

CANADA
PROVINCE OF QUEBEC
DISTRICT OF SAINT-FRANÇOIS

SUPERIOR COURT
(Commercial Division)

No : 450-11-000012-215

IN THE MATTER OF THE RECEIVERSHIP OF:

**SOCIÉTÉ EN COMMANDITE INDUSTRIEL-
LÉGER**

and

9058-0150 QUÉBEC INC.

Debtors

and

FWCU CAPITAL CORP.

Secured Creditor

and

MNPLTD.

PETITIONER / Receiver

and

KANWAL INC.

Mis en cause

and

9286-2929 QUÉBEC INC.

and

CONSOLIDATED CAPITAL G.P.

Secured Creditors

and

**THE LAND REGISTRAR FOR THE LAND
REGISTRY OFFICE FOR THE
REGISTRATION DIVISION OF SHERBROOKE**

and

**THE LAND REGISTRAR FOR THE LAND
REGISTRY OFFICE FOR THE
REGISTRATION DIVISION OF STANSTEAD**

Mis en cause

**APPLICATION FOR THE ISSUANCE OF AN APPROVAL, VESTING AND
ASSIGNMENT ORDER AND OTHER ANCILLARY RELIEF**

(Sections 49, 65.13, 243 and 247 of the *Bankruptcy and Insolvency Act* (the “BIA”))

TO THE HONOURABLE JUSTICE GAÉTAN DUMAS OF THE SUPERIOR COURT OF QUÉBEC, SITING IN PRACTICE DIVISION IN AND FOR THE DISTRICT OF SAINT-FRANÇOIS, THE PETITIONER, IN ITS CAPACITY AS RECEIVER TO THE PROPERTY OF THE DEBTORS, RESPECTFULLY SUBMITS AS FOLLOWS:

A. ORDER SOUGHT

1. By the present Application, the Petitioner, MNP Ltd. (“MNP” or the “Receiver”), in its capacity as receiver to the property of the Debtors, Société en commandite Industriel-Léger (“SEC”) and its general partner, 9058-0150 Québec Inc. (“9058”, and collectively with SEC, the “Debtors”), seeks from the Court the issuance of an order, *inter alia*:
 - (a) approving the transaction (the “Transaction”) contemplated in the *Agreement of Purchase and Sale* dated September 21, 2021, as the same was amended by that certain *Partial Waiver and Amending Agreement* dated November 12, 2021, that certain *Second Partial Waiver and Amending Agreement* dated December 23, 2021 and that certain *Waiver and Amending Agreement* dated February 4, 2022, (together, the “APS” or “Purchase Agreement”), concluded between Lotus Equity Partners Inc. (the “Purchaser”) and the Receiver;
 - (b) approving the assignment to the Purchaser of the Existing Leases and Service Contracts (as defined below) to which SEC and/or the Receiver is a party; and
 - (c) expanding the powers of the Receiver so that the Receiver is authorized to execute the assignment in bankruptcy of the Debtors’s property for the benefit of their creditors under Section 49 of the BIA;

the whole on the terms set forth in the draft order (the “Approval and Vesting Order”) communicated herewith as **Exhibit P-1A**, which is also communicated herewith as **Exhibit P-1B** in a comparative version with the standard draft order of the *Liaison Committee* of the Commercial Division of the Superior Court of the District of Montreal.

B. BACKGROUND

2. SEC is a limited partnership set up for the purpose of owning, managing and operating real estate properties located in Magog and Sherbrooke, which acts through its general partner, 9058.

3. The real estate portfolio of the Debtors consists of five (5) industrial properties (collectively, the “**Properties**”), namely:
- (a) an immovable property known and designated as lot ONE MILLION THREE HUNDRED NINETY-FIVE THOUSAND AND FIFTY-FIVE (1 395 055) of the Cadastre of Quebec, registration division of Sherbrooke, with the building thereon erected, bearing civic addresses 4220-4248 Garlock Street, Sherbrooke, Province of Quebec (the “**Garlock Lot 1 395 055 Property**”);
 - (b) an immovable property known and designated as lot ONE MILLION THREE HUNDRED NINETY-FIVE THOUSAND AND FIFTY-FOUR (1 395 054) of the Cadastre of Quebec, registration division of Sherbrooke, with the buildings thereon erected, bearing civic addresses (i) 4221-4249 Garlock Street, Sherbrooke, Province of Quebec and (ii) 4253-4283 Garlock Street, Sherbrooke, Province of Quebec (together, the “**Garlock Lot 1 395 054 Property**”)
 - (c) an immovable property known and designated as lot FIVE MILLION THREE THOUSAND FOUR HUNDRED AND SEVENTY-TWO (5 003 472) of the Cadastre of Quebec, registration division of Sherbrooke, with the building thereon erected, bearing civic addresses 4310-4364 Industrial Boulevard, Sherbrooke, Province of Quebec, J1L 2S8 (the “**Industrial Sherbrooke Property**”); and
 - (d) an immovable property known and designated as lots THREE MILLION ONE HUNDRED FORTY-TWO THOUSAND TWO HUNDRED AND THIRTY-EIGHT (3 142 238) and THREE MILLION ONE HUNDRED AND FORTY-TWO THOUSAND TWO HUNDRED AND THIRTY-NINE (3 142 239) of the Cadastre of Quebec, registration division of Stanstead, with the building thereon erected, bearing civic addresses 1426-1428 Industrial Boulevard, Magog, Province of Quebec, J1X 4V9 (the “**Industrial Magog Property**”).
4. The Properties are rented to a roster of tenants (collectively, the “**Tenants**”), each of which rents different premises within the Properties, more particularly:

Property	Address	Local	Tenant
Garlock Lot 1 395 055	4220-4248 Garlock Street, Sherbrooke J1L 2C8	4220-4248	N/A

Property	Address	Local	Tenant
Garlock Lot 1 395 054	4253-4283 Garlock Street, Sherbrooke J1L 2C8	4253 & 4259	Bercor Industriel inc.
Garlock Lot 1 395 054	4253-4283 Garlock Street, Sherbrooke J1L 2C8	4267 & 4263	9393-9023 Québec inc.
Garlock Lot 1 395 054	4253-4283 Garlock Street, Sherbrooke J1L 2C8	4275	Les Aliments Jardi inc.
Garlock Lot 1 395 054	4253-4283 Garlock Street, Sherbrooke J1L 2C8	4279	N/A

Property	Address	Local	Tenant
Industrial Sherbrooke	4310-4364 boul. Industriel, Sherbrooke J1L 2S8	4350	Les Pétroles Sherbrooke inc.
Industrial Sherbrooke	4310-4364 boul. Industriel, Sherbrooke J1L 2S8	4310	Magbrooke Furniture Industrielle
Industrial Sherbrooke	4310-4364 boul. Industriel, Sherbrooke J1L 2S8	4314-4320	Magbrooke Furniture Industrielle
Industrial Sherbrooke	4310-4364 boul. Industriel, Sherbrooke J1L 2S8	4330	Les Technologies Affutech 3000 inc.
Industrial Sherbrooke	4310-4364 boul. Industriel, Sherbrooke J1L 2S8	4334	Atlantis Pompe Ste-Foy Inc.
Industrial Sherbrooke	4310-4364 boul. Industriel, Sherbrooke J1L 2S8	4336	Le Réparateur
Industrial Sherbrooke	4310-4364 boul. Industriel, Sherbrooke J1L 2S8	4352 & 4364	Les Distributions Jean-Paul Huard inc.

Property	Address	Local	Tenant
Industrial Magog	1426-1428 boul. Industriel, Magog J1Z 4V9	1426	EKIP Innovations Inc.

5. The Properties are hypothecated in favour of the following creditors of the Debtors (hereafter sometimes referred to collectively as the “**Secured Creditors**”), namely:
- (a) Consolidated Capital G.P. (“**Consolidated Capital**”), which holds a first-ranking hypothec, published at the Land Registry Office for the Registration Division of Stanstead under number 23 414 584, in the principal amount of \$1,300,000, on the Industrial Magog Property;
 - (b) 9286-2929 Quebec Inc. (“**9286**”), which holds a hypothec published at the Land Registry Office for the Registration Divisions of Sherbrooke and Stanstead under number 24 335 181, in the principal amount of \$4,300,000, on all of the other Properties, which hypothec ranks immediately after the hypothec of Consolidated Capital G.P. with respect to the Industrial Magog Property and is of first rank with respect to the other Properties; and
 - (c) FWCU Capital Corp. (“**FWCU**”), which holds a hypothec, published at the Land Registry Office for the Registration Division of Sherbrooke under number 22 462 095, in the principal amount of \$9,600,000, on all the Properties, which hypothec ranks after each of the above-mentioned hypothecs in favour of Consolidated Capital G.P. and 9286-2929 Quebec Inc.;

the whole as appears from the index of immovables with respect to the Properties, communicated herewith, *en liasse*, as **Exhibit P-2** for the Garlock Lot 1 395 055 Property, **Exhibit P-3** for the Garlock Lot 1 395 054 Property, **Exhibit P-4** for the Industrial Sherbrooke Property and **Exhibit P-5** for the Industrial Magog Property.

6. As at March 26, 2021, the amount owed by SEC to Consolidated Capital was estimated at \$1,300,000 (before interest and costs), the amount owed by SEC to 9286 was estimated \$4,300,000 (before interest and costs), and the amount owed by SEC to FWCU was estimated \$12,446,167.
7. As appears from the extracts of the Register of Personal and Movable Real Rights (“RPMRR”) with respect to SEC and 9058, communicated herewith, respectively, as **Exhibit P-6** and **Exhibit P-7**, the universality of SEC’s movable property is hypothecated in favour of:
 - (a) FWCU, pursuant to a conventional hypothec without delivery, published at the RPMRR, on July 8, 2016, under number 16-0657233-0002, in the principal amount of \$9,600,000;
 - (b) Consolidated Capital, pursuant to a conventional hypothec without delivery, published at the RPMRR, on October 6, 2017, under number 17-1065912-0001, in the principal amount of \$1,300,000, which also covers the universality of 9058’s movable property; and
 - (c) 9286, pursuant to a conventional hypothec without delivery, published at the RPMRR, on February 28, 2019, under number 19-0195673-0003, in the principal amount of \$4,300,000, which also covers the universality of 9058’s movable property.
8. SEC is also indebted to Ville de Sherbrooke, Ville de Magog, Commission scolaire de la Région-de-Sherbrooke and Commission scolaire des Sommets, for unpaid municipal and school taxes, in respect of the Properties.

C. PROCEDURAL HISTORY AND APPOINTMENT OF THE RECEIVER

9. On January 29, 2021, FWCU filed a motion for the appointment of a receiver in respect of the Debtors pursuant to Section 243 BIA, as appears from the Court record.
10. On the same day, in Court file 450-11-000115-208, the Court granted an application filed by Kanwal Inc. (“**Kanwal**”), an entity related to the Debtors, and 9058, for an initial order pursuant to the *Companies’ Creditors Arrangement Act* (“**CCAA**”) and for the continuation of proceedings commenced by Kanwal under Part III of the BIA. An initial order was issued by the Honorable Justice Louis Gouin, J.S.C. (the “**Initial Order**”), for a duration of 10 days, which was subsequently renewed by the Honorable Justice Gaétan Dumas, J.S.C., on February 10, 2021 and March 10, 2021 until March 19, 2021, as appears from the Court record in file 450-11-000115-208.

11. Pursuant to the Initial Order, an Administration Charge was granted by the Court over the property of Kanwal and 9058, as well as that of their related entities, SEC and Group Kanwal Inc., to the extent of the aggregate amount of \$300,000, as security for the professional fees and disbursements incurred by the monitor in the CCAA proceedings, PricewaterhouseCoopers Inc. (the “**Monitor**”), the Monitor’s legal counsel, Kanwal and 9058’s legal counsel, and the chief restructuring officer, Mr. Scott Sinclair, of Sinclair Range Inc.
12. On March 19, 2021, the Court dismissed the application by Kanwal and 9058 for the approval of an interim financing and for extension of the stay of proceedings in file 450-11-000115-208. For the reasons expressed in its judgment dated March 19, 2021, the Court concluded that it did not believe that it was fair and equitable to approve the interim financing sought and create a priority charge to secure it on, *inter alia*, SEC’s Properties. Having concluded that there was no reasonable expectation of a successful outcome to the restructuring process undertaken, the Court decided to terminate the process, as appears from the Court record in file 450-11-000115-208.
13. On March 24, 2021, FWCU filed a new motion for the appointment of a Receiver in respect of the Debtors pursuant to Section 243 BIA, as appears from the Court record.
14. On March 26, 2021, further to FWCU’s above-mentioned motions, the Court appointed MNP as Receiver to all the property of the Debtors, including, in particular, the Properties, pursuant to the Order Appointing a Receiver (the “**Receivership Order**”) issued in virtue of Section 243 BIA, as appears from the Court record.
15. Pursuant to the Receivership Order, the Receiver was authorized, *inter alia*, to exercise various powers related to the possession, preservation and sale of the Debtors’ property, as well as powers related to the Debtors’ operations, including, without limitation:
 - (a) all the powers necessary for the preservation and for the protection of the property (par. 12.1(a) of the Receivership Order);
 - (b) the powers to carry on all or any part of the Debtor's operations, including, without limitation, exercising any and all rights of the Debtor in virtue of any contract or agreement to which it is a party, such as a lease, and to enter into and conclude any such contract or agreement which it deems useful for the operations, at its sole discretion and without any obligation to do so (par. 12.2(f) and (g) of the Receivership Order);
 - (c) all the powers necessary to control the Debtor’s receipts and disbursements (par. 12.2(h) of the Receivership Order);
 - (d) all the powers necessary to collect all the accounts receivable, rental income and all the other claims of the Debtor (par. 12.2(i) of the Receivership Order); and

- (e) all the powers necessary to interest or solicit one or several potential buyers of all or any part of the Property, including, without limitation, the right to carry out a public call for tenders or private solicitations in order to dispose of the Property (par. 12.3 (l) of the Receivership Order).

D. SALE SOLICITATION PROCESS

16. Prior to instituting a formal solicitation process, the Receiver received multiple unsolicited offers for the purchase of the Properties, or some of the Properties. None of the offers were retained as they were not firm offers, the amounts offered were deemed insufficient, and the best interest of the Secured Creditors required that the Receiver canvassed the market prior to accepting any offer.
17. The marketing and solicitation process leading to the proposed Transaction is described more fully in the report filed by the Receiver in support of this Application (the “**Report**”).
18. During the month of April 2021, the Receiver initiated a formal process to mandate a real estate broker in order to market the Properties. After reviewing various proposals, CBRE Limited was selected and mandated by the Receiver to act as exclusive real estate broker for the sale of the Properties.
19. The solicitation process was launched on May 26, 2021. It involved a first round of bids, which resulted in 14 letters of intent received by the Receiver from various bidders, and a second round of bids among the highest bids that had received during the first round.
20. Ultimately, the offer received from the Purchaser, which contemplated the purchase of all the Properties as a portfolio, was selected by the Receiver after discussions with the Secured Creditors.
21. Further to the acceptance of the Purchaser’s offer, the Receiver and the Purchaser negotiated and entered into an *Agreement of Purchase and Sale* dated September 21, 2021, a copy of which is communicated herewith, under confidential seal, as **Exhibit P-8** (the “**Initial APS**”).
22. A due diligence period of 45 days was provided in the Initial APS for the Purchaser to complete its review of the Properties and any other matters of interest to the Purchaser with respect to the Properties.
23. The due diligence period was extended a number of times, by agreement of the parties, due to various issues which arose and/or were identified during the due diligence period, and which are described more fully in the Report, including, among other things:

- (a) The necessity of completing a Phase III environmental remediation work for the Garlock Lot 1 395 054 Property, as recommended in the Phase II environmental report that was obtained by the Purchaser and the Receiver; and
 - (b) The inability of the Purchaser to obtain proper insurance coverage for the Industrial Sherbrooke Property due to the condition of the roof, which necessitates that the roof be repaired while the property is covered by the Receiver's insurance policy, prior to the closing of the sale of such property.
24. In connection with these extensions and in order to resolve these issues, the Receiver and the Purchaser signed a *Partial Waiver and Amending Agreement* dated November 12, 2021, a copy of which is communicated herewith, under confidential seal, as **Exhibit P-9**, a *Second Partial Waiver and Amending Agreement* dated December 23, 2021, a copy of which is communicated herewith, under confidential seal, as **Exhibit P-10**, and a final *Waiver and Amending Agreement* dated February 4, 2022, a copy of which is communicated herewith, under confidential seal, as **Exhibit P-11**.

E. DESCRIPTION OF THE PROPOSED TRANSACTION

25. In summary, the Transaction contemplated by the Purchase Agreement (as amended) provides that :
- (a) the Purchaser will purchase the Properties, free and clear of any and all security, hypothecs, charges, encumbrances or other restrictions;
 - (b) the sale will be made on an "as is, where is" basis without any warranties, expressed or implied, legal or conventional;
 - (c) the Receiver shall assign and transfer to the Purchaser all the rights, titles and interests of the Receiver and/or the Debtors in and to the existing leases that have been disclosed to the Purchaser (the "**Existing Leases**") and the service contracts that the Purchaser has elected to assume (the "**Service Contracts**", and together with the Existing Leases, the "**Assumed Agreements**"), listed and communicated under confidential seal as Schedule "D" to the draft Approval and Vesting Order, Exhibit P-1A;
 - (d) the closing of the purchase and sale of the Properties will be on a staggered basis and occur as follows:
 - (i) with respect to the Garlock Lot 1 395 055 Property: within thirty (30) days after the issuance of the Approval and Vesting Order;
 - (ii) with respect to the Garlock Lot 1 395 054 Property: within thirty (30) days after the later of:
 - (A) the issuance of the Approval and Vesting Order; or

- (B) the Purchaser's receipt of the environmental land remediation report confirming that the environmental soil remediation work, which is currently underway, has been completed;
 - (iii) with respect to the Industrial Sherbrooke Property: following the issuance of the Approval and Vesting Order, the Receiver will undertake and complete the repair of the roof, on behalf of and at the sole cost and expense of the Purchaser (the "**Roof Work**"), and the closing will occur within thirty (30) days after completion of the Roof Work; and
 - (iv) with respect to the Industrial Magog Property: concurrently with the closing of the Industrial Sherbrooke Property;
 - (v) the Purchaser shall be subrogated in the rights and obligations of the Receiver and/or the Debtors with regards to the Assigned Agreements, which rights and obligations shall be assumed by the Purchaser with liability as of and from the closing date of the purchase and sale of each of the Properties.
26. An essential condition of the Transaction is the issuance of an Approval and Vesting Order by the Court, substantially in accordance with the draft Approval and Vesting Order, Exhibit P-1A, declared by the Court to be provisionally executory notwithstanding appeal, authorizing the Receiver to convey to the Purchaser all of the right, title and interest of SEC and/or 9058-0150 Québec Inc. in and to the Properties, the Existing Leases and the Service Contracts, free and clear of and from any and all encumbrances save and except the permitted encumbrances, and assigning the rights and obligations of the Debtors under the Existing Leases and the Service Contracts to the Purchaser as of and from the consummation and closing of the purchase and sale of each of the Properties.
27. The Approval and Vesting Order sought by the Receiver does not ask the Court to authorize a distribution of the net proceeds of the sale. It is anticipated that an application to do so will be made at a later date, after the closing of the Transaction.

F. REASONS IN SUPPORT OF THE APPLICATION

Approval of the Transaction

28. For the reasons more fully described in the Report, the Receiver respectfully submits that the proposed Transaction should be approved by this Court, *inter alia*, for the following reasons:
- (a) the market solicitation process leading to the proposed Transaction was reasonable in the circumstances;

- (b) the Secured Creditors were regularly informed throughout the sale process and had the opportunity to submit their observations to the Receiver;
 - (c) the offer made by the Purchaser for the Properties was the most advantageous offer received during the solicitation process conducted by the Receiver and CBRE Limited;
 - (d) the purchase price to be received for the Properties pursuant to the Transaction is reasonable and fair, taking into account their market value; and
 - (e) the Receiver does not believe that a higher value could be obtained through an alternative sale's process.
29. The Receiver believes that the Transaction will have the effect of maximizing the recovery of the Debtors' Secured Creditors, which were collectively owed more than \$18,000,000 as of the date of the Receivership Order.
30. Given the market value of the Properties and the fact that none of the offers received under the sale process offered a purchase price in an amount sufficient to repay in full the Debtors' secured debt, the Secured Creditors are the only creditors with a real economic interest in the proposed Transaction. The purchase price pursuant to the proposed Transaction will be sufficient to pay in full the debts that are secured by the hypothecs in favour of Consolidated Capital and 9286, respectively, and to pay a portion of the debt that is secured by the hypothec in favour of FWCU. FWCU has confirmed to the Receiver that it is supportive of the Transaction, despite the fact that a substantial portion of its secured debt will not be repaid. No other creditor of the debtors will suffer any prejudice as a result of the Transaction. Conversely, there will be a prejudice to the Secured Creditors if the Transaction does not proceed.
31. The Receiver believes that it is essential that the Transaction be authorized and implemented as soon as possible, as the passage of time is detrimental to both Consolidated Capital and 9286 and FWCU.

Assignment of the Existing Lease and Service Contracts

32. The Receiver respectfully requests that this Court order the assignment of the Existing Leases to the Purchaser, which are listed and communicated under confidential seal as Schedule "D" to the draft Approval and Vesting Order, Exhibit P-1A.
33. As of the date hereof, there are no monetary defaults of the Debtors and/or the Receiver under the Existing Leases. Pursuant to the Purchase Agreement, the Purchaser is undertaking to assume all obligations of the Debtors and/or the Receiver thereunder. Furthermore, the tenants will not suffer any prejudice as a result of the assignment of the Existing Lease to the Purchaser, since this will allow them to continue to occupy the

premises pursuant to the terms and conditions of their respective lease notwithstanding the alienation of the Properties, and they will have a solvent entity as their new landlord.

34. The Receiver also respectfully requests that this Court order the assignment of the Service Contracts to the Purchaser, which are listed and communicated under confidential seal as Schedule "D" to the draft Approval and Vesting Order, Exhibit P-1A.
35. As of the date hereof, there are no monetary defaults of the Debtors and/or the Receiver under the Service Contracts. The Purchaser is undertaking to assume all obligations of the Debtors and/or the Receiver thereunder.
36. The Receiver respectfully submits that it is appropriate to assign the rights and obligations of the Debtors and/or the Receiver under the Existing Leases and the Service Contract to the Purchaser, considering that such Assigned Agreements are intimately related to the Properties and to the ownership and operation thereof.

Radiation of the MarBois Notice of Lease

37. As appears from the index of immovable with respect to the Garlock Lot 1 395 055 Property, a notice of inscription of rights resulting from a lease pursuant to Article 2999.1 CCQ was registered against such property in favour of MarBois Inc. at the Land Registry Office for the Registration Division of Sherbrooke, on August 31, 2017, under number 23 340 480 (the "**MarBois Notice of Lease**"). A copy of the MarBois Notice of Lease is communicated herewith as **Exhibit P-12**.
38. Pursuant to the MarBois Notice of Lease, MarBois Inc. registered its rights, as a tenant, resulting from its lease of the said premises beginning on July 1, 2017, and expiring on June 30, 2022.
39. However, MarBois Inc. is no longer a tenant in the Garlock Lot 1 395 055 Property and has not been a tenant of the Debtors since before the appointment of the Receiver.
40. As appears from an extract from the *Registraire des entreprises* with respect to Marbois Inc., communicated herewith as **Exhibit P-13**, MarBois Inc. was a corporation constituted pursuant to the *Business Corporations Act* (Quebec), which was radiated on September 9, 2019, following its voluntary dissolution. Its directors and shareholders were Jean Marois and Chantal Poulin.
41. The Purchaser has requested that the MarBois Notice of Lease be radiated prior to the closing of the sale of the Garlock Lot 1 395 055 Property.
42. However, since MarBois Inc. is dissolved and was radiated, it is not possible for the Receiver to obtain the signature of a voluntary *mainlevée* of the MarBois Notice of Lease.

43. Consequently, the Receiver asks the Court, in the Approval and vesting Order, to order the Cancellation of the MarBois Notice of Lease registered against the Garlock Lot 1 395 055 Property at the Land Registry Office for the Registration Division of Sherbrooke.

Expansion of the Receiver's Powers

44. The powers of the Receiver as defined in the receivership Order did not provide the Receiver with the power to sign the required documentation to assign the Debtors into bankruptcy pursuant to Section 49 of the BIA.
45. The Receiver believes that the granting of such power to the Receiver would ensure a sound administration of the remainder of this file, given that:
- (a) the sole director of 9058, Paul Kanwal, resigned shortly after the appointment of the Receiver;
 - (b) the Receiver will be unable to distribute the proceeds from the Transaction before obtaining clearance certificates from both the federal and provincial governments. Due to the limited information in the books and records of the Debtors, the Receiver is not in a position to produce the necessary documents in order to obtain said clearance certificates;
 - (c) the assignment of the debtors into bankruptcy will crystallize the debts of the Debtors and allow for an orderly claims process;
 - (d) the assignment of the Debtors into bankruptcy will allow for the appointment of a trustee in bankruptcy with full powers to investigate the affairs of the Debtors pursuant to Sections 95 to 101 BIA.
46. The Receiver proposes that MNP be initially appointed to act as trustee in bankruptcy in the context of a voluntary assignment of the Debtors' property, subject to confirmation of its appointment at the first meeting of creditors in the event of such assignment in bankruptcy.

Production of documents under confidential seal in the Court record

47. The Receiver requests that Exhibits **P-8, P-9, P-10** and **P-11** in support of this Application and certain Appendices in support of the Report, namely Appendices B, C, D, E and F, be filed under confidential seal.
48. In view of the confidential and commercially sensitive nature of the information contained in the above-mentioned documents, and the irreparable harm that the estate of the Debtors would suffer in the event that it were necessary to return to the market, these Exhibits and

these Appendices, which contain confidential information relating, *inter alia*, to the sale process, including the identity of certain bidders and the amounts offered by some bidders in that process, must remain confidential.

49. In the event that the Transaction does not close and it becomes necessary to solicit new bids, the public dissemination of this information could be detrimental to the process of realization of the Debtors' assets.
50. It is also necessary and appropriate that the Existing Leases and Service Contracts, which are listed and communicated as Schedule "D" to the draft Approval and Vesting Order, Exhibit P-1A, be filed under confidential seal. These agreements contain information of a commercial nature, such as the amount of rent paid by the different tenants and other terms and conditions, which should not be divulged without the consent of the parties thereto and the public dissemination of which could be detrimental to the operation and renting of the Properties by the Purchaser.
51. Given the circumstances described herein, the Receiver requests that the delays for service and presentation be reduced and that the service and presentation of this Application be held to be valid for all purposes.
52. The provisional execution of the order to intervene herein is necessary in order to proceed with the sale of the Properties without delay in accordance with the terms of the Purchase Agreement and ensure that the Roof Work can be executed on schedule.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

- [1] **ORDER** that the time for service of this Application be abridged and that the Application is properly presentable and **DECLARE** that the service of this Application by technological means constituted good and sufficient service on all persons and further **DECLARE** that all parties are relieved of any further requirement for service of this Application;
- [2] **GRANT** this Application;
- [3] **ISSUE** an order substantially in the form of the draft order communicated as **Exhibit P-1A** in support of this Application;
- [4] **ISSUE** any other order that this Court may deem appropriate under the circumstances;
- [5] **ORDER** the provisional execution of the present judgment notwithstanding any appeal.
- [6] **THE WHOLE** without legal costs save in case of contestation.

Montreal, February 14, 2022

Fishman Flanz Meland Paquin LLP

FISHMAN FLANZ MELAND PAQUIN LLP

Attorneys for Petitioner, MNP Ltd., in its capacity
as Receiver of Société en commandite Industrielle-
Léger and 9058-0150 Québec Inc.

Mtre Nicolas Brochu

1250, boulevard René-Lévesque Ouest, Suite 4100

Montreal, Quebec H3B 4W8

Tel : (514) 932-4100

Fax : (514) 932-4170

nbrochu@ffmp.ca

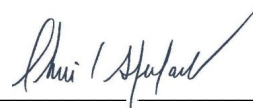
with a copy to : notification@ffmp.ca

AFFIDAVIT

I, Sheri L. Aberback, CIRP, LIT, CFE, Senior Vice-President of MNP Ltd., domiciled for the purposes hereof at 1155 René-Lévesque Boulevard West, 23rd Floor, Montreal, Quebec, H3B 2K2, do solemnly affirm:

1. I am a duly authorized representative of the Petitioner / Receiver, MNP Ltd.;
2. I am filing this affidavit in support of the attached *Application for the Issuance of an Approval, Vesting and Assignment Order and Other Ancillary Relief* (the “**Application**”);
3. All the facts alleged in the Application are true.

AND I HAVE SIGNED:



SHERI L. ABERBACK

Solemnly affirmed before me, by way of remote swearing in, in Montreal, Quebec, this 14th day of February 2022



Commissioner of Oaths
for the Province of Quebec

LIST OF EXHIBITS

- EXHIBIT P-1A:** Draft Approval and Vesting Order;
- EXHIBIT P-1B:** Comparative version of the draft Approval and Vesting Order with the standard draft order of the *Liaison Committee* of the Commercial Division of the Superior Court of the District of Montreal;
- EXHIBIT P-2:** Index of immovables for the Garlock Lot 1 395 055 Property, being lot 1 395 055, of the Cadastre of Quebec, registration division of Sherbrooke;
- EXHIBIT P-3:** Index of immovables for the Garlock Lot 1 395 054 Property, being lot 1 395 054 of the Cadastre of Quebec, registration division of Sherbrooke;
- EXHIBIT P-4:** Index of immovables for the Industrial Sherbrooke Property, being lot 5 003 472 of the Cadastre of Quebec, registration division of Sherbrooke;
- EXHIBIT P-5:** Indexes of immovables for the Industrial Magog Property, being lots 3 142 238 and 3 142 239 of the Cadastre of Quebec, registration division of Stanstead;
- EXHIBIT P-6:** Extracts of the Register of Personal and Movable Real Rights with respect to Société en commandite Industriel-Léger;
- EXHIBIT P-7:** Extracts of the Register of Personal and Movable Real Rights with respect to and 9058-0150 Québec Inc.;
- EXHIBIT P-8:** UNDER CONFIDENTIAL SEAL - *Agreement of Purchase and Sale* dated September 21, 2021;
- EXHIBIT P-9:** UNDER CONFIDENTIAL SEAL - *Partial Waiver and Amending Agreement* dated November 12, 2021;
- EXHIBIT P-10:** UNDER CONFIDENTIAL SEAL - *Second Partial Waiver and Amending Agreement* dated December 23, 2021;
- EXHIBIT P-11:** UNDER CONFIDENTIAL SEAL - *Waiver and Amending Agreement* dated February 4, 2022;
- EXHIBIT P-12:** MarBois Notice of Lease, registered at the Land Registry Office for the Registration Division of Sherbrooke, under number 23 340 480;

EXHIBIT P-13: *Registraire des entreprises* with respect to Marbois Inc.

Montreal, February 14, 2022

Fishman Flanz Meland Paquin LLP

FISHMAN FLANZ MELAND PAQUIN LLP

Attorneys for Petitioner, MNP Ltd., in its capacity
as Receiver of Société en commandite Industrielle-
Léger and 9058-0150 Québec Inc.

Mtre Nicolas Brochu

1250, boulevard René-Lévesque Ouest, Suite 4100

Montreal, Quebec H3B 4W8

Tel. : (514) 932-4100

Fax : (514) 932-4170

nbrochu@ffmp.ca

with a copy to : notification@ffmp.ca

NOTICE OF PRESENTATION

TO: THE SERVICE LIST

TAKE NOTICE that the *Application for the Issuance of an Approval, Vesting and Assignment Order and Other Ancillary Relief* (the “**Application**”) will be presented before the Honorable Justice Gaétan Dumas, J.S.C., of the District of Saint-François, in his office and without a hearing, except if an interested party advises, by no later than **2:00 P.M., on February 17, 2022**, of its intention to contest the Application, in which case the Application will be heard on **February 18, 2022, at 9:30 A.M.**, by TEAMS:

À : LA LISTE DE DIFFUSION

PRENEZ NOTE que la présente demande intitulée *Application for the Issuance of an Approval, Vesting and Assignment Order and Other Ancillary Relief* (la « **Demande** ») sera présentée devant l’honorable Gaétan Dumas, j.c.s., du district de Saint-François, en son bureau et sans audience, sauf dans le cas où une partie intéressée avise, au plus tard à **14 heures, le 17 février 2022** de son intention de contester la Demande. Dans ce cas, la Demande sera entendue le **18 février 2022 à 9 h 30 par TEAMS** :

Réunion Microsoft Teams

Rejoindre sur votre ordinateur ou application mobile

[Cliquez ici pour participer à la réunion](#)

Rejoindre avec un appareil de vidéoconférence

teams@teams.justice.gouv.qc.ca

ID de vidéoconférence : 115 249 133 4

[Autres instructions VTC](#)

Ou composer le numéro (audio seulement)

[+1 581-319-2194,414828467#](#) Canada, Quebec

[\(833\) 450-1741,414828467#](#) Canada (Numéro gratuit)

ID Conférence Téléphone: 414 828 467#

[Rechercher un numéro local](#) | [Réinitialiser le code confidentiel](#)

[Pour en savoir plus](#) | [Options de réunion](#)

DO GOVERN YOURSELVES ACCORDINGLY.

Montreal, February 14, 2022

Fishman Flanz Meland Paquin LLP

FISHMAN FLANZ MELAND PAQUIN LLP

Attorneys for Petitioner, MNP Ltd., in its capacity
as Receiver of Société en commandite Industriel-
Léger and 9058-0150 Québec Inc.

Mtre Nicolas Brochu

1250, boulevard René-Lévesque Ouest, Suite 4100

Montreal, Quebec H3B 4W8

Tel : (514) 932-4100

Fax : (514) 932-4170

nbrochu@ffmp.ca

with a copy to : notification@ffmp.ca

NO: 450-11-000012-215

SUPERIOR COURT
(Commercial Division)
District of Saint-François

IN THE MATTER OF THE RECEIVERSHIP OF :

SOCIÉTÉ EN COMMANDITE INDUSTRIEL-LÉGER
and
9058-0150 QUÉBEC INC.

Debtors

and
FWCU CAPITAL CORP.

Secured Creditor

and
MNP LTD.

PETITIONER/Receiver

and
KANWAL INC.

Mis en cause

and
9286-2929 QUÉBEC INC.
and
CONSOLIDATED CAPITAL G.P.

Secured Creditors

and
THE LAND REGISTRAR FOR THE LAND REGISTRY OFFICE FOR
THE REGISTRATION DIVISION OF SHERBROOKE

and
THE LAND REGISTRAR FOR THE LAND REGISTRY OFFICE FOR
THE REGISTRATION DIVISION OF STANSTEAD

Mis en cause

**APPLICATION FOR THE ISSUANCE OF AN APPROVAL,
VESTING AND ASSIGNMENT ORDER AND OTHER
ANCILLARY RELIEF, AFFIDAVIT, LIST OF EXHIBITS and
NOTICE OF PRESENTATION**

(Sections 49, 65.13, 243 and 247 of the Bankruptcy and Insolvency Act)

ORIGINAL

File: MNPLTD-1

Me Nicolas Brochu

nbrochu@ffmp.ca

FISHMAN FLANZ MELAND PAQUIN LLP

1250 René-Lévesque Blvd. West, Suite 4100

Montréal, Québec H3B 4W8

Tel: 514 / 932-4100

CODE: BM-0309