



Court File No.: CV-22-00031327-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR.) THURSDAY, THE 19TH DAY
JUSTICE MACFARLANE) OF OCTOBER, 2023

BETWEEN:

XQUISITE CAPITAL CORP.

Applicant

- and -

**CRYSTAL FARMS LIMITED, JAMES GERALD TATOMIR, KRYSTAL MARTENS
and MILLIE ANN BARBERIO**

Respondents

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c C.43, AS AMENDED**

ORDER

THIS MOTION, made by MNP Ltd. ("**MNP**"), in its capacity as court-appointed receiver (the "**Receiver**") of the assets, undertakings and properties of Crystal Farms Limited (the "**Debtor**") and certain real property legally owned and held in bare trust for the Debtor by the individual Respondents, pursuant to the Order of the Honourable Mr. Justice Dube dated November 29, 2022 for an order:

- (a) to the extent necessary, abridging or waiving the time for service and filing of this Notice of Motion and all materials filed in support thereof, validating the method of service, and dispensing with further service so that this motion is properly returnable on October 17, 2023;
- (b) approving the Third Report to the Court of the Receiver dated October 6, 2023 (the “**Report**”) and the activities and actions of the Receiver described therein;
- (c) approving the Receiver’s Statement of Receipts and Disbursements attached as Appendix “N” to the Report for the period ending October 2, 2023 (the “**Statement of Receipts and Disbursements**”);
- (d) approving the following distributions:
 - (i) \$72,825 to Canada Revenue Agency in respect of its deemed trust claim;
 - (ii) \$4,606,995.01, plus accruing per diem interest and legal costs, to Xquisite Capital Corp. in respect of its secured claim; and
 - (iii) \$162,194.86, plus accruing per diem interest and legal costs, to The Bank of Nova Scotia in respect of its secured claim;
- (e) approving the professional fees of the Receiver and its legal counsel;
- (f) sealing the confidential supplement and the second confidential supplement (together, the “**Confidential Supplements**”) to the Report;
and

(b) such further and other relief as counsel may advise and this Honourable Court may deem just.

was heard on October 17, 2023 by videoconference via Zoom at Windsor, Ontario with decision thereon reserved to this day.

ON READING the Report, the Confidential Supplements and on hearing the submissions of Millie Ann Barberio and counsel for the Receiver, no one else appearing for any other person on the service list, although duly served as appears from the affidavits of service, filed:

1. **THIS COURT ORDERS** that the time for and method of service of the notice of motion and the motion record are hereby abridged and validated, as necessary, so that this motion was properly returnable on October 17, 2023 and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Report and the activities and conduct of the Receiver described in the Report 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 Statement of Receipts and Disbursements be and is hereby approved.
4. **THIS COURT ORDERS** that the Professional Fees of the Receiver and its legal counsel, Miller Thomson LLP, as described in the fee affidavits of Rob Smith sworn October 5, 2023 and Michael Prosia sworn October 5, 2023 be and the same are

hereby approved.

5. **THIS COURT ORDERS** that upon the completion of the Transactions, as defined in the Report, the Receiver be and is hereby authorized and directed to make the following distributions:
- (a) \$72,825 to Canada Revenue Agency in respect of its deemed trust claim;
 - (b) \$4,606,995.01, plus per diem interest in the amount of \$894.56 for each day from September 16, 2023 until the date of payment and legal costs, to Xquisite Capital Corp. in respect of its secured claim; and
 - (c) \$162,194.86, plus per diem interest in the amount of \$72.65 for each day from October 28, 2023 until the date of payment and legal costs, to The Bank of Nova Scotia in respect of its secured claim.
6. **THIS COURT ORDERS** that the Confidential Supplements shall be sealed until the earlier of a) the closing of the Transactions, as defined in the Report, and b) further order of this Court.



Justice, Ontario Superior Court of Justice

XQUISITE CAPITAL CORP.
Applicant

and

CRYSTAL FARMS LIMITED, et al.
Respondents

Court File No: CV-22-00031327-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

ORDER

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appointed Receiver of Crystal Farms
Limited**



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SUPERIOR COURT OF JUSTICE**

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INSOLVENCY ACT*, R.S.C. 1985, c B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c C.43, AS AMENDED**

APPROVAL AND VESTING ORDER

THIS MOTION, made MNP Ltd. in its capacity as the Court-appointed receiver (the "**Receiver**") of the assets, undertakings, and properties of Crystal Farms Limited (the "**Debtor**") and certain real property legally owned and held in bare trust for the Debtor by the individual Respondents, for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and J. Byrne Farms Ltd. (the "**Purchaser**") dated

August 4, 2023 and appended as Appendix C to the Confidential Supplement (the "**Confidential Supplement**") to the Third Report of the Receiver dated October 6, 2023 (the "**Report**"), and vesting in the Purchaser, or as the Purchaser directs, the Debtor's and the individual Respondents' right, title and interest, if any, in and to the real properties described in the Sale Agreement and on Schedule A hereto (the "**Real Properties**"), was heard on October 17, 2023 by judicial videoconference via Zoom at Windsor, Ontario with decision thereon reserved to this day.

ON READING the Report, the Confidential Supplement and the Second Confidential Supplement to the Third Report of the Receiver dated October 17, 2023, and on hearing the submissions of Millie Ann Barberio and counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavits of service, filed, and upon being advised that the Purchaser has directed that the Real Properties be vested in the parties as listed on Schedule A hereto:

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 Real Properties to the parties listed on Schedule A hereto.

2. THIS COURT ORDERS AND DIRECTS that the Transaction not be completed earlier than October 31, 2023 to allow for the appeal period in section 31(1) of the Bankruptcy and Insolvency General Rules, C.R.C., c. 368 as am., to pass.

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 B hereto (the "**Receiver's Certificate**"), all of the Debtor's and the individual respondents' right, title and interest, if any, in and to the Real Properties described in the Sale Agreement and listed on Schedule A hereto shall vest absolutely in the parties as listed on Schedule A hereto, 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 Dube dated November 29, 2022; and, (ii) 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 Real Properties are hereby expunged and discharged as against the Real Properties.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of Essex (#12) 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 parties listed on Schedule A hereto as the owner of the Real Properties as identified in Schedule A hereto in fee simple, and is hereby directed to delete and expunge from title to the Real Properties all of the Claims listed in Schedule C hereto.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Real Properties shall stand in the place and stead of the Real Properties, 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 Real Properties with the same priority as they had with respect to the Real Properties immediately prior to the sale, as if the Real Properties 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 AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

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 Debtor and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Real Properties in the parties listed on Schedule A 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 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.

8. 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.



Justice, Ontario Superior Court of Justice

Schedule A – Real Properties and Vesting

<u>PIN</u>	<u>Legal Description</u>	<u>Name(s) in which property is to be vested</u>
75104-0625	PT LT 19 CON C MERSEA AS IN R1280910 (SCHEDULE A) EXCEPT SCHEDULES B, C, D, EXCEPT PT 2 PL 12R14994 & PT 2 PL 12R26570; MUNICIPALITY OF LEAMINGTON	J Byrne Farms Ltd. as to a 99% interest and Jason Byrne as to a 1% interest as tenants in common
75104-0623	PT LT 19 CON C MERSEA AS IN R1285491 (SCHEDULE A) EXCEPT SCHEDULES B, C & D, PTS 1 & 3 PL 12R14994 & PTS 1 & 3 PL 12R26570; MUNICIPALITY OF LEAMINGTON	J. Byrne Farms Ltd.
75104-0137	PT LT 19 CON C MERSEA AS IN R1188670 FIRSTLY; T/W R702761 EXCEPT THE EASEMENT THEREIN (SECONDLY DESCRIBED IN SCHEDULE C); S/T INTEREST IN R702761; LEAMINGTON	J Byrne Farms Ltd. as to a 99% interest and Jason Byrne as to a 1% interest as tenants in common
75104-0136	PT LT 19 CON C MERSEA AS IN R1285901 (THIRDLY & FOURTHLY) S/T R608557, T/W R608557 EXCEPT THE EASEMENT THEREIN SECONDLY DESCRIBED IN SCHEDULE B; S/T INTEREST IN R608557; LEAMINGTON	J. Byrne Farms Ltd.
75104-0135	PT LT 19 CON C MERSEA AS IN R689292, R863728 T/W R863728 EXCEPT THE EASEMENT THEREIN (SCHEDULE B, SECONDLY DESCRIBED); S/T INTEREST IN R689292 & R702761; LEAMINGTON	J Byrne Farms Ltd. as to a 99% interest and Jason Byrne as to a 1% interest as tenants in common
75104-0134	PT LT 19 CON C MERSEA AS IN R1083377; LEAMINGTON	J. Byrne Farms Ltd.
75104-0133	PT LT 19 CON C MERSEA PT 2 12R1879 T/W R619344 EXCEPT THE EASEMENT THEREIN (SECONDLY DESCRIBED IN SCHEDULE C); S/T INTEREST IN R619344; LEAMINGTON	J Byrne Farms Ltd. as to a 99% interest and Jason Byrne as to a 1% interest as tenants in common

<u>PIN</u>	<u>Legal Description</u>	<u>Name(s) in which property is to be vested</u>
75104-0132	PT LT 19 CON C MERSEA PT 1 12R1879 T/W R621595 EXCEPT THE EASEMENT THEREIN (SECONDLY DESCRIBED IN SCHEDULE C); S/T INTEREST IN R621595; LEAMINGTON	J. Byrne Farms Ltd.
75104-0131	PT LT 19 CON C MERSEA AS IN R601059 T/W R601059 EXCEPT THE EASEMENT THEREIN (SECONDLY DESCRIBED IN SCHEDULE C); S/T INTEREST IN R601059; LEAMINGTON	J Byrne Farms Ltd. as to a 99% interest and Jason Byrne as to a 1% interest as tenants in common
75104-0128	PT LT 19 CON C MERSEA AS IN R1504912 S/T RESERVATION IN R1504912; LEAMINGTON	Jason Byrne

Schedule B – Form of Receiver’s Certificate

Court File No. CV-22-00031327-0000

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RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Dube of the Ontario Superior Court of Justice (the "**Court**") dated November 29, 2022, MNP Ltd. was appointed as the receiver (the "**Receiver**") of the assets, undertakings and properties Crystal Farms Limited (the "**Debtor**") and certain real property legally owned and held in bare trust for the Debtor by the individual Respondents.

B. Pursuant to an Order of the Court dated October 19, 2023, the Court approved the agreement of purchase and sale made as of August 4, 2023 (the "**Sale Agreement**") between the Receiver and J. Byrne Farms Ltd. (the "**Purchaser**") and provided for the vesting in the Purchaser, or as the Purchaser directs, of the Debtor’s and the individual respondents’ right, title and interest, if any, in and to the Real Properties, which vesting is to be effective with respect to the Real Properties 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 Real Properties; (ii) that the conditions to Closing as set out in Article 4 of 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 Real Properties payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Article 4 of 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., in its capacity as Receiver of the assets, undertakings and properties of Crystal Farms Limited and not in its personal capacity

Per: _____

Rob Smith, CIRP, LIT, CPA , CA

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

PIN 75104-0625

Reg. No.	Date	Instrument Type	Party To
CE655991	2015/04/30	Transfer	James Gerald Tatomir
CE1000226	2021/04/06	Charge	Xquisite Capital Corp.
CE1000227	2021/04/06	No Assign Rent Gen.	Xquisite Capital Corp.
CE1113842	2022/12/02	Apl Court Order	MNP Ltd.

PIN 75104-0623

Reg. No.	Date	Instrument Type	Party To
CE655990	2015/04/30	Transfer	Crystal Farms Limited
CE1000226	2021/04/06	Charge	Xquisite Capital Corp.
CE1000227	2021/04/06	No Assign Rent Gen.	Xquisite Capital Corp.
CE1113842	2022/12/02	Apl Court Order	MNP Ltd.

PIN 75104-0137

Reg. No.	Date	Instrument Type	Party To
R1188670	1992/02/06	Transfer	Crystal Farms Limited
CE1000226	2021/04/06	Charge	Xquisite Capital Corp.
CE1000227	2021/04/06	No Assign Rent Gen.	Xquisite Capital Corp.
CE1113842	2022/12/02	Apl Court Order	MNP Ltd.

PIN 75104-0136

Reg. No.	Date	Instrument Type	Party To
R1188670	1992/02/06	Transfer	Crystal Farms Limited
CE1000226	2021/04/06	Charge	Xquisite Capital Corp.
CE1000227	2021/04/06	No Assign Rent Gen.	Xquisite Capital Corp.
CE1113842	2022/12/02	Apl Court Order	MNP Ltd.

PIN 75104-0135

Reg. No.	Date	Instrument Type	Party To
R689292	1977/02/23	Transfer	Crystal Farms Limited
R863728	1982/10/01	Transfer	Crystal Farms Limited
CE1000226	2021/04/06	Charge	Xquisite Capital Corp.
CE1000227	2021/04/06	No Assign Rent Gen.	Xquisite Capital Corp.
CE1113842	2022/12/02	Apl Court Order	MNP Ltd.

PIN 75104-0134

Reg. No.	Date	Instrument Type	Party To
R1014135	1987/06/23	Lease	Ram Petroleums Ltd.
CE641936	2014/12/23	Trans Personal Rep	Krystal Martens
CE1000226	2021/04/06	Charge	Xquisite Capital Corp.
CE1000227	2021/04/06	No Assign Rent Gen.	Xquisite Capital Corp.
CE1113842	2022/12/02	Apl Court Order	MNP Ltd.

PIN 75104-0133

Reg. No.	Date	Instrument Type	Party To
CE638592	2014/12/01	Transfer	Millie Ann Barberio
CE1000226	2021/04/06	Charge	Xquisite Capital Corp.
CE1000227	2021/04/06	No Assign Rent Gen.	Xquisite Capital Corp.
CE1113842	2022/12/02	Apl Court Order	MNP Ltd.

PIN 75104-0132

Reg. No.	Date	Instrument Type	Party To
R621595	1975/01/10	Transfer	Crystal Farms Limited
CE1000226	2021/04/06	Charge	Xquisite Capital Corp.
CE1000227	2021/04/06	No Assign Rent Gen.	Xquisite Capital Corp.
CE1113842	2022/12/02	Apl Court Order	MNP Ltd.

PIN 75104-0131

Reg. No.	Date	Instrument Type	Party To
CE641937	2014/12/23	Transfer Personal Rep	Millie Ann Barberio
CE1000226	2021/04/06	Charge	Xquisite Capital Corp.
CE1000227	2021/04/06	No Assign Rent Gen.	Xquisite Capital Corp.
CE1113842	2022/12/02	Apl Court Order	MNP Ltd.

PIN 75104-0128

Reg. No.	Date	Instrument Type	Party To
CE126114	2005/01/14	Transfer	John Sr. Tatomir, James Gerald Tatomir
CE641934	2014/12/23	APL of Surv-Land	James Gerald Tatomir
CE1000226	2021/04/06	Charge	Xquisite Capital Corp.
CE1000227	2021/04/06	No Assign Rent Gen.	Xquisite Capital Corp.
CE1113842	2022/12/02	Apl Court Order	MNP Ltd.

**Schedule D – Permitted Encumbrances,
(Unaffected by the Vesting Order)**

1. The reservations, limitations, provisos, conditions, restrictions and exceptions expressed in the letters patent or grant from the Crown and all statutory exceptions to title;
2. The provisions of governing municipal by-laws;
3. Municipal taxes, liens, charges, including hydro and water charges, rates and assessments accruing from day to day and not yet due and payable;
4. Any minor encroachments which might be revealed by an up to date survey of the Premises but which do not materially adversely affect the use and marketability of the Premises;
5. Any right of expropriation conferred upon, reserved to or vesting in Her Majesty the Queen in Right of Canada and Ontario;
6. Any agreements, restrictions or covenants that run with the Real Property and any agreements with the municipal, utilities or public authorities provided that same have been complied with in all material respects and do not materially adversely affect the use and marketability of the Real Property;
7. Any easements, rights of way or right of re-entry, which do not impair the intended use of the Real Property, by the Purchaser, and provided that same have been complied within all material respects and do not materially adversely affect the use and marketability of the Real Property; and
8. The following instruments registered on title to the Real Property in the Essex Land Registry Office:

PIN 75104-0625

Registration Number	Date	Instrument Type
R286958	1963/08/27	Bylaw

PIN 75104-0623

Registration Number	Date	Instrument Type
R286958	1963/08/27	Bylaw

PIN 75104-0137

Registration Number	Date	Instrument Type
R286958	1963/08/27	Bylaw

PIN 75104-0136

Registration Number	Date	Instrument Type
R286958	1963/08/27	Bylaw

PIN 75104-0135

Registration Number	Date	Instrument Type
R286958	1963/08/27	Bylaw
R1477455	1999/11/03	Agreement

PIN 75104-0134

Registration Number	Date	Instrument Type
R286958	1963/08/27	Bylaw

PIN 75104-0133

Registration Number	Date	Instrument Type
R286958	1963/08/27	Bylaw
12R1879	1974/11/08	Plan Reference

PIN 75104-0132

Registration Number	Date	Instrument Type
R286958	1963/08/27	Bylaw
12R1879	1974/11/08	Plan Reference

PIN 75104-0131

Registration Number	Date	Instrument Type
R286958	1963/08/27	Bylaw

PIN 75104-0128

Registration Number	Date	Instrument Type
R286958	1963/08/27	Bylaw
12R26570	2016/04/28	Plan Reference

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**Lawyers for MNP Ltd., the Court-
appointed Receiver of the assets,
undertakings and properties of Crystal
Farms Limited**



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September 6, 2023 and appended as Appendix B to the Confidential Supplement (the "**Confidential Supplement**") to the Third Report of the Receiver dated October 6, 2023 (the "**Report**"), and vesting in the Purchaser the Debtor's right, title and interest, if any, in and to the real property described in the Sale Agreement (the "**Real Property**"), was heard on October 17, 2023 by judicial videoconference via Zoom at Windsor, Ontario with decision thereon reserved to this day.

ON READING the Report, the Confidential Supplement and the Second Confidential Supplement to the Third Report of the Receiver dated October 17, 2023, and on hearing the submissions of Millie Ann Barberio and counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavits of service, 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 Real Property to the Purchaser.
2. THIS COURT ORDERS AND DIRECTS that the Transaction not be completed earlier than October 31, 2023 to allow for the appeal period in section 31(1) of the *Bankruptcy and Insolvency General Rules*, C.R.C., c. 368 as am., to pass.

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 Debtor's right, title and interest, if any, in and to the Real Property 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 Dube dated November 29, 2022; and, (ii) 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 Real Property are hereby expunged and discharged as against the Real Property.

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5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Real Property shall stand in the place and stead of the Real Property, 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 Real Property with the same priority as they had with respect to the Real Property immediately prior to the sale, as if the Real Property 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 AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

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 Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Real Property in the Purchaser 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 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.

8. 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.



Justice, Ontario Superior Court of Justice

Schedule A – Form of Receiver’s Certificate

Court File No. CV-22-00031327-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

XQUISITE CAPITAL CORP.

Applicant

- and -

**CRYSTAL FARMS LIMITED, JAMES GERALD TATOMIR, KRYSTAL MARTENS
and MILLIE ANN BARBERIO**

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c C.43, AS AMENDED

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Dube of the Ontario Superior Court of Justice (the "**Court**") dated November 29, 2022, MNP Ltd. was appointed as the receiver (the "**Receiver**") of the assets, undertakings and properties Crystal Farms Limited (the "**Debtor**") and certain real property legally owned and held in bare trust for the Debtor by the individual Respondents.

B. Pursuant to an Order of the Court dated October 19, 2023, the Court approved the agreement of purchase and sale made as of September 6, 2023 (the "**Sale Agreement**") between the Receiver and J. Byrne Farms Ltd. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor’s right, title and interest, if any, in and to the Real Property, which vesting is to be effective with respect to the Real Property 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 Real Property; (ii) that the conditions to Closing as set out in Article 4 of 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 Real Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Article 4 of 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., in its capacity as Receiver of the
assets, undertakings and properties of
Crystal Farms Limited and not in its
personal capacity**

Per: _____
Rob Smith, CIRP, LIT, CPA , CA

Schedule B – Real Property

1. PT LT 72, 97 PL 1418 MERSEA AS IN R 1427099 (SECONDLY); LEAMINGTON
(PIN: 75104-0166)

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

Reg. No.	Date	Instrument Type	Party To
CE1000155	2021/04/01	Transfer	Crystal Farms Limited
CE1000226	2021/04/06	Charge	Xquisite Capital Corp.
CE1000227	2021/04/06	No Assign Rent Gen.	Xquisite Capital Corp.
CE1113842	2022/12/02	Apl Court Order	MNP Ltd.

**Schedule D – Permitted Encumbrances,
(Unaffected by the Vesting Order)**

1. The reservations, limitations, provisos, conditions, restrictions and exceptions expressed in the letters patent or grant from the Crown and all statutory exceptions to title;
2. The provisions of governing municipal by-laws;
3. Municipal taxes, liens, charges, including hydro and water charges, rates and assessments accruing from day to day and not yet due and payable;
4. Any minor encroachments which might be revealed by an up to date survey of the Premises but which do not materially adversely affect the use and marketability of the Premises;
5. Any right of expropriation conferred upon, reserved to or vesting in Her Majesty the Queen in Right of Canada and Ontario;
6. Any agreements, restrictions or covenants that run with the Real Property and any agreements with the municipal, utilities or public authorities provided that same have been complied with in all material respects and do not materially adversely affect the use and marketability of the Real Property;
7. Any easements, rights of way or right of re-entry, which do not impair the intended use of the Real Property, by the Purchaser, and provided that same have been complied within all material respects and do not materially adversely affect the use and marketability of the Real Property; and
8. The following instruments registered on title to the Real Property in the Essex Land Registry Office:

Registration Number	Date	Instrument Type
R286958	1963/08/27	Bylaw
12R12327	1992/12/24	Plan Reference
R286958	1963/08/27	Bylaw

XQUISITE CAPITAL CORP.

Applicant

and

CRYSTAL FARMS LIMITED, et al.

Respondents

Court File No. CV-22-00031327-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

APPROVAL AND VESTING ORDER

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**Lawyers for MNP Ltd., the Court-
appointed Receiver of the assets,
undertakings and properties of Crystal
Farms Limited**