

Supreme Court of Nova Scotia

Between:

**Canadian Imperial Bank of Commerce, a
chartered bank**

Plaintiff

- and -

3304051 Nova Scotia Limited, a body corporate

Defendant

Sale Approval and Vesting Order
Sale of Power Purchase Agreement to Nova Scotia Power Inc.

Before the Honourable _____ in chambers:

UPON MOTION of Deloitte Restructuring Inc. (the “Receiver”) in its capacity as Court-appointed receiver of all of the assets, undertakings and properties of 3304051 Nova Scotia Limited (the “Company”) for an Order:

- (i) abridging the time for service so that this motion is properly returnable on April 27, 2021;
- (ii) approving the sale transaction (the “Transaction”) contemplated by an agreement of purchase and sale dated April 9, 2021 (the “APS”) between the Receiver and Nova Scotia Power Inc. (the “Purchaser”) and transferring to the Purchaser all of the Company’s and the Receiver’s right, title and interest in and to certain personal property described in the APS, more particularly described in Schedule “A” (the “Purchased Assets”); and
- (iii) vesting and transferring the Company’s and the Receiver’s right, title and interest in and to the Purchased Assets in the Purchaser or the Purchaser’s assignee, nominee or designate, as the case may be, free and clear of all Claims as defined below.

AND UPON READING the affidavit of Marc Dunning, the Second Report of Deloitte including the Confidential Supplement to the Second Report and other material on file herein;

IT IS HEREBY ORDERED THAT:

1. The time for service of the Notice of Motion is hereby abridged and validated so that this Motion is properly returnable today and further service thereof is hereby dispensed with.
2. Unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meanings given to them in the APS.
3. The Transaction is hereby approved and the execution and delivery of the APS by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver and the Purchaser may agree to. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents, including a deed, bill of sale, assignment or general conveyance document, as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser or its assignee, nominee or designate, as the case may be, pursuant to the APS.
4. Upon the delivery of a Receiver's Deed and Receiver's Certificate, substantially in the form attached as Schedule "B" hereto (the "Receiver's Certificate"), to the Purchaser or its assignee, nominee or designate as the case may be, and closing the Transaction in accordance with the APS, all of the Company's and the Receiver's right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser or its assignee, nominee or designate as the case may be, free and clear of and from any and all security interests (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 including, without limiting the generality of the foregoing any encumbrances or charges created by the Receivership Order issued February 11, 2021, and all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Nova Scotia), *Land Registration Act* (Nova Scotia) or any other personal or real property registry system (all of which are collectively referred to as the "Claims") including those in Schedule "C".
5. With respect to the Purchased Assets as more particularly described in Schedule "A", hereto:
 - (i) the interests of the Company and the Receiver shall vest in the Purchaser subject to any applicable permitted encumbrances listed in Schedule "D" and any obligations or liabilities assumed by the Purchaser, or the Purchaser's assignee, nominee or designate pursuant to the APS.
6. For the purposes of determining the nature and priority of any Claims by operation of this

Order, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Assets, and from and after the closing of the Transaction, all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the closing of the Transaction.

7. Notwithstanding:

- (a) the pendency of these proceedings, and
- (b) the assignment in bankruptcy made in respect of the Company and the bankruptcy order issued by this Court on February 11, 2021,

the entering into of the APS, the transfer of the Purchased Assets to the Purchaser or its assignee, nominee or designate as the case may be, and the vesting of the Purchased Assets in the Purchaser, or its assignee, nominee or designate as the case may be, pursuant to this Order, shall be binding on the trustee in bankruptcy appointed in respect of the Company and shall not be void or voidable by creditors of the Company, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA, any other applicable federal or provincial legislation or otherwise at law or equity, 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, registrar, 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.

ISSUED at Halifax, Province of Nova Scotia, this ___ day of April, 2021.

Prothonotary

Schedule “A”
Purchased Assets

Power Purchase Agreement between Hefler Forest Products Ltd. (“HFPL”) and Nova Scotia Power Inc. (“NSPI”) dated November 28, 2013 which was assigned to the Company pursuant to an Assignment and Assumption Agreement between HFPL, NSPI and the Company dated March 2017

Schedule “B”
Receiver’s Certificate

2021

Hfx No. 503367

Supreme Court of Nova Scotia

Between:

Canadian Imperial Bank of Commerce, a
chartered bank

Plaintiff

- and -

3304051 Nova Scotia Limited, a body corporate

Defendant

Receiver’s Certificate

RECITALS:

A. Pursuant to an Order of the Supreme Court of Nova Scotia issued February 11, 2021 (the “Receivership Order”), Deloitte Restructuring Inc. (the “Receiver”) was appointed receiver of all of the assets, undertakings and properties of 3304051 Nova Scotia Limited (the “Company”);

B. Pursuant to an Order of the Supreme Court of Nova Scotia issued February 11, 2021 (the “Sales Process Order”), the Receiver was authorized to and did carry out a sales process for the Company’s assets;

C. The Receiver and Nova Scotia Power Inc. (the “Purchaser”) have entered into an accepted agreement of purchase and sale dated April 9, 2021 (the “APS”) in respect of certain personal property owned by the Company (the “Purchased Assets”); and

D. The Order of this Court issued on April __, 2021, provided for the sale of the Purchased Assets to the Purchaser (hereinafter the “Grantee”), vesting the right, title and interest of the Receiver and the Company in the Purchaser or its assignee, nominee or designate, as the case may be, free and clear of all claims to be effective with respect to the Purchased Assets upon delivery by the Receiver to the Grantee of a certificate in this form.

THE RECEIVER CERTIFIES as follows:

1. Grantee has paid and the Receiver (or its agent) has received the purchase price for the Purchased Assets payable pursuant to the APS.
2. The conditions to closing the sale of the Purchased Assets as set out in the APS have been satisfied or waived by the Receiver and the Grantee.
3. The sale of the Purchased Assets as contemplated by the APS has been completed to the satisfaction of the Receiver.

Dated the ___ day of April, 2021

Deloitte Restructuring Inc. in its capacity as Court-appointed Receiver of 3304051 Nova Scotia Limited and not in its personal capacity

Per: _____

Name:

Title:

Schedule "C"

Encumbrances to be Discharged as Against the Purchased Assets

Personal Property Security Act (Nova Scotia)

<u>Secured Party</u>	<u>Registration Number</u>
Canadian Imperial Bank of Commerce	27388917
Deloitte Restructuring Inc.	33978271 (original) 34058479 (amendment)
Deloitte Restructuring Inc.	34058537 (original)

Schedule "D"
Permitted Encumbrances

None