

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

THE HONOURABLE	)	THURSDAY, THE 20th
	)	
JUSTICE KIMMEL	)	DAY OF JANUARY, 2022

B E T W E E N:

*(Court Seal)*

C&K MORTGAGE SERVICES INC. and 975393 ONTARIO INC.

Applicants

and

AXESS PICKERING LTD.

Respondent

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by Alvarez & Marsal Canada Inc. in its capacity as Court-Appointed Receiver (the “**Receiver**”) of the assets, undertakings and properties of Axess Pickering Ltd. (the “**Debtor**”), for an order in the form attached to the Notice of Motion dated January 14, 2022 as Schedule “A” was heard this day by judicial videoconference due to the COVID-19 pandemic.

ON READING the Second Report of the Receiver dated January 14, 2022 (the “**Second Report**”) and on reading and hearing the submissions of counsel for the Receiver, and such other persons on the Service List as may be present:

1. THIS COURT ORDERS that the time for and method of service of the notice of motion and the motion record, including the Second Report, and all supplementary motion materials, if any, are hereby abridged and validated, as necessary, such that this motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS that the Transaction (as that term is defined in the Notice of Motion) is hereby approved, and the execution of the Sale Agreement (as defined in the Notice of Motion) 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 it considers necessary for the completion of the Transaction and for the conveyance of the Property (as defined in the Sale Agreement) to the Purchaser (as defined in the Sale Agreement).

3. THIS COURT ORDERS that upon closing of the Transaction and the delivery to the Purchaser of a Receiver’s certificate 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 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 Justice Koehnen dated October 12, 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 those specifically provided for in the Sale Agreement), and for greater certainty, this Court orders that all of the Claims affecting or relating to the Property are hereby expunged and discharged as against the Property.

4. THIS COURT ORDERS that upon registration in the Land Registry Office for the Land Titles Division of Durham of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject Property identified in Schedule B hereto in fee simple, and is hereby directed to delete and expunge from title to the Property all of the Claims listed in **Schedule “C”** hereto.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of the Claims, the net proceeds from the sale of the Property shall stand in place and stead of the 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 Property with the same priority as they had with respect to the Property immediately prior to the sale, as if the 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 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 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 ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

9. THIS COURT ORDERS that the interim distributions proposed in the Second Report are hereby approved and that the Receiver is hereby authorized to make the interim distributions proposed in the Second Report in the following amounts and in the following priority:

- (a) First, to repay the indebtedness with respect to the Receiver's Borrowing Charge;  
and
- (b) Second, to the Applicants up to the amount of the indebtedness owed to the Applicants.

10. THIS COURT ORDERS that **Confidential Appendices "E-G"** to the Second Report shall be sealed and not form part of the public record and any persons served with a copy of it shall keep it and its contents confidential and shall not disclose its contents to any person except their legal counsel until the closing of the sale of the Property (in the case of **Confidential Appendix "F"**) or further order of the Court (in the case of the other Confidential Appendices).

11. THIS COURT ORDERS that the Second Report and the activities described therein be and are hereby approved.

12. THIS COURT ORDERS that the Receiver shall have no personal or corporate liability in connection with completing the Transaction or distributing the proceeds, excepting any liability resulting from gross negligence or wilful misconduct.

13. 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.

14. THIS COURT ORDERS that this Order is effective from today's date and is not required to be entered.

*Kimmel J.*

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**Schedule A – Form of Receiver’s Certificate**

Court File No. CV-21-00669408-00CL

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B E T W E E N:

*(Court Seal)*

C&K MORTGAGE SERVICES INC. and 975393 ONTARIO INC.

Applicants

and

AXESS PICKERING LTD.

Respondent

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Koehnen of the Ontario Superior Court of Justice (the "**Court**") dated October 12, 2021, Alvarez & Marsal Canada Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of Axess Pickering Ltd. (the "**Debtor**").

B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of December 22, 2021 (the "**Sale Agreement**") between the Receiver and 1000059279 Ontario Inc. or assignee thereof (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 section ● 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 Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section ● 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].

**Alvarez & Marsal Canada Inc., in its capacity  
as Receiver of the undertaking, property and  
assets of Axess Pickering Ltd., and not in its  
personal capacity**

Per: \_\_\_\_\_

Name:

Title:



**Schedule B – Purchased Property**

**PIN: 26330 - 0016 LT**

PT LT 20 CON 1 PICKERING AS IN D42810 EXCEPT PT 1, 40R7449 &  
40R12400;  
S/T D127632, D133802, D50967 PICKERING

Municipal Address: 1525 PICKERING PARKWAY, PICKERING

## Schedule C

### REGISTRATIONS TO BE DELETED FROM PIN 26330 - 0016 LT

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
DR1978274	2021/03/01	Charge	\$8,200,000	Axess Pickering Ltd.	C & K Mortgage Services Inc. 975393 Ontario Inc.
DR1978275	2021/03/01	No Assgn Rent Gen		Axess Pickering Ltd.	C & K Mortgage Services Inc. 975393 Ontario Inc.
DR1978279	2021/03/01	Charge	\$1,500,000	Axess Pickering Ltd.	Sagewise Capital Corporation
DR1988782	2021/04/01	Notice		Pine Ridge Management Inc.	Pine Ridge Management Inc.
DR2015350	2021/06/15	Charge	\$883,630	Axess Pickering Ltd.	Batista, Gina RNV Investments, LLC

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Applicants

-and- AXESS PICKERING LTD.  
Respondent

Court File No. CV-21-00669408-00CL

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PROCEEDING COMMENCED AT TORONTO

**ORDER**

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Lawyers for Alvarez & Marsal Canada Inc. in its capacity as  
Court-Appointed Receiver