IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS

In re: KODIAK SERVICES USA, INC., *et al.*, Debtors.[1]	Chapter 15 Case No. 19-70031 (TMD) Jointly Administered

MOTION FOR ENTRY OF AN ORDER (A) RECOGNIZING AND GIVING FULL FORCE AND EFFECT TO THE ORDER APPROVING SALE OF CERTAIN ASSETS OF THE DEBTORS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS, AND (B) GRANTING RELATED RELIEF

This pleading requests relief that may be adverse to your interests.

If no timely response is filed within 21 days from the date of service, the relief requested herein may be granted without a hearing being held.

A timely filed response is necessary for a hearing to be held.

Ernst & Young Inc., in its capacity as the authorized foreign representative (the "Foreign Representative" or "Receiver") for the above-captioned debtors (collectively, the "Debtors" or "Kodiak") hereby files this *Motion For Entry of an Order (A) Recognizing and Giving Full Force and Effect to the Orders Approving Sale of Certain Assets of the Debtors Free and Clear of Liens, Claims, Encumbrances, and Interests, and (B) Granting Related Relief* (the "Motion"), seeking entry of an order (the "Order"), substantially in the form attached hereto as **Exhibit A**, (a) recognizing and giving full force and effect to the Canadian

[1] The last four digits of the United States Tax Identification Number or Canadian Business Number of the Debtors, as applicable, follow in parentheses: Kodiak Services USA, Inc. (0169) ("Kodiak USA"), Kodiak Services Partnership (9809) ("Kodiak Partnership"), Kodiak Wireline Services Ltd. (2948) ("Kodiak Wireline"), Kodiak Energy Solutions Ltd. (2892) ("Kodiak Solutions"), Kodiak Tools Ltd. (3099) ("Kodiak Tools"), and 1623360 Alberta Ltd. (1045) ("162 Alberta", collectively with Kodiak Partnership, Kodiak Wireline, Kodiak Solutions, and Kodiak Tools, the "Canadian Debtors"). The Debtors' headquarters is located at #2230, 13 Mission Avenue, St. Alberta, Alberta. Kodiak's principal place of business in the US is located at its leased premises in Midland, Texas.

Approval Order (as defined below) and as attached hereto as **Exhibit B**, approving the sale of substantially all of the Debtors' Assets to Lancaster Capital Advisory Corp (and/or its designees, the "Purchaser") free and clear of liens, claims, encumbrances and interests, and (b) granting related relief, and in support respectfully submit the following:

JURISDICTION, VENUE AND CORE ALLEGATIONS

1. This United States Bankruptcy Court for the Western District of Texas (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157 and section 1501 of title 11 of the United States Code (the "Bankruptcy Code"). This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (P).

2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408, 1409 and 1410.

3. The statutory bases for the relief requested herein are sections 105(a), 363, 1501, 1507, 1520 and 1521 of the Bankruptcy Code, rules 2002, 6004, 9007 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and rules 6004(b), 9014(a) of the Local Court Rules of the United States Bankruptcy Court for the Western District of Texas (the "Local Rules") as necessary.

INTRODUCTION

4. Kodiak carries on business providing wireline services to customers in the oil and gas industry, which services included oil well completion using perforating guns and numerous oil well testing services. Kodiak has historically operated throughout Northern Alberta, Saskatchewan, and British Colombia, Canada, and Midland, Texas though as at the date of the January 10, 2019, it was operating only in Alberta and Texas.

5. Kodiak holds various assets necessary to provide wireline services, including, among other things, vehicles, trailers, and industry specific equipment including explosives and nuclear materials in the United States.

6. As set forth more fully below, the Foreign Representative has consummated a sale of substantially all of the Debtors' assets.

BACKGROUND

A. General

7. The Debtors were financed through loans provided by ATB Financial, formerly Alberta Treasury Branches ("ATB") and Export Development Canada ("EDC" and together with ATB, the "Lenders").

8. ATB is a corporation existing pursuant to the provisions of the *ATB Financial Act*, RSA 2000 c A-45.2.

9. EDC is a self-financing Canadian Crown corporation existing pursuant to the *Export Development Act*, RSC 1985 c E-20, who supports and develops Canada's export trade by helping Canadian companies respond to international business opportunities.

10. The Lenders provided loans that were guaranteed by the other Kodiak entities and supported by various security agreements, which provide for liens on certain of the Debtors' assets.

11. As of the summer of 2018, Kodiak Partnership and Kodiak Wireline were in default of their loan agreements with ATB.

12. On August 7, 2018, ATB entered into a forbearance agreement with Kodiak (the "Forbearance Agreement"), in respect of which Kodiak defaulted and which expired through the effluxion of time.

13. On January 10, 2019, ATB brought an application to appoint a receiver and manager over the assets, properties, and undertakings of Kodiak Partnership, Kodiak Wireline, Kodiak Solutions, Kodiak Tools, and 162 Alberta (the "Initial Receivership Entities"), in the Court of Queen's Bench of Alberta (the "Canadian Court").

14. On January 10, 2019, the Canadian Court entered an order (the "Initial Receivership Order"), appointing the Receiver as receiver over the assets and undertakings of Kodiak Partnership, Kodiak Wireline, Kodiak Solutions, Kodiak Tools, and 162 Alberta (the "Initial Receivership Entities").

15. On March 13, 2019, the Canadian Court amended the Initial Receivership Order (as amended, being the "Receivership Order"), to include, and appoint the Receiver as receiver over the assets and undertakings of Kodiak USA, as well.

16. On March 27, 2019, the Foreign Representative filed Chapter 15 petitions on behalf of each of the Debtors. On March 27, 2019, the Foreign Representative filed the *Motion and Verified Petition For Provisional and Final Relief For Recognition of A Foreign Proceeding Pursuant To 11 U.S.C. §§ 105(A), 1517, 1519, 1520, And 1521* [Docket No. 2] (the "Petition for Recognition").[2] On April 26, 2019, this Court entered an Order approving the Petition for Recognition.

17. Additional factual background regarding the Debtors, including their business operations, indebtedness, and the events leading to the filing of the Receivership Proceeding and the Chapter 15 Cases, is set forth in the Declaration of Dan McCulloch Filed in Support of Verified Petitions for Recognition, filed at Docket Number 3.

B. The Sale Process

18. At the onset of the receivership proceedings, the Foreign Representative, the Lenders and certain other stakeholders were advised by Mr. Joe Hickey ("Mr. Hickey"), President of Kodiak USA, that Lancaster Capital Advisory SAS indicated interest in a potential transaction to purchase all of the Debtors' assets. The Foreign Representative has been working diligently with the Purchaser, the Debtors and the Lenders in the hopes of finalizing a potential

[2] Capitalized terms used but not otherwise defined herein are used as defined in the Petition for Recognition.

transaction.

19. On May 5, 2019, the parties entered into a transaction (the "Transaction"), wherein the Debtors agreed to sell their assets (as defined in the Sale Agreement, the "Assets") to Purchaser pursuant to the terms and conditions of that certain Agreement of Purchase and Sale (including all exhibits, schedules, and agreements ancillary thereto, the "Sale Agreement") for the price set forth therein (the "Purchase Price"). A redacted copy of the Sale Agreement is attached hereto as **Exhibit C.** The Assets include shares of 162 Alberta and substantially all of the assets of Kodiak USA, with the exception of certain current assets and certain explosive materials. Schedule "F" to the Sale Agreement provides a non-exclusive list of certain specific physical assets that will be transferred in the Transaction.

20. On May 30, 2019, the Foreign Representative filed that certain *Application By Ernst & Young Inc., Court-Appointed Receiver and Manager - Approving Sale and Vesting Title* (the "Canadian Sale Application") in the Canadian Court.

21. The Canadian Sale Application describes how Mr. Hickey, as a member of the Debtors' management, undertook extensive efforts to effectuate the sale of the Assets. A copy of the Canadian Sale Application is attached hereto as **Exhibit D**. These effort are further described in the declaration of Dan McCulloch, filed in support of this Motion (the "McCulloch Declaration"), attached hereto as **Exhibit E**.

22. The Foreign Representative believes that the efforts undertaken by Mr. Hickey, as outlined in the McCulloch Declaration, were sufficient to demonstrate that the market had been canvassed and that the costs associated with the Foreign Representative undertaking further efforts to market the Assets were unlikely to generate additional interest sufficient to justify the costs of such a process, including the additional rental costs in the United States that would be required with a lengthening of the receivership proceedings. Further, stakeholders in

the Receivership, including the Lenders, were supportive of the Foreign Representative's pursuing the potential sale with the Purchaser.

23. On June 7, 2019, the Canadian Court granted the Canadian Sale Application pursuant to that certain Order - Approving Sale and Vesting Title (the "Canadian Approval Order"), a copy of which is attached hereto as **Exhibit B**.

24. The Foreign Representative hereby seeks recognition of the Canadian Approval Order. The Sale Agreement provides for, among other things, the sale of the Debtors' right, title, and interest in, to, and under the Assets free and clear of any and all liens, encumbrances, claims, and other interests, except as otherwise set forth in the Sale Agreement.

SUMMARY OF REQUESTED RELIEF

25. By this Motion, Foreign Representative requests that the Court enter the Order, substantially in the form attached hereto as **Exhibit A**, (a) recognizing and giving full force and effect to the Canadian Approval Order approving the sale of the Assets to the Purchaser, and (b) granting related relief.

26. To be clear, the Foreign Representative seeks only an Order of recognition and full force and effect of the Canadian Approval Order in the United States, it does not seek wholesale approval of the Transaction from this Court as such approval has already been obtained in the jurisdiction of the Debtors' COMI through the Canadian Approval Order. As this Court has recognized the Canadian Proceedings as "foreign main proceedings" as defined in section 1502(4) of the Bankruptcy Code, however, sections 361 and 363 of the Bankruptcy Code apply as to the Assets to be sold in the Transaction, a substantial portion of which are within the territorial jurisdiction of the United. *See* 11 U.S.C. § 1520(a)(2) ("[u]pon recognition of a foreign proceeding that is a foreign main proceeding — [section] 363 . . . of the Bankruptcy

Code [applies] to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the [section] would apply to property of an estate").

27. To the extent the Court believes the Section 363 requirements must be proven to Order the recognition and full force and effect of the Canadian Approval Order, as set forth in detail below, the Foreign Representative submits that the requirements of section 363 of the Bankruptcy Code have been satisfied, and the sale of the Assets is expressly authorized under section 1521 of the Bankruptcy Code.[3]

A. Notice of the Transaction

28. The filing and serving of this Motion and related exhibits hereby constitutes notice of the Motion as required by Bankruptcy Rules 2002 and 6004. The Foreign Representative is requesting the Court to find the proposed notice procedures sufficient for all purposes.

29. The Foreign Representative also requests that the Court find that failure to object to the Motion shall be deemed as consent to the Motion. Therefore, any party objecting to this Motion, should timely file an objection or risk being deemed to have waived any such objection as described below.

REQUESTED RELIEF

30. By this Motion, the Foreign Representative requests that the Court recognize and give full force and effect to the Canadian Approval Order approving the sale of the Assets to Purchaser pursuant to the Transaction.

31. Assuming the Court believes it necessary, the Foreign Representative also

[3] Clearly, the Section 363 requirements only apply to Assets within the territorial jurisdiction of the United States. References to any requirements of Section 363 and how any such requirements are satisfied are, therefore, limited to Assets within the territorial jurisdiction of the United States, but the term "Assets" is utilized throughout this Motion for ease of reference.

requests that the Court hold that the sale of substantially all of the Debtors' assets related to their Canadian businesses described in the Sale Agreement to Purchaser, free and clear of all liens, claims, encumbrances and interests complies with the requirements of Section 363 and other applicable provisions of the Bankruptcy Code.

32. Finally, the Foreign Representative requests the Court to find that the notice of this Motion was sufficient for all purposes and that failure of any party to object to this Motion shall constitute consent by such party to the Motion.

DISCUSSION AND RELEVANT LEGAL AUTHORITY

A. Extension of Comity

33. The Foreign Representative respectfully requests that this Court recognize the full force and effect of, and extend comity, to the Canadian Approval Order. To the extent reference to comity is necessary, section 1509 of the Bankruptcy Code provides:

> If the court grants recognition under section 1517, and subject to any limitations that the court may impose consistent with the policy of this chapter . . . (3) a court in the United States ***shall grant comity or cooperation to the foreign representative.***

11 U.S.C. § 1509(b)(3) (emphasis added). Sections 1525 and 1527 of the Bankruptcy Code, when read in conjunction, state that the Court should "cooperate to the maximum extent possible" with the Canadian Court regarding the "coordination of the administration and supervision of the Debtors' assets and affairs." 11 U.S.C. §§ 1525 & 1527.

34. A central tenet of chapter 15 is the importance of comity in cross-border insolvency proceedings. *See Ad Hoc Group of Vitro Noteholders v. Vitro SAB De CV (In re Vitro SAB De CV),* 701 F.3d 1031, 1053 (5th Cir. 2012). The Supreme Court has defined "comity" as follows:

> "Comity," in the legal sense, is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and good will, upon the other. But it is

> the recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens, or of other persons who are under the protection of its laws.

Hilton v. Guyot, 159 U.S. 113, 143 (1895); *see also In re Vitro SAB De CV*, 701 F.3d at 1043-44; *In re Gasfrac*, No. 15-50161 (CAG) (Bankr. W.D. Tex. Mar. 18, 2015).

35. The exceptions to comity are construed especially narrowly when the foreign jurisdiction is a sister common law jurisdiction (like Canada) with procedures akin to those in the United States. *Clarkson Co. v. Shaheen*, 544 F.2d 624, 630 (2d Cir. 1976) (clear and convincing evidence of fraud is required to successfully attack a foreign judgment; the court held that it would contravene the public policy of New York and the doctrine of comity not to recognize the Canadian judgment in these circumstances); *see also In re Petition of Davis*, 191 B.R. 577, 587 (Bankr. S.D.N.Y. 1996) (stating that "Courts in the United States uniformly grant comity to Canadian proceedings" and noting that Canada is a sister common law jurisdiction with the United States).

36. The extension of comity to Canadian orders has continued since the 2005 enactment of Chapter 15. *See In re Metcalfe & Mansfield Alternative Invs.*, 421 B.R. 685, 698-99 (Bankr. S.D.N.Y. 2010) (extending comity to Canadian CCAA order providing for a third party release and citing numerous cases where American courts have extended comity to Canadian judgments); *Raymond Chabot, Inc. v. Serge Ceite Family Trust*, 2014 U.S. Dist. LEXIS 117128, 6 (D.S.C. Aug. 22, 2014) (entering temporary restraining order assisting Canadian bankruptcy receiver and noting "the widely-accepted view that Canadian judgments are entitled to recognition and enforcement here"); *Collins v. Oilsands Quest, Inc.*, 484 B.R. 593, 597 (S.D.N.Y. 2012) (bankruptcy court enforced Canadian court stay in a CCAA noting "the question here is not whether this Court should grant a stay in the first instance, but whether

it should accord comity and deference to the stay orders entered by the Alberta Court. The Court concludes that in light of the comity principles laid out above, the Court must defer to the procedures set forth in the Canadian Proceedings and enforce the stay.").

37. Based on the foregoing, the Foreign Representative requests that this Court extend comity by recognizing and giving full force and effect to the Canadian Approval Order. Therefore, the Court should enter the Order, substantially in the form attached as **Exhibit A**.

B. Relief Pursuant to Section 363 of the Bankruptcy Code

38. Section 363(b)(1) of the Bankruptcy Code provides that a debtor, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Assuming compliance therewith is necessary, the proper standard for the Court's use in considering a proposed motion to sell is the "business judgment" test and, under that standard, the Foreign Representative and the Debtors have the burden to establish sound business reasons for the terms of the proposed sale to the Purchaser. *See, e.g.*, *Institutional Creditors of Continental Air Lines, Inc. v. Continental Air Lines, Inc. (In re Continental Air Lines),* 780 F.2d 1223, 1226 (5th Cir. 1986) ("[F]or a debtor-in-possession or trustee to satisfy its fiduciary duty to the debtor, creditors and equity holders, there must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business"); *In re Crutcher Res. Corp.*, 72 B.R. 628, 631 (Bankr. N.D. Tex. 1987) ("A bankruptcy judge has considerable discretion in approving a § 363(b) sale of property of the estate other than in the ordinary course of business, but the movant must articulate some business justification for the sale."); *see also In re Terrace Gardens Park Partnership,* 96 B.R. 707, 714 (Bankr. W.D. Tex. 1989).

39. In this case, as set forth more fully herein, the Foreign Representative submits that the decision to proceed with the sale of the Assets to the Purchaser is based upon sound

business judgment and should be approved. The Foreign Representative has concluded that the Transaction will maximize the value to the Debtors' estates. As explained above, the sale was extensively negotiated at arm's length and in good faith and is the highest and best offer for the Assets. In light of the marketing efforts and the nature of the Assets, the Foreign Representative believes that the sale of the Assets to the Purchaser provides fair and reasonable value for the Assets.

40. Section 363(f) of the Bankruptcy Code provides that a debtor "may sell property under [section 363(b) of the Bankruptcy Code] free and clear of any interest in such property of an entity other than the estate" if:

> (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
>
> (2) such entity consents;
>
> (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
>
> (4) such interest is in bona fide dispute; or
>
> (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. 363(f).

41. The Foreign Representative submits that subsections (1), (2), (3), and/or (5) of section 363(f) of the Bankruptcy Code apply. Specifically, among other reasons, (a) all liens, claims, encumbrances, and interests against the Assets will attach to the sale proceeds, which will be received by the Foreign Representative and dealt with in accordance with the Canadian Approval Order, (b) the Lenders are supportive of the sale of the Assets free and clear of their liens, claims, encumbrances, and other interests (with such liens, claims, encumbrances, and other interests attaching to the sale proceeds), and (c) the Foreign Representative anticipates that the Lenders will not be paid in full from the sale proceeds. Nonetheless, the Lenders did not

object to the Canadian Sale Application or the entry of the Canadian Approval Order.

42. The Foreign Representative and the Purchaser have acted in good faith negotiating the sale of the Assets. There is no evidence of fraud or collusion in the terms of the Sale Agreement. To the contrary, the Sale Agreement was intensely negotiated at arm's length with all parties involved acting in good faith and with the participation of sophisticated advisors. In addition, the Purchaser does not share common ownership with the Debtor, is independently controlled and operated, and is not otherwise affiliated with the Debtors. Accordingly, the Foreign Representative believes that the Purchaser constitutes a good faith buyer.

43. Moreover, the Purchase Price was not controlled by any agreement among potential bidders at such sale and neither the Foreign Representative, nor the Purchaser engaged in collusion or any other conduct that would cause or permit the Sale Agreement or Transaction to be avoidable.

44. In summary, recognition of the Canadian Approval Order will promote the objectives and principles provided in Chapter 15 of the Bankruptcy Code, including section 1501 of the Bankruptcy Code. The relief requested in this Motion is specifically of a type contemplated by Section 1521 and Chapter 15. The sale should, therefore, be approved and the proposed order attached as **Exhibit A** should be entered by the Court.

DISPOSITION OF SALE PROCEEDS

45. All liens, claims, encumbrances and other interests (except those expressly set forth in the Sale Agreement as assertable against the Purchaser or the Assets) against the Debtors or the Assets will attach to the proceeds of the sale received by the Foreign Representative. The proceeds of the sale will be dealt with by the Foreign Representative pursuant to the terms and conditions of the Canadian Approval Order and further order of the Canadian Court. The net proceeds shall stand in the place and stead of the Assets, and from and

after delivery of the Foreign Representative's Certificate under the Canadian Approval Order, all claims, liens, encumbrances and other interests shall attach to the net proceeds with the same priority as they had with respect to the Assets immediately prior to the sale, as if the Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

FINAL ORDER

46. The Foreign Representative and the Debtors also request that the Court confirm when entering and approving this Motion that such order constitutes a final and appealable order and judgment. The proposed Order attached as **Exhibit A** contains such provisions.

SATISFACTION OF LOCAL RULE 6004

47. Local Rule 6004(b)(2) requires the notice of sale motion to include the proposed consideration to be received by the Debtors' estates. Contemporaneous herewith, the Foreign Representative filed a motion seeking authority to file under seal certain confidential provisions of the Sale Agreement, including the Purchase Price. The hearing on that motion is proposed to occur at the same date and time of the hearing on this Motion. Accordingly, the Foreign Representative seeks a waiver of Local Rule 6004(b)(2).

NOTICE

48. In satisfaction of the requirements of Bankruptcy Rules 2002 and 6004, the Foreign Representative intends to serve copies of this Motion (with a copy of the redacted Sale Agreement without exhibits or schedules) by first class mail upon: (a) the Office of the United States Trustee; (b) all entities (or counsel therefor) known to have asserted any lien, claim, encumbrance, right of refusal, or other interest in or upon any portion of the Assets; (c) all known federal, state, and local regulatory or taxing authorities or recording offices or any other governmental authorities that, as a result of the sale of the Assets, may have claims, contingent

or otherwise, in connection with the Debtors' ownership of the Assets or have any reasonably known interest in the relief requested by the Motion; (d) the United States Attorney's office; (e) the Internal Revenue Service; (f) all parties who have requested, or are required to receive, notice pursuant to Bankruptcy Rule 2002 as of the date of the Motion; and (g) the Lenders. The Foreign Representative submits that such notice is adequate for entry of the Order and satisfies any applicable notice provisions.

PRAYER

WHEREFORE, the Foreign Representative respectfully requests that the Court enter the Order, substantially in the form attached hereto as **Exhibit A**, and grant such other and further relief as the Court deems appropriate.

Dated: July 3, 2019

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Counsel for Ernst & Young Inc., in its capacity as receiver for the Debtors

EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS

In re: KODIAK SERVICES USA, INC., *et al*., Debtors.[1]	Chapter 15 Case No. 19-70031 (TMD) Jointly Administered

ORDER (A) RECOGNIZING AND GIVING FULL FORCE AND EFFECT TO THE ORDER APPROVING SALE OF CERTAIN ASSETS OF THE DEBTORS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS, AND (B) GRANTING RELATED RELIEF

Upon consideration of the motion of Ernst & Young Inc. in its capacity as the authorized

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foreign representative (the "Foreign Representative") for the above-captioned debtors (collectively, the "Debtors" or "Kodiak") for *Entry of an Order (A) Recognizing and Giving Full Force and Effect to the Order Approving Sale of Certain Assets of the Debtors Free and Clear of Liens, Claims, Encumbrances, and Interests, and (B) Granting Related Relief* (the "Motion")[2] seeking an order recognizing the Order attached hereto as **Exhibit A** (the "Canadian Approval Order") entered in the pending Canadian insolvency proceedings for the applicable Debtors under the Bankruptcy and Insolvency Act (the "Canadian Proceedings") concerning the sale (the "Transaction") of the Assets (as defined in the Sale Agreement (as defined below)) to Lancaster Capital Advisory Corp. (and/or its designees, the "Purchaser") pursuant to the terms and conditions of that certain *Agreement of Purchase and Sale* dated as of May 5, 2019, (such agreement, and all exhibits, schedules, and agreements ancillary thereto, as amended, collectively the "Sale Agreement"). The Court finds that it has jurisdiction to hear and determine the Motion, this is a core proceeding, and venue is proper in this District and in this Court. The Court also finds that notice was proper given the circumstances and that no party in interest made any response in opposition to the Motion or, if so, the relief requested in any such response was denied. The Court further finds that the Debtors' lenders, i.e. ATB Financial, formerly Alberta Treasury Branches ("ABT") and Export Development Canada ("EDC"), were supportive of the Transaction with the Purchaser, and neither objected to the Canadian Sale Application or the entry of the Canadian Approval Order. Based upon all evidence submitted and argument at the hearing on the Motion, including all declarations and affidavits filed and the proffer or testimony of witnesses, as well as the record of and docket filings in these cases, of which the Court takes judicial notice, the Court further finds that the relief requested is in the

[2] Capitalized terms used herein but not otherwise defined have the meanings given to such terms in the Sale Agreement.

best interest of the Debtors, their creditors, and all other parties in interest and should be granted:

THE COURT HEREBY ORDERS THAT:[3]

1. The relief requested in the Motion is GRANTED. The Foreign Representative and the Debtors are authorized and directed to take all actions necessary or appropriate to effect the relief granted pursuant to this Order.

2. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled as announced to this Court at the hearing or by filing with this Court are hereby overruled on the merits.

3. ABT and EDC's failure to object to the Motion is deemed consent for purposes of section 363(f) of the Bankruptcy and as a result, the Foreign Representative may sell the Assets free and clear of all liens, claims and encumbrances.

4. The Canadian Approval Order, attached hereto as **Exhibit A**, and all of its terms are hereby recognized and given full force and effect in the United States.

5. In light of the recognition and full force and effect of the Canadian Approval Order in the United States, the Foreign Representative and the Debtors are authorized and directed to: (A) consummate the Transaction for sale of the Assets to the Purchaser pursuant to the terms and conditions of the Sale Agreement, the Canadian Approval Order and this Order, which Transaction, upon the Foreign Representative's receipt of the Purchase Price, shall be free and clear of any and all liens, encumbrances, claims (as defined in Section 101(5) of the Bankruptcy Code (as defined below), including, but not limited to, any and all claims pursuant to any successor

[3] The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the findings of fact set forth herein constitute conclusions of law, they are adopted as such. To the extent any of the conclusions of law set forth herein constitute findings of fact, they are adopted as such.

or successor-in-interest liability theory), and interests, except as otherwise set forth expressly in the Sale Agreement, in accordance with the terms thereof without further notice or order of the Court.

6. In light of the recognition and full force and effect of the Canadian Approval Order in the United States, all liens, claims, encumbrances and interests shall attach solely to the proceeds of the Transaction (net of taxes, fees and expenses incurred in effecting the Transaction) received by the Foreign Representative with the same validity, priority, force, and effect that they now have as against the Assets, and subject to any claims and defenses the Foreign Representative or the Debtors may possess with respect thereto. The Foreign Representative shall hold such proceeds and is authorized to deal with them in accordance with Canadian Approval Order and further order of the Canadian Court.

7. Nothing contained in any order of any type or kind entered in (a) these Chapter 15 cases, (b) any subsequent Chapter 11 or Chapter 7 case into which any such Chapter 15 cases may be converted, or (c) any related proceeding subsequent to entry of this Order, shall affect, conflict with or derogate from the provisions of the Sale Agreement, the terms of the Canadian Approval Order, or the terms of this Order. To the extent this Order is inconsistent with any prior order in these Chapter 15 cases, the terms of this Order shall govern. To the extent that this Order is inconsistent with the Canadian Approval Order, the terms of the Canadian Approval Order shall govern.

8. This Order shall be effective immediately upon entry, and any stay periods in Bankruptcy Rules 7062 or 6004(h), or otherwise, are expressly waived. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding anything to the contrary, including Bankruptcy Rule 6004(h), and to any extent necessary under Bankruptcy

Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court expressly finds that there is no just reason for delay in the implementation of this Order, and expressly directs that this Order constitute an entry of judgment.

9. This Order is binding upon and governs the acts of all persons, entities, and governmental departments or agencies, including the Foreign Representative, the Debtors, their creditors, any holders of liens, claims, encumbrances and/or interests against or in the Debtors or against or on all or any portion of the Assets, any parties in interest, the Purchaser, and any trustees, examiners, responsible officers, estate representatives, or similar entities for any of the Debtors, if any, subsequently appointed in any of the Debtors' cases or upon a conversion to Chapter 11 or Chapter 7 under the Bankruptcy Code of any of the Debtors' cases, and all of their respective successors and assigns.

10. This Court shall retain jurisdiction to interpret, implement, and enforce the terms and provisions of this Order, and to adjudicate disputes concerning or relating to this Order.

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Submitted by:

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-and-

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Counsel for Ernst & Young Inc., in its capacity as Foreign Representative for the Debtors

EXHIBIT B

Form 27
[Rules 6.3 and 10.52(1)]

Clerk's stamp:

CLERK OF THE COURT
FILED
MAY 30 2019
JUDICIAL CENTRE
OF CALGARY

COURT FILE NUMBER	1901-00238
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.
DOCUMENT	**APPLICATION BY ERNST & YOUNG INC., COURT-APPOINTED RECEIVER AND MANAGER – APPROVING SALE AND VESTING TITLE**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attn: David Mann / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 File No.: 131079-100

NOTICE TO RESPONDENTS: Service List

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	June 7, 2019
Time	2:00 p.m.
Where	Calgary Courts Centre, 601 5 St SW, Calgary, Alberta T2P 5P7
Before Whom	The Honourable Justice C.M. Jones

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. An order, substantially in the form attached as Schedule "A" to this application:

   (a) abridging the time for service of this application and deeming service good and sufficient;

   (b) authorizing and approving the sale transaction (the "**Transaction**") between Ernst & Young Inc. in its capacity as court-appointed receiver and manager (the "**Receiver**") of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd., 1623360 Alberta Ltd., and Kodiak Services USA, Inc., (collectively, "**Kodiak**") and the purchaser, Lancaster Capital Advisory Corp. or its designate (the "**Purchaser**"), as described in the Receiver's Third Report (the "**Third Report**") and the Confidential Supplement to the Third Report (the "**Confidential Supplement**");

   (c) approving the actions of the Receiver, including the sale process described in the Third Report and Confidential Supplement;

   (d) authorizing and directing the Receiver to take such steps and execute all such deeds, documents and instruments as may be reasonably necessary to consummate the Transaction;

   (e) upon the delivery of a Receiver's Certificate, vesting all of Kodiak's right, title, and interest in and to the Purchased Assets (as that term is defined in the Third Report) in the Purchaser, free from all claims and encumbrances;

   (f) granting leave to the Receiver to apply or reapply to this or any court or administrative body in any Province of Canada or the United States of America for advice, assistance and directions as may be necessary to carry out the terms of the order sought; and

   (g) granting such further and other relief, advice, and directions as counsel may advise and this Honourable Court deem just and appropriate.

2. An order, substantially in the form attached as Schedule "B" to this application, sealing the Confidential Supplement.

Grounds for making this application:

<u>Receivership Proceedings</u>

3. On January 10, 2019, pursuant to an application made by ATB Financial ("**ATB**") in respect of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd., and 1623360 Alberta Ltd. (collectively, the "**Kodiak Canada**"), EY was appointed as Receiver of Kodiak Canada by virtue of an order of the Court of Queen's Bench of Alberta (the "**Initial Receivership Order**").

4. On March 13, 2019, pursuant to an application made by ATB, the Initial Receivership Order was amended to appoint EY as Receiver of Kodiak Services USA, Inc. in addition to Kodiak Canada (Kodiak Canada and Kodiak Services USA, Inc. are collectively the "**Debtors**", and the Initial Receivership Order, as amended, is the "**Receivership Order**").

5. The Receiver's appointment over Kodiak is recognized by the United States Bankruptcy Court, who has determined that Canada is the centre of main interest for the receivership proceedings.

Sale Approval and Vesting Order

6. Pursuant to the terms of the Receivership Order, and in particular paragraphs 3(k), 3(l), and 3(m), the Receiver is authorized to negotiate terms and conditions of sale with respect to the current and future assets, undertakings, and properties of the Debtors (the "**Property**"), sell the Property with approval of the Court, and apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser free and clear of any liens or encumbrances affecting such property.

7. Upon the Receiver's appointment over Kodiak Canada, the Receiver engaged in discussions with the Purchaser regarding the Purchaser's interest in a potential sale of certain assets of Kodiak Canada and Kodiak Services USA, Inc.

8. These discussions continued, and the Receiver's appointment was expanded to include Kodiak Services USA, Inc., which appointment has since been recognized by the United States Bankruptcy Court.

9. The Receiver's negotiations with the Purchaser culminated in the Agreement of Purchase and Sale dated May 5, 2019 (the "**Sale Agreement**"), a redacted copy of which is attached to the Third Report.

10. The Receiver believes that the approval of the Sale Agreement is just and appropriate for the reasons set out more particularly in the Third Report and Confidential Supplement, including:

    (a) management of Kodiak Services USA, Inc. has advised of the efforts undertaken to effect a sale of the Purchased Assets prior to the appointment of the Receiver, and the Receiver believes these efforts demonstrate that the market has been sufficiently canvassed;

    (b) further or additional marketing efforts are unlikely to produce a benefit for the estate;

    (c) the Receiver is satisfied the value being obtained for the assets being sold is reasonable in the circumstances; and

    (d) ATB and EDC, secured creditors of Kodiak, approve of the Transaction; and

    (e) approval of the Transaction will enable the Receiver to take steps to terminate the current lease of the yard where the Purchased Assets are located, which will provide cost savings in the receivership.

11. The terms set out in the proposed form of order, attached as Schedule "A", are reasonable and necessary to effect the sale of the Purchased Assets as contemplated by the Receiver and the Purchaser.

Sealing Confidential Supplement

12. The Confidential Supplement contains commercially sensitive information, is confidential, and should be sealed until the Receiver is discharged to avoid the tainting of any potential future sales process, which may be required should any of the sales fail to be completed. The terms set out in the proposed form of order attached as Schedule "B" are necessary to accomplish this.

13. The proposed sealing order is limited in that the Confidential Supplement would only remain sealed until the discharged of the Receiver. The public disclosure of the information contained in the Confidential Supplement, prior to the Receiver's discharge, would cause serious and irreparable harm to the estate and its stakeholders. The sealing provision is a fair and reasonable means to address the harm of restricting public dissemination at this time.

Material or evidence to be relied on:

14. Receiver's Third Report, filed.

15. Confidential Supplement to the Receiver's Third Report, unfiled.

16. The pleadings and proceedings in the within action.

17. Such further and other material and evidence as counsel may advise and this Honourable Court may permit.

Applicable Rules:

18. *Alberta Rules of Court*, Alta Reg 124/2010, including but not limited to rules 1.2-1.5, 6.3(1), 6.47(e) and (f), 6.9(1)(a), 11.27, and Part 6, Division 4, including Rule 6.28(b).

19. Such further and other Rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

20. *Bankruptcy and Insolvency Act*, RSC 1985 c B-3.

21. *Bankruptcy and Insolvency General Rules*, CRC c 368.

22. *Judicature Act*, RSA 2000 c J-2.

23. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

24. None.

How the application is proposed to be heard or considered:

25. In person, before the Presiding Commercial List Justice.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Schedule "A" to the Application

COURT FILE NUMBER	1901-00238
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.
DOCUMENT	**ORDER - APPROVING SALE AND VESTING TITLE**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attn: David Mann / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 File No.: 131079-100

DATE ON WHICH ORDER WAS PRONOUNCED:	June 7, 2019
LOCATION WHERE ORDER WAS PRONOUNCED:	Calgary, Alberta
NAME OF JUSTICE WHO MADE THIS ORDER:	The Honourable Justice CM Jones

UPON THE APPLICATION by Ernst & Young Inc. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertaking, property and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd., 1623360 Alberta Ltd., and Kodiak Services USA, Inc. (collectively, the "**Debtors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and Lancaster Capital Advisory Corp. or its designate (the "**Purchaser**"), dated May 5, 2019 a redacted copy of which is appended to this Order and to the Receiver's Third Report dated May 30, 2019 (the "**Report**"), and an unredacted copy of which is appended to the Confidential Supplement to the Third Report (the "**Confidential Supplement**"), and vesting in the Purchaser (or its nominee) the Debtors' right, title and interest in and to the property described in the Sale Agreement (the "**Purchased Assets**");

AND UPON HAVING READ the Receivership Order pronounced January 10, 2019 as amended March 13, 2019 (the "**Receivership Order**"), the Report, and the Affidavit of Service of ● sworn June ●, 2019, to be filed; **AND UPON HEARING** the submissions of counsel for the Receiver and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTIONS

2. 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 or for the conveyance of the Purchased Assets to the Purchaser (or its nominee).

3. The sale process and all actions taken by the Receiver to date, as outlined in the Report, are commercially reasonable and are hereby ratified and approved.

4. The Transaction is commercially reasonable and in the best interests of the Debtors and their stakeholders.

VESTING OF PROPERTY

5. Upon the delivery of a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement attached as **Schedule "B"** hereto shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from all rights of first refusal and pre-emptive rights of third parties, any and all security interests (whether contractual, statutory, or otherwise), hypothecs, caveats, 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, any encumbrances or charges created by the Receivership Order and all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system. For greater certainty, this Court orders that all of the Claims affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

6. The Purchaser (and its nominee, if any) shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against the Debtors.

7. The Debtors and all persons who claim by, through or under the Debtors in respect of the Purchased Assets shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Purchased Assets and, to the extent that any such person remains in possession or control of any of the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).

8. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtors, or any person claiming by or through or against the Debtors.

9. The Registrar of the Alberta Personal Property Registry, Registrar of Land Titles of Alberta (notwithstanding the requirements of subsection 191(1) of the *Land Titles Act*, RSA 2000 c L-4), and any other registrar or officials of public registries in Alberta are hereby directed to transfer each of the registrations identified in the Sale Agreement to the name of the Purchaser (or its nominee), irrespective of whether the registration stands in the name of the Debtors or some other third party, and this Order shall be good and sufficient authority for doing so.

10. The aid and assistance of the officials of the public registries in any Province of Canada or State in the United States of America is requested to give effect to this Order by transferring each of the registrations identified in the Sale Agreement to the name of the Purchaser (or its nominee), irrespective of whether the registration stands in the name of the Debtors or some other third party.

11. The Receiver is to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof to the Purchaser (or its nominee).

12. Pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* and section 20(e) of the Alberta *Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser, i) any personal information of customers of the Debtors and users of the Debtors' Property, including all persons or entities who have had or continue to have any interface with the Purchased Assets in the course of the Debtors' business; and 2) all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees, including personal information of those employees listed in the Sale Agreement. The Purchaser (or its nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtors.

13. 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 Debtors and any bankruptcy order issued pursuant to any such applications; and

    c) any assignment in bankruptcy made in respect of the Debtors

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a settlement, 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.

14. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

MISCELLANEOUS MATTERS

15. 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.

16. Service of this Order on any party not attending this application is hereby dispensed with.

17. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by posting a copy of this order to the Receiver's website maintained for these proceedings. Service is deemed to be effected the next business day following the posting of such documents.

____

Justice of the Court of Queen's Bench of Alberta

Schedule "A"

Form of Receiver's Certificate

COURT FILE NUMBER	1901-00238
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.
DOCUMENT	**RECEIVER'S CERTIFICATE**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attn: David Mann / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 File No.: 131079-100

RECITALS

A. Pursuant to an Order of the Honourable Justice Jones of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**") pronounced January 10, 2019, as amended by an Order of the Honourable Justice Yamauchi on March 13, 2019, Ernst & Young Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd.,1623360 Alberta Ltd., and Kodiak Services USA, Inc. (collectively, the "**Debtors**").

B. Pursuant to an Order of the Court dated June 7, 2019, the Court approved the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale made as of May 5, 2019 (the "**Sale Agreement**") between the Receiver and Lancaster Capital Advisory Corp. or its designate (the "**Purchaser**") and provided for the vesting in the Purchaser (or its nominee) of the Debtors' 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 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, capitalized terms have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Assets payable on the Closing Date pursuant to the Sale Agreement;

2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and

3. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver at **[Time]** on **[Date]**.

ERNST & YOUNG INC., in its capacity as receiver and manager of the undertaking, property and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd.,1623360 Alberta Ltd., and Kodiak Services USA, Inc., and not in its personal or corporate capacity.

Per:______________________________

Name:

Title:

Schedule "B" to the Application

Clerk's stamp:

COURT FILE NUMBER	1901-00238
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.
DOCUMENT	**SEALING ORDER – CONFIDENTIAL SUPPLEMENT TO RECEIVER'S THIRD REPORT**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attn: David Mann / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 File No.: 131079-100

Date on which this order was pronounced:	June 7, 2019
Location where order was pronounced:	Calgary, Alberta
Name of judge who made this order:	The Honourable Justice C.M. Jones

UPON THE APPLICATION by Ernst & Young Inc. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertakings, properties and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd.,1623360 Alberta Ltd., and Kodiak Services USA, Inc. (collectively, the "**Debtors**"); AND UPON reading the Third Report of the Receiver (the "**Third Report**"), filed and the Confidential Supplement to the Third Report of the Receiver, unfiled (the "**Confidential Supplement**"); AND UPON having read the Affidavit of Izzy Kowalcze sworn [], filed AND UPON hearing submissions of counsel to the Receiver;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Part 6 Division 4 of the *Alberta Rules of Court*, Alta Reg 124/2010 does not apply to this application.

2. The Confidential Supplement shall be filed in Court of Queen's Bench of Alberta Action Number 1901-00238 and shall immediately be sealed by the Clerk of the Court, kept confidential and not form part of the public record, and not be available for public inspection until the earlier of the discharge of the Receiver in these proceedings or until otherwise ordered by this Court, after application brought upon seven days' notice to all interested parties, whereupon the Clerk of the Court shall remove the Confidential Supplement from the sealed envelope referred to below and place the Confidential Supplement on the public record. The Supplement shall be sealed and filed in an envelope containing the following statement thereon:

> THIS ENVELOPE CONTAINS THE CONFIDENTIAL SUPPLEMENT TO THE THIRD REPORT OF ERNST & YOUNG INC. AS THE COURT-APPOINTED RECEIVER AND MANAGER OF KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD.,1623360 ALBERTA LTD., AND KODIAK SERVICES USA, INC. WHICH SHALL BE SEALED UNTIL THE RECEIVER IS DISCHARGED IN THE WITHIN ACTION OR UNTIL FURTHER ORDER OF THIS COURT AND IS NOT TO BE PLACED ON THE PUBLIC RECORD OR MADE PUBLICALLY ACCESSIBLE EXCEPT AFTER THE RECEIVER IS DISCHARGED OR IN ACCORDANCE WITH SUCH ORDER.

____
Justice of the Court of Queen's Bench of Alberta

EXHIBIT C

REDACTED SALE AGREEMENT

TO BE FILED PENDING COURT APPROVAL

EXHIBIT D

Form 27
[Rules 6.3 and 10.52(1)]

Clerk's stamp:

CLERK OF THE COURT
FILED
MAY 30 2019
JUDICIAL CENTRE
OF CALGARY

COURT FILE NUMBER	1901-00238
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.
DOCUMENT	**APPLICATION BY ERNST & YOUNG INC., COURT-APPOINTED RECEIVER AND MANAGER – APPROVING SALE AND VESTING TITLE**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attn: David Mann / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 File No.: 131079-100

NOTICE TO RESPONDENTS: Service List

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	June 7, 2019
Time	2:00 p.m.
Where	Calgary Courts Centre, 601 5 St SW, Calgary, Alberta T2P 5P7
Before Whom	The Honourable Justice C.M. Jones

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. An order, substantially in the form attached as Schedule "A" to this application:

   (a) abridging the time for service of this application and deeming service good and sufficient;

   (b) authorizing and approving the sale transaction (the "**Transaction**") between Ernst & Young Inc. in its capacity as court-appointed receiver and manager (the "**Receiver**") of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd., 1623360 Alberta Ltd., and Kodiak Services USA, Inc., (collectively, "**Kodiak**") and the purchaser, Lancaster Capital Advisory Corp. or its designate (the "**Purchaser**"), as described in the Receiver's Third Report (the "**Third Report**") and the Confidential Supplement to the Third Report (the "**Confidential Supplement**");

   (c) approving the actions of the Receiver, including the sale process described in the Third Report and Confidential Supplement;

   (d) authorizing and directing the Receiver to take such steps and execute all such deeds, documents and instruments as may be reasonably necessary to consummate the Transaction;

   (e) upon the delivery of a Receiver's Certificate, vesting all of Kodiak's right, title, and interest in and to the Purchased Assets (as that term is defined in the Third Report) in the Purchaser, free from all claims and encumbrances;

   (f) granting leave to the Receiver to apply or reapply to this or any court or administrative body in any Province of Canada or the United States of America for advice, assistance and directions as may be necessary to carry out the terms of the order sought; and

   (g) granting such further and other relief, advice, and directions as counsel may advise and this Honourable Court deem just and appropriate.

2. An order, substantially in the form attached as Schedule "B" to this application, sealing the Confidential Supplement.

Grounds for making this application:

<u>Receivership Proceedings</u>

3. On January 10, 2019, pursuant to an application made by ATB Financial ("**ATB**") in respect of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd., and 1623360 Alberta Ltd. (collectively, the "**Kodiak Canada**"), EY was appointed as Receiver of Kodiak Canada by virtue of an order of the Court of Queen's Bench of Alberta (the "**Initial Receivership Order**").

4. On March 13, 2019, pursuant to an application made by ATB, the Initial Receivership Order was amended to appoint EY as Receiver of Kodiak Services USA, Inc. in addition to Kodiak Canada (Kodiak Canada and Kodiak Services USA, Inc. are collectively the "**Debtors**", and the Initial Receivership Order, as amended, is the "**Receivership Order**").

5. The Receiver's appointment over Kodiak is recognized by the United States Bankruptcy Court, who has determined that Canada is the centre of main interest for the receivership proceedings.

Sale Approval and Vesting Order

6. Pursuant to the terms of the Receivership Order, and in particular paragraphs 3(k), 3(l), and 3(m), the Receiver is authorized to negotiate terms and conditions of sale with respect to the current and future assets, undertakings, and properties of the Debtors (the "**Property**"), sell the Property with approval of the Court, and apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser free and clear of any liens or encumbrances affecting such property.

7. Upon the Receiver's appointment over Kodiak Canada, the Receiver engaged in discussions with the Purchaser regarding the Purchaser's interest in a potential sale of certain assets of Kodiak Canada and Kodiak Services USA, Inc.

8. These discussions continued, and the Receiver's appointment was expanded to include Kodiak Services USA, Inc., which appointment has since been recognized by the United States Bankruptcy Court.

9. The Receiver's negotiations with the Purchaser culminated in the Agreement of Purchase and Sale dated May 5, 2019 (the "**Sale Agreement**"), a redacted copy of which is attached to the Third Report.

10. The Receiver believes that the approval of the Sale Agreement is just and appropriate for the reasons set out more particularly in the Third Report and Confidential Supplement, including:

    (a) management of Kodiak Services USA, Inc. has advised of the efforts undertaken to effect a sale of the Purchased Assets prior to the appointment of the Receiver, and the Receiver believes these efforts demonstrate that the market has been sufficiently canvassed;

    (b) further or additional marketing efforts are unlikely to produce a benefit for the estate;

    (c) the Receiver is satisfied the value being obtained for the assets being sold is reasonable in the circumstances; and

    (d) ATB and EDC, secured creditors of Kodiak, approve of the Transaction; and

    (e) approval of the Transaction will enable the Receiver to take steps to terminate the current lease of the yard where the Purchased Assets are located, which will provide cost savings in the receivership.

11. The terms set out in the proposed form of order, attached as Schedule "A", are reasonable and necessary to effect the sale of the Purchased Assets as contemplated by the Receiver and the Purchaser.

Sealing Confidential Supplement

12. The Confidential Supplement contains commercially sensitive information, is confidential, and should be sealed until the Receiver is discharged to avoid the tainting of any potential future sales process, which may be required should any of the sales fail to be completed. The terms set out in the proposed form of order attached as Schedule "B" are necessary to accomplish this.

13. The proposed sealing order is limited in that the Confidential Supplement would only remain sealed until the discharged of the Receiver. The public disclosure of the information contained in the Confidential Supplement, prior to the Receiver's discharge, would cause serious and irreparable harm to the estate and its stakeholders. The sealing provision is a fair and reasonable means to address the harm of restricting public dissemination at this time.

Material or evidence to be relied on:

14. Receiver's Third Report, filed.

15. Confidential Supplement to the Receiver's Third Report, unfiled.

16. The pleadings and proceedings in the within action.

17. Such further and other material and evidence as counsel may advise and this Honourable Court may permit.

Applicable Rules:

18. *Alberta Rules of Court*, Alta Reg 124/2010, including but not limited to rules 1.2-1.5, 6.3(1), 6.47(e) and (f), 6.9(1)(a), 11.27, and Part 6, Division 4, including Rule 6.28(b).

19. Such further and other Rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

20. *Bankruptcy and Insolvency Act*, RSC 1985 c B-3.

21. *Bankruptcy and Insolvency General Rules*, CRC c 368.

22. *Judicature Act*, RSA 2000 c J-2.

23. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

24. None.

How the application is proposed to be heard or considered:

25. In person, before the Presiding Commercial List Justice.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Schedule "A" to the Application

COURT FILE NUMBER	1901-00238
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.
DOCUMENT	**ORDER - APPROVING SALE AND VESTING TITLE**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attn: David Mann / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 File No.: 131079-100

DATE ON WHICH ORDER WAS PRONOUNCED:	June 7, 2019
LOCATION WHERE ORDER WAS PRONOUNCED:	Calgary, Alberta
NAME OF JUSTICE WHO MADE THIS ORDER:	The Honourable Justice CM Jones

UPON THE APPLICATION by Ernst & Young Inc. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertaking, property and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd., 1623360 Alberta Ltd., and Kodiak Services USA, Inc. (collectively, the "**Debtors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and Lancaster Capital Advisory Corp. or its designate (the "**Purchaser**"), dated May 5, 2019 a redacted copy of which is appended to this Order and to the Receiver's Third Report dated May 30, 2019 (the "**Report**"), and an unredacted copy of which is appended to the Confidential Supplement to the Third Report (the "**Confidential Supplement**"), and vesting in the Purchaser (or its nominee) the Debtors' right, title and interest in and to the property described in the Sale Agreement (the "**Purchased Assets**");

AND UPON HAVING READ the Receivership Order pronounced January 10, 2019 as amended March 13, 2019 (the "**Receivership Order**"), the Report, and the Affidavit of Service of ● sworn June ●, 2019, to be filed; **AND UPON HEARING** the submissions of counsel for the Receiver and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTIONS

2. 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 or for the conveyance of the Purchased Assets to the Purchaser (or its nominee).

3. The sale process and all actions taken by the Receiver to date, as outlined in the Report, are commercially reasonable and are hereby ratified and approved.

4. The Transaction is commercially reasonable and in the best interests of the Debtors and their stakeholders.

VESTING OF PROPERTY

5. Upon the delivery of a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement attached as **Schedule "B"** hereto shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from all rights of first refusal and pre-emptive rights of third parties, any and all security interests (whether contractual, statutory, or otherwise), hypothecs, caveats, 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, any encumbrances or charges created by the Receivership Order and all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system. For greater certainty, this Court orders that all of the Claims affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

6. The Purchaser (and its nominee, if any) shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against the Debtors.

7. The Debtors and all persons who claim by, through or under the Debtors in respect of the Purchased Assets shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Purchased Assets and, to the extent that any such person remains in possession or control of any of the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).

8. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtors, or any person claiming by or through or against the Debtors.

9. The Registrar of the Alberta Personal Property Registry, Registrar of Land Titles of Alberta (notwithstanding the requirements of subsection 191(1) of the *Land Titles Act*, RSA 2000 c L-4), and any other registrar or officials of public registries in Alberta are hereby directed to transfer each of the registrations identified in the Sale Agreement to the name of the Purchaser (or its nominee), irrespective of whether the registration stands in the name of the Debtors or some other third party, and this Order shall be good and sufficient authority for doing so.

10. The aid and assistance of the officials of the public registries in any Province of Canada or State in the United States of America is requested to give effect to this Order by transferring each of the registrations identified in the Sale Agreement to the name of the Purchaser (or its nominee), irrespective of whether the registration stands in the name of the Debtors or some other third party.

11. The Receiver is to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof to the Purchaser (or its nominee).

12. Pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* and section 20(e) of the Alberta *Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser, i) any personal information of customers of the Debtors and users of the Debtors' Property, including all persons or entities who have had or continue to have any interface with the Purchased Assets in the course of the Debtors' business; and 2) all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees, including personal information of those employees listed in the Sale Agreement. The Purchaser (or its nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtors.

13. 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 Debtors and any bankruptcy order issued pursuant to any such applications; and

    c) any assignment in bankruptcy made in respect of the Debtors

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a settlement, 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.

14. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

MISCELLANEOUS MATTERS

15. 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.

16. Service of this Order on any party not attending this application is hereby dispensed with.

17. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by posting a copy of this order to the Receiver's website maintained for these proceedings. Service is deemed to be effected the next business day following the posting of such documents.

____
Justice of the Court of Queen's Bench of Alberta

Schedule "A"

Form of Receiver's Certificate

COURT FILE NUMBER	1901-00238
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.
DOCUMENT	**RECEIVER'S CERTIFICATE**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15^{th} Floor, 850 - 2^{nd} Street S.W. Calgary, Alberta T2P 0R8 Attn: David Mann / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 File No.: 131079-100

RECITALS

A. Pursuant to an Order of the Honourable Justice Jones of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**") pronounced January 10, 2019, as amended by an Order of the Honourable Justice Yamauchi on March 13, 2019, Ernst & Young Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd.,1623360 Alberta Ltd., and Kodiak Services USA, Inc. (collectively, the "**Debtors**").

B. Pursuant to an Order of the Court dated June 7, 2019, the Court approved the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale made as of May 5, 2019 (the "**Sale Agreement**") between the Receiver and Lancaster Capital Advisory Corp. or its designate (the "**Purchaser**") and provided for the vesting in the Purchaser (or its nominee) of the Debtors' 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 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, capitalized terms have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Assets payable on the Closing Date pursuant to the Sale Agreement;

2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and

3. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver at **[Time]** on **[Date]**.

ERNST & YOUNG INC., in its capacity as receiver and manager of the undertaking, property and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd.,1623360 Alberta Ltd., and Kodiak Services USA, Inc., and not in its personal or corporate capacity.

Per:______________________________

Name:

Title:

Schedule "B" to the Application

Clerk's stamp:

COURT FILE NUMBER	1901-00238
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.
DOCUMENT	**SEALING ORDER – CONFIDENTIAL SUPPLEMENT TO RECEIVER'S THIRD REPORT**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attn: David Mann / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 File No.: 131079-100

Date on which this order was pronounced:	June 7, 2019
Location where order was pronounced:	Calgary, Alberta
Name of judge who made this order:	The Honourable Justice C.M. Jones

UPON THE APPLICATION by Ernst & Young Inc. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertakings, properties and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd.,1623360 Alberta Ltd., and Kodiak Services USA, Inc. (collectively, the "**Debtors**"); AND UPON reading the Third Report of the Receiver (the "**Third Report**"), filed and the Confidential Supplement to the Third Report of the Receiver, unfiled (the "**Confidential Supplement**"); AND UPON having read the Affidavit of Izzy Kowalcze sworn [], filed AND UPON hearing submissions of counsel to the Receiver;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Part 6 Division 4 of the *Alberta Rules of Court*, Alta Reg 124/2010 does not apply to this application.

2. The Confidential Supplement shall be filed in Court of Queen's Bench of Alberta Action Number 1901-00238 and shall immediately be sealed by the Clerk of the Court, kept confidential and not form part of the public record, and not be available for public inspection until the earlier of the discharge of the Receiver in these proceedings or until otherwise ordered by this Court, after application brought upon seven days' notice to all interested parties, whereupon the Clerk of the Court shall remove the Confidential Supplement from the sealed envelope referred to below and place the Confidential Supplement on the public record. The Supplement shall be sealed and filed in an envelope containing the following statement thereon:

> THIS ENVELOPE CONTAINS THE CONFIDENTIAL SUPPLEMENT TO THE THIRD REPORT OF ERNST & YOUNG INC. AS THE COURT-APPOINTED RECEIVER AND MANAGER OF KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD.,1623360 ALBERTA LTD., AND KODIAK SERVICES USA, INC. WHICH SHALL BE SEALED UNTIL THE RECEIVER IS DISCHARGED IN THE WITHIN ACTION OR UNTIL FURTHER ORDER OF THIS COURT AND IS NOT TO BE PLACED ON THE PUBLIC RECORD OR MADE PUBLICALLY ACCESSIBLE EXCEPT AFTER THE RECEIVER IS DISCHARGED OR IN ACCORDANCE WITH SUCH ORDER.

Justice of the Court of Queen's Bench of Alberta

EXHIBIT E

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS

In re: KODIAK SERVICES USA, INC., *et al.*, Debtors.[1]	Chapter 15 Case No. 19-70031 (TMD) Jointly Administered

DECLARATION OF DAN MCCULLOCH IN SUPPORT OF MOTION FOR ENTRY OF AN ORDER (A) RECOGNIZING AND GIVING FULL FORCE AND EFFECT TO THE ORDER APPROVING SALE OF CERTAIN ASSETS OF THE DEBTORS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS, AND (B) GRANTING RELATED RELIEF

Dan McCulloch, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury under the laws of the United States of America that the following is true and correct:

1. I am a natural person over the age of 18, a citizen of Canada, and, if called upon, could testify to all matters set forth in this declaration.

2. I am a Vice President at the firm Ernst & Young Inc. ("Receiver"), the foreign representative and duly authorized and appointed Receiver over the assets and undertakings of the above-captioned affiliates (collectively, the "Debtors" or "Kodiak") in a proceeding

[1] The last four digits of the United States Tax Identification Number or Canadian Business Number of the Debtors, as applicable, follow in parentheses: Kodiak Services USA, Inc. (0169) ("Kodiak USA"), Kodiak Services Partnership (9809) ("Kodiak Partnership"), Kodiak Wireline Services Ltd. (2948) ("Kodiak Wireline"), Kodiak Energy Solutions Ltd. (2892) ("Kodiak Solutions"), Kodiak Tools Ltd. (3099) ("Kodiak Tools"), and 1623360 Alberta Ltd. (1045) ("162 Alberta", collectively with Kodiak Partnership, Kodiak Wireline, Kodiak Solutions, and Kodiak Tools, the "Canadian Debtors"). The Debtors' headquarters is located at #2230, 13 Mission Avenue, St. Alberta, Alberta. Kodiak's principal place of business in the US is located at its leased premises in Midland, Texas.

("Receivership Proceeding") under Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the "BIA") and Section 13(2) of the *Judicature Act*, RSA 2000 c J-2, as amended ("Judicature Act") before the Court of Queen's Bench of Alberta ("Canadian Court").

3. I hereby submit this declaration in support of the *Motion for Entry of an Order (a) Recognizing and Giving Full Force and Effect to the Order Approving Sale of Certain Assets of the Debtors Free and Clear of Liens, Claims, Encumbrances, and Interests, and (b) Granting Related Relief* (the "Sale Recognition Motion").

4. Matters stated in this declaration that are based upon my personal knowledge are true and correct. Matters stated in this declaration that are not based upon my personal knowledge, but that are derived from business records, other documents and/or information are true to the best of my information and belief.

A. Proposed Sale of Assets

5. At the onset of the Receivership Proceeding, the Receiver, its counsel, ATB Financial ("ATB"), and certain other stakeholders were advised by Mr. Joe Hickey ("Mr. Hickey"), President of Kodiak USA, that Lancaster Capital Advisory Capital Corp. indicated interest in a potential transaction to purchase, either directly or through a related entity, all of the Kodiak USA's right, title and interest to the majority of assets owned or otherwise held by Kodiak USA wherever situated and all of Kodiak's rights, title and interest to the shares of Kodiak Int'l Inc. ("Kodiak INT") and Kodiak Services Mexico Sa. De Cv ("Kodiak Mexico"), which are owned by 162 Alberta (hereinafter collectively referred to as the "Purchased Kodiak Assets").

6. The Receiver has been working with the potential purchaser Lancaster Capital

Advisory Corp. ("Purchaser"), management of Kodiak ("Management"), ATB, Export Development Canada ("EDC") and all parties' respective counsel over the past few months in the hopes of finalizing a potential transaction, and has recently finalized an Agreement of Purchase and Sale (the "Sale Agreement").

7. As noted above, upon the Receiver's appointment, Mr. Hickey advised the Receiver and other stakeholders of the Purchaser's interest in pursuing a sale of the assets of Kodiak, and in particular, the assets of Kodiak USA and shares of Kodiak INT and Kodiak Mexico.

8. The Receiver understands that it is the intention of the Purchaser and Mr. Hickey that Mr. Hickey will be working with or for the Purchaser post-closing in some capacity.

9. The Receiver understands that, prior to the Receiver's appointment, Mr. Hickey, in his capacity as a member of Management of Kodiak, undertook extensive efforts to effect a sale of the assets of Kodiak, including the Purchased Kodiak Assets.

10. Mr. Hickey has provided further information and particulars regarding the efforts undertaken to effect a sale of Kodiak's assets throughout the course of the Receivership Proceeding.

11. The Receiver was, and remains, of the view that the efforts undertaken by Mr. Hickey, as described to the Receiver, were sufficient to demonstrate that the market had been canvassed and that the costs associated with the Receiver undertaking further efforts to market the Purchased Kodiak Assets were unlikely to generate additional interest sufficient to justify the costs of such a process, including the additional rental costs that would be required to facilitate further marketing efforts.

12. Further, stakeholders in the Receivership Proceedings, including ATB and EDC,

were supportive of the Receiver pursuing the potential sale with the Purchaser and did not object to the Canadian Sale Application or the entry of the Canadian Approval Order.

13. In light of this, the Receiver has worked diligently with the Purchaser to finalize the terms of the Sale Agreement, a redacted copy of which is attached to the Motion.

14. As set out in the Sale Agreement, the Purchased Kodiak Assets include, in addition to the shares of Kodiak INT and Kodiak Mexico, substantially all of the assets of Kodiak US, with the exception of certain current assets and certain explosive materials. Schedule "F" to the Sale Agreement provides a non-exclusive list of certain specific physical assets that will be transferred in the proposed transaction ("Transaction").

15. The Receiver notes the following with respect to the Purchased Kodiak Assets:

i. Kodiak USA leased office space in Houston, Texas. The Receiver has since been in contact with counsel for the landlord of this office space, who provided the Receiver with photographs of the office equipment and furniture that was left behind when the office was vacated by Kodiak USA. The contents of the Houston office, to the extent they comprise property of Kodiak USA, will be sold in the Transaction. The Receiver has not taken possession of the office furniture and has not continued paying rent. As such, the Purchaser will have to make arrangements with the landlord should they wish to recover these assets.

ii. Assets leased to Kodiak by Calmont Leasing Ltd. ("Calmont") are not included in the Sale Agreement. The Receiver has reviewed Calmont's security position and has determined the leases to be true leases and, therefore, not assets belonging to Kodiak. The Receiver is currently making arrangements with Calmont for Calmont to obtain possession of these leased assets, including seeking an Order of this Honorable Court for the assets to be returned to Calmont.

iii. Also not included in the Sale Agreement are the explosives that are stored on site in Midland, Texas, more particularly described in Schedule "G" to the Sale Agreement. Mr. Hickey and Mr. Terry Butt are listed as individuals responsible for the explosives. Access to inventory the explosives was not granted to the Receiver. The Receiver has recently been provided a copy of the explosive inventory and will be canvassing similar companies to Kodiak for interest, and will work with Mr. Hickey and Mr. Butt to ensure that the assets are transferred in accordance with Texas and US regulations.

iv. As previously noted, the Sale Agreement includes sale of shares of Kodiak Mexico and Kodiak INT. Based on communications with Management, and in particular Mr. Hickey, ATB, and EDC, the Receiver is of the view that the value ascribed to these shares in the Sale Agreement is reasonable in the circumstances.

16. The information available to the Receiver to date indicates that the assets located in the United States and included in the Sale Agreement are subject to security interests of ATB and EDC. The Receiver understands that ATB and EDC are supportive of the Transaction and the purchase price of the Purchased Kodiak Assets.

17. The Receiver understands that Business Development Bank of Canada, another secured creditor of Kodiak, is not claiming security over the Purchased Kodiak Assets and will

not be taking a position in regard to the Sale Agreement.

18. In all of the circumstances, the Receiver is of the view that sufficient efforts have been undertaken to market the Purchased Kodiak Assets, and further marketing efforts would be unlikely to produce a benefit for the estate. The Receiver is satisfied that the value being obtained for the Purchased Kodiak Assets is reasonable in the circumstances and is unlikely to be bettered by additional efforts to market the Purchased Kodiak Assets. In all of the circumstances, the Receiver, in its business judgment, supports the Transaction and requests that this Honorable Court recognize the Order of the Canadian Court approving the Transaction.

19. Based on the foregoing, which is correct to the best of my knowledge, information and belief, I believe that the relief requested in the Sale Recognition Motion is well justified, necessary to a successful Receivership Proceeding, and in the best interests of the Debtors and their creditors and should be granted in full.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 3rd day of July, 2019 in Edmonton, Alberta, Canada.

Dan McCulloch