

File No. CI 23-01-42328

**THE KING'S BENCH
WINNIPEG CENTRE**

IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER PURSUANT TO
SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY*
ACT, R.S.C. 1985, c. B-3 AS AMENDED, AND SECTION 55
OF *THE COURT OF KING'S BENCH ACT*, C.C.S.M. c. C280

BETWEEN:

PEOPLES TRUST COMPANY,

Applicant,

-and-

BOKHARI DEVELOPMENT INC.,

Respondent.

AMENDED ORDER

MLT AIKINS LLP

Barristers and Solicitors
30th Floor – 360 Main Street
Winnipeg, MB R3G 4G1

J.J. BURNELL / ANJALI SANDHU

Phone: (204) 957-4663 / (204) 957-4760
Fax: (204) 957-0840

File No. 0088420.00003

Box No. 3

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IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER PURSUANT TO
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THE HONOURABLE MR.)	MONDAY, THE 2 ND
)	
JUSTICE CHARTIER)	DAY OF DECEMBER, 2024

BETWEEN:

PEOPLES TRUST COMPANY,

Applicant,

-and-

BOKHARI DEVELOPMENT INC.,

Respondent.

AMENDED ORDER

THIS MOTION, made by KPMG Inc. the court-appointed receiver and manager (the "**Receiver**") of the assets, undertakings and property of Bokhari Development Inc. (the "**Debtor**") comprising, located at, arising from, or in any way relating to the property commonly known as 1801 – 1825 Park Drive in Portage la Prairie, Manitoba (the "**Project Premises**"), including the development of the project (the "**Project**") located thereon and all proceeds thereof (collectively, the "**Property**") was heard this day at the Law Courts Building at 408 York Avenue, in the City of Winnipeg, in the Province of Manitoba.

ON READING the Affidavit of Brian Jahoor sworn August 23, 2023, the Affidavit of Darcy Shaver sworn August 25, 2023, the First Report of the Receiver dated November 16, 2023 (the **"First Report"**), the Second Report of the Receiver dated November 26, 2024 (the **"Second Report"**), and each of the respective confidential supplements thereto and on hearing the submissions of counsel for the Receiver, counsel for Peoples Trust Company, counsel for SLK Contracting Ltd., , counsel for Russell Sawatzky, and appearing on a watching brief, counsel for Syed Bokhari and Mohammed Bokhari, no one appearing for any other person on the Service List, although properly served as appears from the affidavit of Brittany Chapdelaine sworn November 29, 2024, filed:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the supporting materials is hereby abridged and validated so that this Motion is properly returnable today, and hereby dispenses with further service thereof.

APPROVAL OF SALE PROCESS, ENGAGEMENT OF BROKER & REDEMPTION

2. THIS COURT ORDERS that the broker selection process, and proposed engagement of the broker (the **"Broker"**) pursuant to an agreement substantially in the form attached as Appendix "B" to the Second Report (redacted) and Confidential Appendix "2" to the Second Report (unredacted) in respect of a Court-approved sale process of the Project, is hereby approved and authorized.

3. THIS COURT ORDERS that the sale process in respect of the Project (the “**Sale Process**”) and its implementation in accordance with the Sale Process procedures (the “**Sale Procedures**”), as attached hereto as Schedule “B”, is hereby approved and authorized.

4. THIS COURT ORDERS that the Monitor and the Broker are hereby authorized and directed to do all things as are reasonably necessary to conduct and give full effect to the Sale Process and Sale Procedures.

5. THIS COURT ORDERS the Debtor’s, or any party through the Debtor, right to redeem the Mortgage in favour of the Applicant (being Mortgage No. 1217450/3) in respect of the Project shall conclude upon the commencement of the Sale Process and notice being given by the Receiver, by email to the Service List, of same.

TAX RETURNS

6. THIS COURT ORDERS that the Order (Appointing Receiver) pronounced by the Honourable Mr. Justice Chartier on August 29, 2023 (the “**Receivership Order**”) is hereby amended to add the following as subparagraph 3(u):

“to take control over the Debtor’s RC0001 and RT0001 tax accounts for the purpose of making the necessary filings for the filing periods both prior to and after the Receivership date.”

7. THIS COURT ORDERS that the Receivership Order is amended to add “*and the tax accounts referenced in subparagraph 3(u)*” following the words “in relation to the Property” in paragraph 6.

8. THIS COURT ORDERS that BOKHARI, MOHAMMED, BOKHARI, SYED and SHAVER, DARCY comply with amended paragraph 6 of the Receivership Order.

NON-HOLDBACK FUNDS & ACCOUNTING

9. THIS COURT ORDERS that the Debtor's counsel Knight Law Office ("**Knight Law**") produce an accounting, together with supporting documentation and invoices, in respect of its general account in respect of the Debtor.

10. THIS COURT ORDERS that Knight Law pay to the Receiver all non-holdback funds currently held by it in respect of the Debtor forthwith.

EQUIPMENT AND MATERIAL CLAIMS

11. THIS COURT ORDERS AND DECLARES that 6332189 Manitoba Ltd. ("**Gateway**") and SLK Contracting Ltd. ("**SLK**") shall have until thirty four days from the date hereof, being January 6, 2025 (the "**Claims Bar Deadline**") to prove their claims to the Receiver in respect of the Unresolved Property Claims (as defined in the Second Report). In addition to proving its claim, Gateway must also: (i) provide a joint direction executed by both Karampal Sandhu and Russell Sawatzky specifying the individual to whom the Receiver is to release the property; or (ii) provide to the Receiver a certified copy of a Court Order which determines the ownership of Gateway between Karampal Sandhu and Russell Sawatzky by the Claims Bar Deadline. In the event that Gateway and/or SLK dispute the Receiver's determination they shall have until January 13, 2025 to file a motion, together with supporting evidence in these proceedings, failing which the subject Materials and Equipment (as defined in the Second Report) shall be Property

under the Receivership Order and the Receiver shall be free to deal with the said Materials and Equipment in accordance with the powers granted to it by the Orders of this Honourable Court.

SEALING

12. THIS COURT ORDERS that Confidential Appendices Nos. 1 and 2 to the Second Report be filed under seal, kept confidential, and not form part of the public record. Confidential Appendices Nos. 1 and 2 shall remain stored electronically with this Court on an encrypted basis limiting access to only the Registrar of this Honourable Court and the presiding Judge and shall only be accessible or form part of the public record upon further Order of this Court.

REPORT APPROVAL

13. THIS COURT ORDERS the Second Report and the activities, actions and conduct of the Receiver as described therein, including the approval of the Receiver's interim receipts and disbursements are hereby approved.

FEE APPROVAL

14. THIS COURT ORDERS that the fees and disbursements of the Receiver and its legal counsel as set out in the Second Report, are hereby approved.

December __, 2024

G.L.
Chartier

Digitally signed by
G.L. Chartier
Date: 2024.12.13
09:15:13 -06'00'

CHARTIER, J.

I, ANJALI SANDHU, OF THE FIRM OF MLT AIKINS LLP HEREBY CERTIFY THAT I HAVE RECEIVED THE CONSENTS AS TO FORM OF THE FOLLOWING PARTIES:

Ross McFadyen of Thompson Dorfman Sweatman LLP, counsel for Peoples Trust Company;

Gabrielle Lisi of Marr Finlayson Pollock LLP, counsel for SLK Contracting Ltd.;
and

Tom Frohlinger of PKF Lawyers.

AS DIRECTED BY THE HONOURABLE MR. JUSTICE CHARTIER

SCHEDULE "B"

Procedures for the Sale Process

Background

1. On August 29, 2023, upon application by Peoples Trust Company (the “Applicant”), KPMG Inc. was appointed as receiver and manager (the “Receiver”) pursuant to an Order in Manitoba Court of King’s Bench (the “Court”) File No. CI 23-01-42328, Winnipeg Centre (the “Receivership Proceedings”) under section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and section 55 of *The Court of King’s Bench Act*, C.C.S.M. c. C280 without security, of all the assets, undertakings and properties of the Respondent Bokhari Development Inc. (“BDI”) comprising, located at, arising from, or in any way relating to the property commonly known as 1801-1825 Park Drive in Portage la Prairie, Manitoba (the “Project Premises”), including the development of the project (the “Project”).
2. On December 2, 2024, the Court granted an Order (the “Approval Order”), *inter alia*, approving a sale process in accordance with the terms and conditions set forth herein (the “Sale Process”) and the engagement of Colliers International Group Inc. as listing broker (in such capacity, the “Broker”).
3. The Sale Process is to be conducted by the Receiver, with the assistance of the Broker. The purpose of the Sale Process is to identify one or more purchasers of the Project and to complete a transaction as contemplated herein. Set forth below are the procedures that shall govern the Sale Process and any transaction consummated as a result thereof.
4. The Approval Order, the procedures in respect of this Sale Process as contained herein (the “Sale Procedures”) and any subsequent order issued by the Court pertaining to the Sale Procedures shall exclusively govern the process for soliciting and selecting bids for the sale of the assets of BDI.
5. In the event that there is a disagreement regarding, or clarification required as to, the interpretation or application of these Sale Procedures or the responsibilities of any person hereunder, the Court will have the jurisdiction to hear such matters and provide advice and directions upon application of the Receiver, the Applicant or any other interested party.

Sale Process Overview and Timeline

6. The Sale Procedures set forth herein describe: (i) the manner in which prospective bidders may gain or continue to have access to due diligence materials and information concerning the Project; (ii) the process and timelines for the receipt and negotiation of Non-Binding LOIs, Bids, Successful Bids and Binding Agreements (each as defined below); (iii) the process and criteria by which Qualified Bids (defined below) are determined; (iv) the process and criteria by which a Qualified Bid may be evaluated and selected as a Successful Bid; and (v) the process for obtaining approval of a Successful Bid.
7. The Sale Process shall be implemented and conducted by the Receiver, with the assistance of the Broker.
8. The following table sets out a summary and approximate timeline of key milestones under this Sale Process, subject to any amendments by the Receiver pursuant to and in accordance with the terms herein (all capitalized terms are defined below):

Milestone	Anticipated Date / Timeline
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Commencement of Sale Process	On or about December 4, 2024
Commencement of Phase I Marketing Period	On or about December 4, 2024
Commencement of Phase II Marketing Period	On or about December 11, 2024
Initial Bid Deadline	January 17, 2025
Review of Non-Binding LOIs, selection of any Lead Bid and determination by Receiver to proceed with a Qualified Bid Deadline	January 24, 2025
Negotiation of Binding Agreement	1 week following selection of Lead Bid (if applicable) or Qualified Bid Deadline (if applicable)
Satisfaction or waiver of due diligence conditions in Binding Agreement(s)	6 to 8 weeks following execution of such Binding Agreement(s) (exact timeline to be agreed upon therein)
Court approval of any Successful Bid(s)	As soon as reasonably practicable following satisfaction of any due diligence conditions in applicable Binding Agreement(s)
Closing of any Successful Bid(s)	As soon as reasonably practicable, but no sooner than 10 days, following Court approval

Marketing Period

Phase I Marketing Period

9. The Broker, in consultation with the Receiver, will prepare a list of parties that may have an interest in a potential transaction to acquire the Project (the “**Identified Buyers**”). As soon as reasonably practicable following the commencement of the Sale Process, the Broker shall notify the Identified Buyers and any other parties who reach out to the Broker or the Receiver and express an interest in acquiring the Project (together with the Identified Buyers, the “**Known Buyers**”) of the existence of the Sale Process, and invite the Known Buyers to participate in the Sale Process in accordance with the terms of the Sale Process.

Phase II Marketing Period

10. Following the commencement of the Phase I marketing period, the Broker, in consultation with the Receiver, shall prepare a mass marketing launch to: (i) directly campaign the Project to the Broker’s 1,200+ investment team list; (ii) list the Project on listing platforms, including, without limitation, Moody’s and Realtors.ca; (iii) advertise the Project on social media platforms as they

deem advisable including, without limitation, LinkedIn; and (iv) take any other steps to advertise the Project as the Receiver, in consultation with the Broker, deems appropriate.

Marketing Materials

11. A non-confidential marketing brochure prepared by the Broker, in consultation with the Receiver, (the “**Marketing Brochure**”) describing the opportunity to acquire the Project will be made available by the Broker to all Known Buyers as soon as reasonably practicable following the commencement of the Sale Process. Additionally, the Marketing Brochure will be made publicly available during the Phase II marketing period, ensuring full market coverage for the sale of the Project.

Access to Dataroom & Site Visits

12. In order for any party that is interested in participating in the Sale Process to: (i) participate in the Sale Process; (ii) be granted access to the electronic dataroom that contains confidential information concerning the Project (the “**Dataroom**”); and (iii) be provided with any other confidential information by the Broker or the Receiver, such party must deliver to the Receiver or the Broker, an executed confidentiality agreement, in form and substance satisfactory to Receiver (“**Confidentiality Agreement**”) and which includes an acknowledgement as to the receipt of a copy of the Approval Order (including these Sale Procedures) and agreeing to accept and be bound by the provisions contained therein. A party, who in the opinion of the Receiver has complied with both of these requirements shall be deemed a “**Potential Bidder**”.

13. Upon execution of the Confidentiality Agreement, Potential Bidders will also receive a confidential information memorandum (the “**CIM**”), providing additional details about the Project and the Sale Process. Due to the volume of documents expected to be provided in the Dataroom, the Receiver, in consultation with the Broker, recognizes that a CIM will assist Potential Bidders to evaluate the opportunity during the Sale Process.

14. Potential Bidders shall be provided with access to the Dataroom, together with the Marketing Brochure and the CIM (collectively the “**Marketing Materials**”), as the Receiver or Broker may deem appropriate. The Receiver, Broker, BDI and their respective representatives and advisors make no representation or warranty as to the accuracy or completeness of any information provided to Potential Bidders, including the information contained in any Marketing Materials or the Dataroom. The Receiver and Broker will coordinate all reasonable requests from Potential Bidders for additional information and due diligence access to the Project Premises. The Receiver, Broker, BDI and their respective representatives and advisors are not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Project, whether provided during site visits or obtained from the Dataroom or otherwise.

Bidding Process

Initial Bid Deadline

15. Unless otherwise extended by the Receiver on notice in accordance with this paragraph, the initial bid deadline (the “**Initial Bid Deadline**”) shall be January 17, 2024. In the event that the Receiver extends the Initial Bid Deadline, the Receiver shall provide five (5) calendar days notice of the extension to the following parties and in the following manner:

- a. Email and/or telephone to all Potential Bidders;
- b. Email to all Known Buyers;
- c. Updating any applicable social media and/or postings on listing platforms; and
- d. Publication in the Dataroom and the website established by the Receiver for the Receivership Proceedings.

Non-Binding LOIs & Bids

16. A Potential Bidder that wishes to make a formal offer to consummate a potential transaction must deliver a non-binding letter of intent (“**Non-Binding LOI**”) to the Broker and the Receiver by sending an email attaching same to the email addresses set out for each in Schedule “A” hereto. A Non-Binding LOI shall only be considered a “**Bid**” (and such Potential Bidder submitting the Bid, a “**Bidder**”) and reviewed by the Receiver in the Sale Process if it is received by the Broker and Receiver by no later than the Initial Bid Deadline, and meets the requirements set by the Receiver and/or the Broker, which shall include the following:

- a. General Deal Structure: Clear identification of: (i) the total proposed purchase price (the “**Purchase Price**”) for the acquired Project and related assets (the “**Purchased Assets**”); and (ii) any liabilities anticipated to be assumed;
- b. Material Conditions: Clear identification of all material conditions to closing that the Bidder may wish to impose and the process and expected timing for satisfaction of same;
- c. Overview of Bidder: The identity and background of all parties submitting the Bid;
- d. No Reliance: An acknowledgement and representation that the Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Purchased Assets and liabilities to be assumed; and (ii) has not relied upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied regarding the Purchased Assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith;
- e. As is/Where is: A confirmation that the Purchased Assets to be acquired and liabilities to be assumed are to be acquired and assumed substantially on an “as, is, where is” and without recourse basis; and
- f. Additional Information: Such other information as may reasonably be requested by the Receiver and/or the Broker.

Review of Non-Binding LOIs & Bids

17. The Receiver, in consultation with the Broker, will review each Non-Binding LOI. The Receiver and/or the Broker may request clarification of the terms of any Non-Binding LOI and, for greater certainty, may hold clarifying discussions with any Bidder regarding its Non-Binding LOI, including to request that such Bidder submit a revised and clarified Non-Binding LOI, provided the initial Non-Binding LOI was submitted by the Initial Bid Deadline.

18. As soon as reasonably practicable following the Initial Bid Deadline, the Receiver, in consultation with the Broker, will assess the Non-Binding LOIs received and determine which Non-Binding LOIs constitute Bids. To the extent that a Non-Binding LOI is not compliant with any one or more of the requirements specified in paragraph 16, the Receiver, in consultation with the Broker, may waive such non-compliance, in the Receiver’s sole discretion.

19. On or about January 24, 2025, the Receiver, following consultation with the Broker may:

- a. Select a Bid as a lead bid (a “**Lead Bid**”), if the Bidder submitting such Lead Bid is determined to be a Qualified Bidder (as defined and described below) and such Bid is determined to satisfy the requirements of a Qualified Bid set out in paragraph 21

(with the exception of it being irrevocable and binding, and provided that it has been submitted by the Initial Bid Deadline or in accordance with paragraph 17) and negotiate and settle the terms of a Binding Agreement (defined below) with such Qualified Bidder.

- b. Initiate a second round of bidding and request that two or more Bidders submit qualifications to become Qualified Bidders (as defined and described below) and submit a “**Binding Offer**” in the form of a markup of a form of purchase and sale agreement prepared by the Receiver (“**Form of Binding Agreement**”) and deliver a copy thereof, together with a blackline against the Form of Binding Agreement (or such other form of binding agreement that the Receiver, in its sole discretion, determines is satisfactory), by a deadline to be designated by the Receiver in consultation with the Broker, and communicated to such Bidders on no less than 10 calendar days’ notice (the “**Qualified Bid Deadline**”), in which case the Receiver may, following consultation with the Broker, select a Binding Offers as a successful bid and negotiate and settle the terms of Binding Agreement(s).

The Receiver may require a cash deposit to be provided with each Qualified Bid, on terms acceptable to the Receiver and, in an amount to be determined by the Receiver on no less than two (2) business days’ notice to such Qualified Bidders (as defined and described below).

20. Any Binding Agreement that is settled in accordance with paragraph 19 (a) and executed or any Binding Offer that is selected as a successful bid in accordance with paragraph 19 (b) shall be a “**Successful Bid**”.

Qualified Bids

21. As soon as reasonably practicable following the Qualified Bid Deadline, the Receiver, in consultation with the Broker, will assess the Binding Offers received and determine which Binding Offers constitute Qualified Bids. A Binding Offer shall only be considered a “**Qualified Bid**” if it meets the requirements set by the Receiver and/or the Broker, which shall include the following:

- a. Qualified Bidder: The Binding Offer is submitted by a Qualified Bidder (as defined and described below) and meets all of the criteria of a Bid as set out in paragraph 16;
- b. Deadline: The Binding Offer is received by the Broker and Receiver by no later than the Qualified Bid Deadline;
- c. Irrevocability: The Binding Offer is irrevocable for a period of not less than 5 Business days;
- d. Identity of Sponsors: The identity of all parties that will be sponsoring or participating in the proposed transaction, including all direct and indirect principals of the Qualified Bidder and information about any sources of debt or equity capital sufficient for the Receiver to determine which individuals have a direct or indirect economic interest in the proposed transaction;
- e. Approval: Evidence, in form and substance reasonably satisfactory to the Receiver, of corporate authorization and approval from the Qualified Bidder’s board of directors (or comparable governing body) with respect to the submission, execution, and delivery of the Binding Offer, which clearly identifies any anticipated shareholder, regulatory or other approvals outstanding (and the anticipated time frame and any anticipated impediments for obtaining such approvals);
- f. Assumed Contracts: Clear identification of the contracts, agreements or other

arrangements that are to be assumed by the Qualified Bidder;

- g. Due Diligence: To the extent that the proposed transaction is conditional upon additional confirmatory due diligence, clear identification of the scope and nature of such confirmatory due diligence and timing for satisfaction of same;
- h. Timeline to Closing: A timeline to closing with critical milestones; and
- i. Additional Information: Such other information as may reasonably be requested by the Receiver and/or the Broker.

22. To the extent that a Binding Offer is not compliant with any one or more of the requirements specified in paragraph 21, the Receiver, in consultation with the Broker, may waive such non-compliance, in the Receiver's sole discretion.

Qualified Bidder Requirements

23. The Receiver, in consultation with the Broker, shall assess each Bidder to determine whether such Bidder is likely to be able to consummate its proposed transaction (a "Qualified Bidder"), taking into account such factors as, without limitation, the Bidder's financial wherewithal, availability of financing, existing market presence (if any), experience with comparable transactions to the proposed transaction and any other factors that may be relevant, in the sole discretion of the Receiver. The Receiver shall promptly notify any Bidder which has been determined to be a Qualified Bidder.

24. At any time during the Sale Process, the Receiver may, in consultation with the Broker, eliminate a Potential Bidder or Bidder from the Sale Process, including if: (i) such party does not submit a Bid by the Initial Bid Deadline; (ii) such party does not submit a Qualified Bid by the Qualified Bid Deadline (if applicable); or (iii) the Receiver determines that a previously designated Qualified Bidder ceases to meet the criteria of a Qualified Bidder. Any Potential Bidder or Bidder who is disqualified from the Sale Process will be notified as such by the Receiver, and shall (i) have its access to the Dataroom terminated, and (ii) no longer be entitled to further correspondence or updates regarding the Sale Process, in each case unless and until the Receiver determines, in its sole discretion, that the Bidder qualifies (or re-qualifies) as a Qualified Bidder.

Successful Bids

25. Evaluation criteria with respect to whether a Bid or Qualified Bid constitutes a Successful Bid may include, but are not limited to factors such as: (i) the Purchase Price and net value (including assumed liabilities and other obligations to be performed by the Qualified Bidder); (ii) the form of consideration being offered, including any Purchase Price adjustments and/or any non-cash consideration; (iii) whether there is a firm irrevocable commitment for financing or whether the Qualified Bidder has demonstrated access to sufficient capital resources to consummate its proposed transaction; (iv) the claims likely to be created by such bid in relation to other bids; (v) the counterparties to its proposed transaction; (vi) the terms of its proposed Binding Agreement; (vii) the scope, nature and anticipated length of any remaining due diligence that remains to be carried out; (viii) other factors affecting the speed, certainty and value of its proposed transaction (including any regulatory approvals required to close its proposed transaction); (ix) the Project assets and liabilities included or excluded from the bid; and (x) the likelihood and timing of consummating the proposed transaction.

Court Approval

26. The acceptance of the Successful Bid by the Receiver will be subject to approval of the Court. The Receiver shall use reasonable efforts to apply to the Court for approval of any Successful Bid as soon as practical following the determination by it of any such Successful Bid.

27. On closing of a Successful Bid, any other Binding Offers (other than such Successful Bid) shall be deemed rejected by the Receiver as of the date of the closing of such Successful Bid.

Modification, Termination & Waiver

28. The Receiver shall have the right, at any time and in its sole discretion, to: (i) waive strict compliance with the terms of this Sale Process (including missed deadlines or late submission of materials) by any person (including the Receiver); and (ii) modify the procedures set out herein (including altering the deadlines set out herein), and/or adopt such other procedures that will better promote the sale of the Project, provided that material modifications to, or the termination of, the Sale Process shall require Court approval. For certainty, any waiver of or amendments to the deadlines set out herein shall not constitute a material modification.

“As Is, Where Is”

29. Any sale of the Project will be on an “as is, where is” and without recourse basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Receiver, the Broker, BDI or their respective representatives or advisors, except to the extent otherwise expressly provided under a Binding Agreement.

Free of Any and All Claims and Interests

30. In the event of a sale of the Purchased Assets in the Receivership Proceedings, to the extent permitted by law, all of the rights, title and interests of BDI in such Purchased Assets will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges and interests on or against such Purchased Asset (collectively, the “**Claims and Interests**”) pursuant to approval and vesting order(s), other than those permitted encumbrances expressly set out in any applicable Binding Agreement, and such Claims and Interests are only to attach to the net proceeds of the sale of Purchased Assets (without prejudice to any claims or causes of action regarding the priority, validity or enforceability thereof).

No Obligation to Conclude a Transaction

31. Neither the Receiver nor the Broker shall be under any obligation to (i) continue negotiations with any Qualified Bidder, and/or (ii) accept any Qualified Bid or other offer (including the highest or best offer), or to select any Successful Bid. Without limiting the generality of the foregoing and for greater certainty, the Receiver, in consultation with the Broker, shall have the discretion to determine that a Qualified Bid is not a Successful Bid, even if such Qualified Bid has the highest gross Purchase Price, having regard in all circumstances to the criteria set out in paragraph 25 above.

No Liability

32. The Receiver, Broker, BDI and their respective representatives and advisors shall have no liability or obligations whatsoever to any party or person in connection the Sale Process, including but not limited to arising from any rejection of any Bid, Qualified Bid or Binding Offer. No party or person shall have any entitlement for any reason (including in the event of any modification or termination of the Sale Process) to reimbursement for any costs or expenses incurred.

Notice

33. Any documents, notices, communication or deliverables to be provided to the Receiver or Broker hereunder shall be provided in accordance with and in the manner specified in Schedule “A” hereto.

General

34. The Receiver shall be at liberty, throughout the duration of the Sale Process, to consult with the Applicant in respect of matters related to the Sale Process and provide such party with a copy of all Non-Binding LOIs, Binding Offers and Binding Agreements, provided that the Applicant confirms to the Receiver in advance of such consultation and in writing that, neither it nor its affiliates, related parties or principles will be participating in the Sale Process as a Potential Bidder or Bidder.

35. Nothing in this Sale Process, the Approval Order or in any other Court order approving this Sale Process shall create any rights in any person other than the Receiver and the Broker.

36. All inquiries from parties interested in participating in the Sale Process (including any Potential Bidders) shall be directed to the Receiver or the Broker. For greater certainty, no party interested in participating in the Sale Process (including any Potential Bidder) shall have any discussions regarding any transaction or the Project with representatives of BDI or any other related parties of the Project without the advance written consent of the Receiver.

37. At any time during this Sale Process, the Receiver may apply to the Court for advice and directions with respect to the matters contemplated hereby.

Schedule “A” to Sale Process

Defined Terms:

Capitalized terms used but not otherwise defined in the Sale Process procedures shall have the following meanings:

“Binding Agreement” means a definitive and binding agreement of purchase and sale.

“Business Day” means a day, other than a Saturday or Sunday, on which banks are open for business in the City of Winnipeg.

Notice:

Any notice, document, communication or other deliverable permitted or required to be given under the Sale Process (including the submission of Non-Binding LOIs and/or any Binding Offers) shall be given by electronic mail to the below recipients, and shall be deemed to be sent: (i) on the day that it is sent, if it is sent prior to 5:00 pm (Winnipeg Time) on a Business Day, or (ii) on the next following Business Day, if it is sent after 5:00 pm (Winnipeg Time) on a Business Day, or on a non-Business Day.

TO THE RECEIVER:

KPMG INC.

Attention: Katherine Forbes / Mackenzie Wong

Email: katherineforbes@kpmg.ca / mackenziewong@kpmg.ca

TO THE BROKER:

Colliers International Group Inc.

Attention: Matt Odger/ Steven Foubert

Email: Matt.Odger@colliers.com / Steven.Foubert@colliers.com

WITH A COPY TO:

MLT AIKINS LLP

Attention: J.J. Burnell / Anjali Sandhu

Email: JBurnell@mltaikins.com / ASandhu@mltaikins.com