

Form 27
[Rules 6.3 and 10.52(1)]

Clerk's stamp:

COURT FILE NUMBER	1901-12274
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL (FORMERLY ALBERTA TREASURY BRANCHES)
DEFENDANTS	1963843 ALBERTA LTD., PENHOLD CROSSING PLAZA LTD., ASHWANI AWASTHI, SWARNJIT SINGH KOONER, SUKHBIR NAIN, OM ACAYOT ABHOY, AND ANURAG SUMAN
DOCUMENT	<u>APPLICATION BY ERNST & YOUNG INC. COURT- APPOINTED RECEIVER AND MANAGER</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP 15 th Floor, 850-2 nd Street SW Calgary, AB T2P 0R8 Attn: Derek Pontin / John Regush Ph. (403) 268-6301 / 7086 File No.: 131079-102

NOTICE TO RESPONDENTS: Service List attached as Schedule "A"

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	December 6, 2021
Time	3:00 p.m.
Where	Edmonton Law Courts VIA WEB-EX at the coordinates attached as Schedule "B"
Before Whom	The Honourable Justice Feth

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. Ernst & Young Inc. ("**EYI**") Court-appointed receiver and manager ("**Receiver**") of the assets, undertakings, and properties of 1963843 Alberta Ltd. ("**196 Alberta**") and Penhold Crossing Plaza Ltd. ("**Penhold Crossing**", and collectively, the "**Debtors**") seeks an Order:
 - (a) substantially in the form attached as Schedule "C" hereto:
 - (i) abridging the time for service of this application and deeming service good and sufficient; and
 - (ii) sealing the Confidential Supplement to the Second Reports of the Receiver (the "**Confidential Supplement**");
 - (b) substantially in the form attached as Schedule "D" hereto:
 - (i) abridging the time for service of this application and deeming service good and sufficient;
 - (ii) approving the activities of the Receiver;
 - (iii) authorizing and approving the sale transaction (the "**Transaction**") between the Receiver and 1676556 Alberta Ltd. ("**Purchaser**") for the sale of the Property, as defined in the Agreement of Purchase and Sale dated November 14, 2021 between the Receiver and Purchaser (the "**APA**");
 - (iv) authorizing and directing the Receiver to terminate the Motor Fuel Supply Agreement – Esso-Branded Motor Fuels dated December 28, 2016 among Parkland Industries Ltd. and 1963843 Alberta Ltd. and Ashwani Awasthi and Swanrjit Singh Kooner, as amended by the Amending Agreement – Esso-Branded Motor Fuel Supply Agreement dated February 2017 among Parkland Fuel Corporation and 1963843 Alberta Ltd. and Ashwani Awasthi, Swarnjit Singh Kooner and Prabhdeep Awasthi ("**Motor Fuel Supply Agreement**"), effective upon filing of a Receiver's Closing Certificate regarding the Transaction;
 - (v) 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;
 - (vi) upon delivery of a Receiver's Closing Certificate, vesting in the Purchaser all of the Debtors' right, title, and interest in and to the Property free from all claims and encumbrances, except permitted encumbrances; and
 - (vii) granting leave to the Receiver to apply or reapply to this or any court or administrative body in any province of Canada for advice, assistance and directions as may be necessary to carry out the terms of the order sought; and
 - (c) granting such further and other relief, advice, and directions as counsel may advise and this Honourable Court deem just and appropriate.

Grounds for making this application:

Background

2. Penhold Crossing owns certain real property in Penhold, Alberta (the “**Penhold Property**”), comprised of a strip mall and gas station.
3. 196 Alberta operates the gas station located at the Penhold Property on a portion of the property leased from Penhold Crossing pursuant to a lease agreement (the “**Gas Station Lease**”). 196 Alberta sub-leases a portion of the property it leases from Penhold Crossing pursuant to the Gas Station Lease to a Tim Hortons franchise.
4. There is some common ownership between Penhold Crossing and 196 Alberta.
5. At the time the Receivership Order was granted, a dispute existed between certain stakeholders of Penhold Crossing and ATB regarding the validity of a cross-guarantee of 196 Alberta provided in favour of ATB (the “**Guarantee Dispute**”).
6. In light of this dispute, when the Receivership Order was granted, certain provisions were inserted in the Receivership Order that limit the scope of the Receiver’s powers pending resolution of the Guarantee Dispute, require the Receiver to allocate time and costs incurred proportionately between the Debtors, and require the Receiver to make separate reporting for each of the Debtors.
7. The Guarantee Dispute has been resolved among the parties, and as a result the Receiver was able to obtain an Order approving a sales process for the Debtors’ property on November 10, 2020 (the “**Sales Process Order**”).

Renewed Sales Process

8. As described in the Receiver’s prior Reports, the Sales Process generated 14 Qualified Bids, and the Receiver attempted to negotiate a definitive purchase agreement with two Qualified Bidders, however those negotiations did not lead to a definitive purchase agreement.
9. The Receiver subsequently attempted to negotiate a definitive purchase agreement with a party who put forward an unsolicited offer, however those negotiations also did not lead to a definitive purchase agreement.
10. As a result, the Receiver sought and obtained the approval of this Honourable Court to implement the “Renewed Sales Process”, as described in the Receiver’s Supplemental Reports to the Fourth Reports.
11. The Renewed Sales Process was implemented after receipt of the updated Phase II environmental assessment on October 10, 2021 and generated 13 offers by the November 1 bid deadline.
12. Certain of these offers were subject to conditionality such that they were not deemed Qualified Bids in the Renewed Sales Process.

13. On November 8, the Purchaser, who had submitted a bid in the Renewed Sales Process that was subject to certain conditions, contacted the receiver on an unsolicited basis to present a revised offer including an increased purchase price and removal of due diligence conditions.
14. The Receiver reviewed bids received and, in consultation with ATB and the Sales Agent, determined that the Purchaser's bid was the preferred bid, and set about negotiating the APA with the Purchaser.
15. The key terms of the Transaction, as reflected in the APA, are:
 - (a) the Property is purchased on an "as is, where is" basis;
 - (b) the Purchaser has made payment of a deposit equal to 5% of the purchase price;
 - (c) the Purchaser will be responsible for payment of any applicable GST;
 - (d) the Purchaser will obtain title insurance to permit unconditional release of the Purchase Price on the Closing Date;
 - (e) it is not conditional upon any financing or due diligence;
 - (f) the Purchaser will take assignments of certain of 196 Alberta's agreements as more particularly described in the APA;
 - (g) it is conditional upon termination of the Motor Fuel Supply Agreement;
 - (h) it is conditional on Court-approval; and
 - (i) closing will occur 65 days after Court Approval, but no later than February 15, 2022.
16. It is the view of the Receiver that:
 - (a) in the circumstances sufficient effort to sell the Property were made and no party has acted improvidently;
 - (b) the Receiver's efforts to sell the Property were conducted fairly and carried out in good faith and with due diligence over a reasonable timeframe, such that sufficient efforts have been made to obtain the best price for the Property and no party has acted improvidently;
 - (c) the price to be paid for the Property is commercially reasonable and in the best interests of the stakeholders of the Debtors; and
 - (d) there has been no unfairness in the Receiver's dealings with the Property and the Purchaser.

Restricted Access Order

17. The Confidential Supplements include commercially sensitive information regarding the Property and the Debtors.
18. The information in the Confidential Supplements is commercially sensitive, is confidential, and should be sealed to avoid the tainting of any potential future sales process, which may be required.

19. The proposed restricted access order is limited in that the Confidential Supplements would only remain sealed until the earlier of the filing of a Receiver's Closing Certificate regarding the Property or May 31, 2021. It is also limited in that a redacted version of the PSA is publicly available.
20. The terms set out in the proposed form of restricted access order, attached as Schedule "C", are necessary to accomplish this.
21. The public disclosure of the information contained in the Confidential Supplements at this time would cause serious and irreparable harm to the Debtors' estate and its stakeholders. The proposed restricted access order is a fair and reasonable means to address the harm of restricting public dissemination at this time.

Activities of the Receiver to Date

22. The Receiver's activities include, among other things and as more expressly detailed in the Receiver's Reports, confidential supplements, and confidential reports, including most recently the Fifth Reports and Confidential Supplements to the Fifth Reports, taking steps to secure and safeguard the assets of the Debtors, overseeing operation the Debtors' business, conducting a Court-approved sales process, and negotiation of the Transaction.
23. The Receiver seeks ratification and approval of its actions, including as detailed in the Fifth Reports and Confidential Supplements thereto.
24. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

25. Fifth Report of Ernst & Young Inc., Court-appointed receiver and manager of Penhold Crossing Plaza Ltd. dated November 29, 2021, to be filed.
26. Fifth Report of Ernst & Young Inc., Court-appointed receiver and manager of 1963843 Alberta Ltd. dated November 29, 2021, to be filed.
27. Confidential Supplement to the Fifth Report of Ernst & Young Inc., Court-appointed receiver and manager of Penhold Crossing Plaza Ltd. dated November 29, 2021, unfiled.
28. Confidential Supplement to the Fifth Report of Ernst & Young Inc., Court-appointed receiver and manager of 1963843 Alberta Ltd. dated November 29, 2021, unfiled.
29. The pleadings and proceedings in the within action.
30. Such further and other material and evidence as counsel may advise and this Honourable Court may permit.

Applicable Rules:

31. *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), and 11.27.

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

Applicable Acts and regulations:

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

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

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

36. *Land Titles Act*, RSA 2000 c L-4.

37. *Personal Property Security Act*, RSA 2000 c P-7.

38. 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:

39. None.

How the application is proposed to be heard or considered:

40. Before the Presiding Commercial List Justice, via Web-Ex.

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

SERVICE LIST

ATB Financial (Formerly Alberta Treasury Branches) v 1963843 Alberta Ltd., et al

Party	Role
Dentons Canada LLP 1500, 850-2 nd Street SW Calgary, Alberta T2P 0R8 Attention: Derek Pontin / John Regush Email: derek.pontin@dentons.com, john.regush@dentons.com	<i>Counsel to Ernst & Young Inc., Court-appointed Receiver of 1963843 Alberta Ltd. and Penhold Crossing Plaza Ltd.</i>
Ernst & Young Inc. 2200, 215 2 nd Street SW Calgary, Alberta T2P 1M4 Attention: Peter Chisholm / Evan MacKinnon Email: peter.chisholm@ca.ey.com, evan.mackinnon@ca.ey.com	<i>Court-appointed Receiver of 1963843 Alberta Ltd. and Penhold Crossing Plaza Ltd.</i>
MLT Aikins LLP 2100 Livingstone Place 222 3 Ave SW Calgary, Alberta T2P 0B4 Attention: Ryan Zahara / Catrina Webster Email: rzahara@mltaikins.com, cwebster@mltaikins.com	<i>Counsel to ATB Financial</i>
Llewellyn Law 2440 Kensington Road NW Calgary, Alberta T2N 3S1 Attention: Clive Llewellyn / Aryan Sadat Email: cllewellyn@llewellynlaw.net, asadat@llewellynlaw.net Assist@llewellynlaw.net	<i>Counsel to Sukhbir Nain and Om Abhoy</i>
Meridian OneCap Credit Corp. Suite 1500, 4710 Kingsway Burnaby, BC V5H 4M2	<i>PPR Registrant (1963843 Alberta Ltd.)</i>
Bodkin Capital Corporation 102-1465 North Service RD E Oakville, ON L6H 1A7	<i>PPR Registrant (1963843 Alberta Ltd.)</i>
Matthysz Trading Company 13404 62 Street NW Edmonton, Alberta T5A 0V7	<i>PPR Registrant (1963843 Alberta Ltd.)</i>
Superior Buildings & Designs Ltd. C/O PO Box 76009 Southgate Edmonton, Alberta T6H 5Y7 Fax : 780 438 42923 With a copy to: Miller Thomson LLP 2700, Commerce Place 10155-102 Street Edmonton, Alberta T5J 4G8 Attention: Daniel C.P. Stachnik, QC Email: dstachnik@millerthomson.com	<i>PPR Registrant (1963843 Alberta Ltd.)</i>
Regency Innovations Inc. C/O Maple Legal Services LLP 5105 55 Ave Edmonton, Alberta T6B 3V1	<i>Land Titles Registrant (Builder's Lien)</i>

Adjust Climate Control Inc. 182 Cree Road Sherwood Park, Alberta T8A 3X8	<i>Land Titles Registrant (Builder's Lien)</i>
AGLC Attention: Cathy Pytel Email : cathy.pytel@aglc.ca	<i>AGLC</i>
Canada Revenue Agency Surrey National Verification and Collections Centre 9755 King George Boulevard Surrey BC V3T 5E1	<i>Canada Revenue Agency, Insolvency Intake Group</i>
TDL Group Corp. Attention: Josh Brubacher Email: jbrubacher@rbi.com	<i>Representative of Tenant (1963843 Alberta Ltd.)</i>
Parkland Industries Ltd. Attention: Morgan Crilly Email: morgan.crilly@parkland.ca	<i>Contractual Counterparty</i>
Schnell Hardy Jones LLP Attention: Evan C. Hardy Email: evan@schnell-law.com	<i>Counsel for Proposed Purchaser</i>
Email List derek.pontin@dentons.com, john.regush@dentons.com, peter.chisholm@ca.ey.com, evan.mackinnon@ca.ey.com, rzahara@mltaikins.com, cwebster@mltaikins.com, cllewellyn@llewellynlaw.net, asadat@llewellynlaw.net, dstachnik@millertomson.com, cathy.pytel@aglc.ca, jbrubacher@rbi.com, morgan.crilly@parkland.ca, evan@schnell-law.com	

Schedule "B" to the Application

Counsel: Please ensure that all relevant parties have received Webex information.

Virtual Courtroom 86 has been assigned for the above noted matter:

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom86>

Instructions for Connecting to the Meeting

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.

4. Note: Recording or rebroadcasting of the video is prohibited.

5. Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.

If you are a non-lawyer attending this hearing remotely, **you must** complete the undertaking located here: <https://www.albertacourts.ca/qb/resources/announcements/undertaking-and-agreement-for-non-lawyers>

For more information relating to Webex protocols and procedures, please visit:

<https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

You can also join the meeting via the "Cisco Webex Meetings" App on your smartphone/tablet or other smart device. You can download this via the App marketplace and join via the link provided above.

Thank you,

Schedule "C" to the Application

Clerk's Stamp:

COURT FILE NUMBER	1901-12274
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL (FORMERLY ALBERTA TREASURY BRANCHES)
DEFENDANTS	1963843 ALBERTA LTD., PENHOLD CROSSING PLAZA LTD., ASHWANI AWASTHI, SWARNJIT SINGH KOONER, SUKHBIR NAIN, OM ACAYOT ABHOY, and ANURAG SUMAN
DOCUMENT	<u>ORDER - RESTRICTED COURT ACCESS</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP 15 th Floor, 850-2 nd Street SW Calgary, AB T2P 0R8 Attn: Derek Pontin / John Regush Ph. (403) 268-6301 / 7086 File No.: 131079-102
DATE ON WHICH ORDER WAS PRONOUNCED	December 6, 2021
LOCATION WHERE ORDER WAS PRONOUNCED	Edmonton, Alberta
NAME OF JUSTICE WHO MADE THIS ORDER	The Honourable Justice Feth

UPON THE APPLICATION by Ernst & Young Inc. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertakings, property and assets of Penhold Crossing Plaza Ltd. and 1963843 Alberta Ltd. (the "**Debtors**"); AND UPON reading the Fifth Reports of the Receiver regarding each of the Debtors ("**Fifth Reports**") and the Confidential Supplements to the Fifth Reports (the "**Confidential Supplements**"); AND UPON hearing submissions from counsel as to service; 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 Supplements shall be filed in Court of Queen's Bench of Alberta Action Number 1901-12274 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 filing of a Receiver's Closing Certificates in respect of the sale of the Debtors' property, May 31, 2022, 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 Supplements from the sealed envelope referred to below and place the Confidential Supplements on the public record. The Confidential Supplements shall be sealed and filed in an envelope containing the following statement thereon:

THIS ENVELOPE CONTAINS THE CONFIDENTIAL SUPPLEMENT TO THE FIFTH REPORT OF ERNST & YOUNG INC., COURT-APPOINTED RECEIVER AND MANAGER OF PENHOLD CROSSING PLAZA LTD. DATED NOVEMBER 29, 2021 AND THE CONFIDENTIAL SUPPLEMENT TO THE FIFTH REPORT OF ERNST & YOUNG INC., COURT-APPOINTED RECEIVER AND MANAGER OF 1963843 ALBERTA LTD. DATED NOVEMBER 29, 2021, WHICH SHALL BE SEALED UNTIL THE EARLIER OF THE FILING OF A RECEIVER'S CLOSING CERTIFICATE IN RESPECT OF THE SALE OF THE DEBTORS' PROPERTY, MAY 31, 2022, OR UNTIL FURTHER ORDER OF THIS COURT AND IS NOT TO BE PLACED ON THE PUBLIC RECORD OR MADE PUBLICLY ACCESSIBLE EXCEPT AFTER THE FILING OF SUCH CLOSING CERTIFICATE, MAY 31, 2022, OR IN ACCORDANCE WITH SUCH ORDER.

Justice of the Court of Queen's Bench of Alberta

Schedule "D" to the Application

COURT FILE NUMBER 1901-12274

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF ATB FINANCIAL (FORMERLY ALBERTA TREASURY BRANCHES)

DEFENDANTS 1963843 ALBERTA LTD., PENHOLD CROSSING PLAZA LTD., ASHWANI AWASTHI, SWARNJIT SINGH KOONER, SUKHBIR NAIN, OM ACAYOT ABHOY, and ANURAG SUMAN

Clerk's Stamp

DOCUMENT **APPROVAL AND VESTING ORDER
(Sale by Receiver)**

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
Attention: Derek Pontin / John Regush
Ph. (403) 268-6301 / 7086 Fx. (403) 268-3100
File No.: 131079-102

DATE ON WHICH ORDER WAS PRONOUNCED: December 6, 2021

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice Feth

UPON THE APPLICATION by Ernst & Young Inc. LIT in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertakings, property and assets of 1963843 Alberta Ltd. and Penhold Crossing Plaza Ltd. (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 1676556 Alberta Ltd. (the "**Purchaser**") dated November 14, 2021 and appended to the Fifth Reports of the Receiver dated November 29, 2021 (the "**Reports**"), and vesting in the Purchaser the Debtors' right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**");

AND UPON HAVING READ the Receivership Order dated November 6, 2019 (as amended from time to time, the "**Receivership Order**"), the Reports and the Affidavit of Service; **AND UPON HEARING** the submissions of counsel for the Receiver, the Purchaser, _____ no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service, to be filed;

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, 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 ACTIVITIES

2. The Receiver's activities as set out in the Reports and Confidential Supplements are hereby approved and ratified.

APPROVAL OF TRANSACTION

3. The Transaction is hereby approved and 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 completion of the Transaction and conveyance of the Purchased Assets to the Purchaser.

TERMINATION OF MOTOR FUEL SUPPLY AGREEMENT

4. The termination by the Receiver of the Motor Fuel Supply Agreement – Esso-Branded Motor Fuels dated December 28, 2016 among Parkland Industries Ltd. and 1963843 Alberta Ltd. and Ashwani Awasthi and Swanjit Singh Kooner, as amended by the Amending Agreement – Esso-Branded Motor Fuel Supply Agreement dated February 2017 among Parkland Fuel Corporation and 1963843 Alberta Ltd. and Ashwani Awasthi, Swarnjit Singh Kooner and Prabhdeep Awasthi ("**Motor Fuel Supply Agreement**") is approved, the effective date of termination being the date of the execution by the Receiver of the Receiver's Closing Certificate (as defined in this Order).

VESTING OF PROPERTY

5. Upon delivery of a Receiver's certificate to the Purchaser substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Closing Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets listed in **Schedule "B"** hereto shall vest absolutely in the name of the Purchaser, free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "**Claims**") including, without limiting the generality of the foregoing:
 - (a) any encumbrances or charges created by the Receivership Order;
 - (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;
 - (c) any liens or claims of lien under the *Builders' Lien Act* (Alberta); and
 - (d) those Claims listed in **Schedule "C"** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in **Schedule "D"** (collectively, "**Permitted Encumbrances**"))

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets

6. Upon delivery of the Receiver's Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Receiver's Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser clear title to the Purchased Assets subject only to Permitted Encumbrances. Without limiting the foregoing:
 - (a) the Registrar of Land Titles ("**Land Titles Registrar**") for the lands defined below shall and is hereby authorized, requested and directed to forthwith:
 - (i) cancel existing Certificates of Title No. 162 303 244 for those lands and premises municipally described as 2 Hawkrigde Blvd, Penhold, Alberta, and legally described as:

PLAN 1623323
BLOCK 8
LOT 124
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 0.607 HECTARES (1.5 ACRES) MORE OR LESS

(the "**Lands**")
 - (ii) issue a new Certificate of Title for the Lands in the name of the Purchaser, namely, 1676556 Alberta Ltd.;
 - (iii) transfer to the New Certificate of Title the existing instruments listed in **Schedule "D"**, to this Order, and to issue and register against the New Certificate of Title such new caveats, utility rights of ways, easements or other instruments as are listed in **Schedule "D"**; and
 - (iv) discharge and expunge the Encumbrances listed in **Schedule "C"** to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands;
 - (b) the Registrar of the Alberta Personal Property Registry (the "**PPR Registrar**") shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than Permitted Encumbrances) in the estate or interest of the Debtors in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.
7. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Receiver's Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register

transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.

8. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the Sale Agreement.
9. Upon delivery of the Receiver's Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtors and not in its personal capacity.
10. For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Purchased Assets from and after delivery of the Receiver's Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased 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. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further order of this Court, provided however the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order.
11. Except as expressly provided for in the Sale Agreement or by section 5 of the Alberta *Employment Standards Code*, the Purchaser shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtors.
12. Upon completion of the Transaction, the Debtors and all persons who claim by, through or under the Debtors in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser.
13. The Purchaser 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, through or against the Debtors.
14. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.
15. The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to the Purchaser.

16. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the *Alberta Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees. The Purchaser 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) to which the Debtors were entitled.

MISCELLANEOUS MATTERS

17. Notwithstanding:
- (a) the pendency of these proceedings and any declaration of insolvency made herein;
 - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "BIA"), in respect of the Debtors, and any bankruptcy order issued pursuant to any such applications;
 - (c) any assignment in bankruptcy made in respect of the Debtors; and
 - (d) the provisions of any federal or provincial statute:
- the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA 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.
18. The Receiver, the Purchaser and any other interested party, shall be at liberty to apply for further advice, assistance and direction 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.
19. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, 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 order and to provide such assistance to the Receiver, as an officer of the 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.
20. Service of this Order shall be deemed good and sufficient by:
- (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) the Purchaser or the Purchaser's solicitors; and

- (b) Posting a copy of this Order on the Receiver's website for these proceedings (<https://documentcentre.ey.com/#/home>);

and service on any other person is hereby dispensed with.

- 21. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

Justice of the Court of Queen's Bench of Alberta

Schedule "A"
Form of Receiver's Certificate

COURT FILE NUMBER	1901-12274
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANT	ATB FINANCIAL (FORMERLY ALBERTA TREASURY BRANCHES)
RESPONDENTS	1963843 ALBERTA LTD., PENHOLD CROSSING PLAZA LTD., ASHWANI AWASTHI, SWARNJIT SINGH KOONER, SUKHBIR NAIN, OM ACAYOT ABHOY, and ANURAG SUMAN

Clerk's Stamp

DOCUMENT

RECEIVER'S CLOSING 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 Attention: John Regush Ph. (403) 268-7086 Fx. (403) 268-3100 File No.: 131079-102
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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**") dated November 6, 2019, Ernst & Young Inc. was appointed as the receiver (the "**Receiver**") of the undertakings, property and assets of 1963843 Alberta Ltd. and Penhold Crossing Plaza Ltd. (collectively, the "**Debtors**").
- B. Pursuant to an Order of the Court dated December 6, 2021 (the "**Sale and Vesting Order**"), the Court approved the agreement of purchase and sale made as of November 14, 2021, 2021 (the "**Sale Agreement**") between the Receiver and 1676556 Alberta Ltd. (the "**Purchaser**") and provided for the vesting in the Purchaser 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 Article 12 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Article 12 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;
3. The termination of the Motor Fuel Supply Agreement, as defined in the Sale and Vesting Order, is effective immediately; and
4. The Transaction has been completed to the satisfaction of the Receiver.
5. This Certificate was delivered by the Receiver at **[Time]** on **[Date]**.

**Ernst & Young Inc. LIT, in its capacity
as Receiver of the undertakings,
property and assets of 1963843
Alberta Ltd. and Penhold Crossing
Plaza Ltd., and not in its personal
capacity.**

Per:_____

Name:

Title:

Schedule "D" to the Application

Schedule "B"
Purchased Assets

PLAN 1623323

BLOCK 8

LOT 124

EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 0.607 HECTARES (1.5 ACRES) MORE OR LESS

All personal property related to the foregoing.

Schedule "D" to the Application

Schedule "C"
Encumbrances

Registration No.	Date	Type	Grantee
172 085 067	06/04/2017	Mortgage	Alberta Treasury Branches
172 085 068	06/04/2017	Caveat Re: Assignment of Rents and Leases	Alberta Treasury Branches
182 027 417	30/01/2018	Builder's Lien	Regency Innovations Inc.
182 170 912	13/07/2018	Certificate of Lis Pendens Affects: 182 027912	Regency Innovations Inc.

Schedule "D"
Permitted Encumbrances

1. The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown, including, without limitation, the reservation of any mines and minerals in the Crown or in any other person and any implied conditions set out in s.61(1) of the *Land Titles Act* (Alberta) as amended, replaced or restated from time to time;
2. Encumbrances given as security to a public utility or any Governmental Authority when required in the ordinary course of business but only insofar as they relate to any obligations or amounts not due as at the Closing Date;
3. All rights reserved to or vested in any Governmental Authority pursuant to Applicable Law to control or regulate the Property in any manner, including any unregistered, undetermined or inchoate liens, levies or claims in favour of the Crown, any province or municipality or any Governmental Authority;
4. Rights of expropriation, access or use or any similar right conferred or reserved by or in any statute of Alberta or Canada;
5. Applicable municipal by-laws, development agreements, subdivision agreements, site plan agreements, servicing or industrial agreements, utility agreements, airport zoning regulations, cost sharing reciprocal agreements and building and other zoning restrictions and other similar agreements with Governmental Authorities or private or public utilities affecting the development or use of the Property;
6. Any easements, servitudes, rights-of-way, licenses, agreements, restrictions that run with the land and other Encumbrances (including easements, rights-of-way and agreements for railways, sewers, drains, gas and water mains or electric light and power or telephone, telecommunications or cable conduits, poles, wires and cables) which do not materially impair the use, operation or marketability of the Property (based on the current use of the Property) affected thereby;
7. Encumbrances respecting minor encroachments by the Property over neighbouring lands and/or permitted under agreements with the owners of such other lands and minor encroachments over the Property by improvements of abutting land owners, provided the same do not materially adversely affect the use or marketability of the Property;
8. Any privilege in favour of any lessor, licensor or permitter for rent to become due or for other obligations or acts, the performance of which is required under contracts of the Vendor or the Corporations so long as the payment or the performance of such other obligation or act is not delinquent and provided that such Encumbrances or privileges do not materially affect the use or the operation of the assets affected thereby;
9. Encumbrances which will be vested out or otherwise discharged at Closing pursuant to the Approval and Vesting Order;
10. Encumbrances permitted or created pursuant to the terms of this Agreement;
11. The following specific Leases;
 - Indenture of Lease dated December 5, 2017 between 1963843 Alberta Ltd. and The TDL Group Corp./Groupe TDL Corporation; and
 - Lease dated February 8, 2017, between Penhold Crossing Plaza Ltd. and 1963843 Alberta Ltd.
12. The following specific instruments registered against the title to the Property:

Registration No.	Date	Type	Grantee
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082 342 760	13/08/2008	Utility Right of Way	The Town of Penhold
082 530 932	05/12/2008	Utility Right of Way	The Town of Penhold
112 309 079	29/09/2011	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
122 261 914	13/08/2012	Utility Right of Way	The Town of Penhold
132 202 952	05/07/2013	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
142 174 907	10/06/2014	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
142 189 071	19/06/2014	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
162 255 567	14/09/2016	Utility Right of Way	The Town of Penhold
162 255 568	14/09/2016	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
162 255 569	14/09/2016	Easement	
162 355 370	21/12/2016	Restrictive Covenant	