBO INC. SARAH KEENLYSIDE (DOB: 08NOV1974)	741107169 PPSA
3.	CHEF CHOICE EQUIPMENT RENTALS INC.	CXBO INC. SARAH L KEENLYSIDE (DOB: 08NOV1974)	733987908 PPSA
4.	HER MAJESTY IN RIGHT OF ONTARIO REPRESENTED BY THE MINISTER OF FINANCE	THE KING STREET FOOD COMPANY INC	759628404 PPSA
5.	TRIMEN FOOD SERVICES EQUIPMENT LTD.	THE KING STREET FOOD COMPANY INC.	758708451 PPSA

#	Secured Party	Debtor(s)	File No.
6.	TRIMEN FOOD SERVICES EQUIPMENT LTD.	THE KING STREET FOOD COMPANY INC.	758485476 PPSA
7.	CANADIAN DEALER LEASE SERVICES INC. BANK OF NOVA SCOTIA - DLAC	THE KING STREET FOOD COMPANY INC. ROBERT A GENTILE (DOB: 29FEB1980)	757972017 PPSA
8.	HIGHLAND CHEVROLET BUICK GMC CADILLAC LTD.	THE KING STREET FOOD COMPANY INC (Corp. No.: 1760204)	750623013 PPSA
9.	HIGHLAND CHEVROLET BUICK GMC CADILLAC LTD.	THE KING STREET FOOD COMPANY INC (Corp. No.: 1760204)	734735439 PPSA
10.	A. SMITH, MINISTRY OF REVENUE (LONDON)	JACOB & CO. STEAK HOUSE 1733667 ONTARIO LIMITED	EHT: 853209419TE0001 MOF
11.	MINISTRY OF FINANCE, COLLECTIONS BRANCH, COLLECTIONS SUPPORT OPERATIONS	2112047 ONTARIO LTD. BUCA	EHT: 841428527TE0001 MOF

#	Secured Party	Debtor(s)	File No.
12.	MINISTRY OF FINANCE, COLLECTIONS BRANCH, COLLECTIONS SUPPORT OPERATIONS	2272224 ONTARIO INC. BAR BUCA	EHT: 828667402TE0001 MOF
13.	MINISTRY OF FINANCE, COLLECTIONS BRANCH, COLLECTIONS SUPPORT OPERATIONS	2327729 ONTARIO INC.	EHT: 812683886TE0001 MOF
14.	MINISTRY OF FINANCE, COLLECTIONS BRANCH, COLLECTIONS SUPPORT OPERATIONS	2577053 ONTARIO INC. O/A BAR BUCA EGLINTON	EHT: 714678893TE0001 MOF
15.	RT BROKERS INC. O/A RT EXCLUSIVE WINES AND SPIRITS	THE KING STREET FOOD COMPANY INC. BUCA, BAR BUCA, BUCA YORKVILLE BUCA, BAR BUCA BUCA YORKVILLE	SCJ – CIVIL 15-54886 SR HAMILTON
16.	WORKPLACE SAFETY AND INSURANCE BOARD	THE KING STREET FOOD COMPANY INC.	000000000000
17.	MINISTRY OF FINANCE, COLLECTIONS BRANCH, COLLECTIONS SUPPORT OPERATIONS	THE KING STREET FOOD COMPANY INC.	EHT: 821008752TE0001 MOF

Schedule E – Permitted Encumbrances

(unaffected by the Vesting Order)

Any amounts subject to a statutory deemed trust in favour of Her Majesty in right of Canada or a province, to the extent that such statutory deemed trust remains valid and enforceable by the Canada Revenue Agency in the CCAA Proceedings or, if applicable, in proceedings under the Bankruptcy & Insolvency Act (Canada) that may be required on the termination of the CCAA Proceedings, pursuant to the following legislative provisions:

- (i) subsection 227(4) or (4.1) of the *Income Tax Act*;
- (ii) subsection 222(1) or (3) of the *Excise Tax Act*;
- (iii) subsection 23(3) or (4) of the *Canada Pension Plan* (Canada); and
- (iv) subsection 86(2) or (2.1) of the *Employment Insurance Act* (Canada).

IN THE MATTER OF the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF KING STREET
COMPANY INC., ET AL.

Court File No: CV-20-00650945-00CL

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at: TORONTO

APPROVAL AND VESTING ORDER
(Returnable March 29, 2021)

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