

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE COURT-APPOINTED RECEIVERSHIP
OF 2192314 ONTARIO INC. O/A TETU ISLAND LODGE
OF THE CITY OF KENORA, ONTARIO

THE HONOURABLE) TUESDAY, THE 9TH DAY
MR. JUSTICE MICHAEL A. PENNY) OF NOVEMBER, 2021.

B E T W E E N:

BUSINESS DEVELOPMENT BANK OF CANADA

Applicant

- and -

2192314 ONTARIO INC. o/a TETU ISLAND LODGE

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by MNP Ltd. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertakings, properties and assets of the Respondent, 2192314 Ontario Inc. o/a Tetu Island Lodge (the "**Debtor**"), for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and John Williams and/or Nominee with title being directed to Sabourin Lake Lodge Limited (the "**Purchaser**") dated September 7, 2021 and which agreement is appended as a Confidential (redacted) Appendix to the Report of the Receiver dated October 1, 2021 (the "**Report**"), and vesting in the Purchaser the Debtors' right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at the Courthouse, 330 University Avenue, Toronto, Ontario, M5G 1R7.

ON READING the Report and on hearing the submissions of counsel for the Receiver and for the parties in attendance, no one appearing for any other party on the service list, although properly served as appears from the Affidavit of Service of Roxanne Chapman, sworn on October 28, 2021 filed:

1. **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.

2. **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 Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto 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 Mr. Justice Peter Cavanagh dated April 21, 2021; (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 C hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) 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.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Kenora, Ontario (No. 23) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

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, 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.

7. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

A handwritten signature in blue ink, appearing to read "Penny J.", is written above a horizontal line.

THE HONOURABLE MR. JUSTICE MICHAEL A. PENNY

Schedule A – Form of Receiver’s Certificate

Court File No. CV-21-00659396-00CL

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

**IN THE MATTER OF THE COURT-APPOINTED RECEIVERSHIP
OF 2192314 ONTARIO INC. O/A TETU ISLAND LODGE
OF THE CITY OF KENORA, ONTARIO**

BETWEEN:

BUSINESS DEVELOPMENT BANK OF CANADA

Applicant

- and -

2192314 ONTARIO INC. o/a TETU ISLAND LODGE

Respondent

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Peter Cavanagh of the Ontario Superior Court of Justice (the "**Court**") dated April 21, 2021, MNP Ltd. was appointed as the receiver (the "**Receiver**") of the undertakings, properties and assets of the Respondent, 2192314 Ontario Inc. o/a Tetu Island Lodge (the "**Debtor**").

B. Pursuant to an Order of the Court dated November 9, 2021, the Court approved the agreement of purchase and sale made as of September 27, 2021 (the "**Sale Agreement**") between the Receiver and John William and/or Nominee with title being directed to Sabourin Lake Lodge Limited (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.

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.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

MNP LTD., solely in its capacity as Court-Appointed Receiver of the undertakings, properties and assets of the Debtors, and not in its personal capacity

Per: _____
Name:
Title:

Schedule B – Purchased Assets

The Purchased Assets include the following:

A. The following real property:

1. Legal Description: PCL 2451 SEC DPF; Summer Resort Location EB746 unsurveyed territory comprising parts of Island 716 in Tetu Lake area; District of Kenora

PIN: 42180-1922 (LT); LRO #23

2. Legal Description: PCL 1541 SEC DPF; Summer Resort Location HL69 unsurveyed territory forming PT Island 716 in Tetu Lake of The Winnipeg River; District of Kenora

PIN: 42180-1923 (LT); LRO #23

3. Legal Description: PCL 2970 SEC DPF; Summer Resort Location EB1400 unsurveyed territory comprising PT Island 716, in Tetu Lake of The Winnipeg River, S/T right to overflow and injuriously affect the aforesaid land with the waters of the Lake of the Woods, and the Winnipeg River up to a line which is distant 66 feet in perpendicular width, from elevation 1045 feet, Geodetic Survey of Canada, Datum 1923 adjustment; District of Kenora

PIN: 42180-1924 (LT); LRO #23

- B. The personal property set out in Schedule “A” appended to the Sale Agreement on the terms and conditions set out in the said Schedule “A”.**

Schedule C – Claims to be deleted and expunged from title to Real Property

The following Claims are to be deleted and expunged from title to the Real Property:

Instrument Number	Date of Registration	Description	Parties From	Parties To
KN40102	2011/05/18	Charge	2192314 Ontario Inc.	Business Development Bank of Canada
KN98742	2020/11/17	Notice	Provincial Land Tax Collector	2192314 Ontario Inc.
KN103449	2021/08/06	APL Court Order	Ontario Superior Court of Justice	MNP Ltd.

The following registration is to be discharged from the Personal Property Act registry:

PPSA File and Registration Number	Date of Registration	Description
File #: 669966624 Registration #: 20110518 1102 1046 0439	2011-05-18	Inventory, Equipment, Accounts, Other As more particularly set out in general security agreement dated May 2, 2011

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property and Permitted PPSA Registrations**

(unaffected by the Vesting Order)

Any Instrument registered against title to the Real Property not listed in Schedule “C” hereto as of the date hereof is a permitted encumbrance.

BUSINESS DEVELOPMENT BANK OF CANADA
Applicant

- and -

2192314 ONTARIO INC. o/a TETU ISLAND LODGE
Respondent

Court File No.: CV-21-00659396-00CL

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

**IN THE MATTER OF THE COURT-APPOINTED
RECEIVERSHIP OF 2192314 ONTARIO INC. o/a TETU
ISLAND LODGE, of the City of Kenora, in the
Province of Ontario**

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

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