



Court File No.: CV-21-00655706-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE) **TUESDAY, THE 14th**
)
JUSTICE CAVANAGH) **DAY OF MAY, 2024**

BETWEEN:

1199403 ONTARIO INC., 1274442 ONTARIO INC., and GULU THADANI

Applicants

-and-

SAPTASHVA SOLAR S.A.

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by Ira Smith Trustee & Receiver Inc. ("**ISI**") in its capacity as the Court-appointed receiver (the "**Receiver**") of Saptashva Solar S.A. (the "**Debtor**"), without security, to exercise the powers and duties as specifically set out in the Order of the Honourable Justice Cavanagh dated January 24, 2022 (the "**Appointment Order**") with respect to the assets, undertakings and properties of the Debtor acquired for, or used in relation to the business carried on by the Debtor, including all proceeds thereof, for an order, *inter alia*, approving the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement (the "**Purchase Agreement**") between the Receiver, as vendor, and 1000851861 Ontario Inc. ("**Purchaser**"), as purchaser, made as of April 4, 2024, and vesting in the Purchaser the Debtor's right, title and

interest in and to the assets described in the Purchase Agreement (the "**Purchased Assets**"), was heard this day by videoconference.

ON READING the Motion Record of the Receiver dated February 1, 2024 containing the Second Report of the Receiver dated January 31, 2024 (the "**Second Receiver's Report**"), the Motion Record of the Receiver dated May 3, 2024 containing the Third Report of the Receiver dated May 3, 2024 (the "**Third Receiver's Report**"), the Affidavits of Irving Marks sworn January 29, 2024 and May 1, 2024 (the "**Robins Appleby LLP Fee Affidavits**") and the Affidavits of Brandon Smith sworn January 29, 2024 and May 1, 2024 (the "**ISI Fee Affidavits**"), and on hearing the submissions of counsel for the Receiver and any such other counsel or individual as were present, no one appearing for any other person on the service list, although properly served as evidenced by the Affidavit of Wendy Lee sworn May 3, 2024, filed.

1. **THIS COURT ORDERS** that unless otherwise defined herein or the context otherwise requires, capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Purchase Agreement.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase 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 and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Receiver's Certificate**"), all of Debtor's right, title, benefit and interest in and to the Purchased Assets described in the Purchase Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Appointment Order and the Order of the Honourable Justice Conway dated December 12, 2022; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the 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.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of

the Receiver's Certificate forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to Debtor's 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 by Debtor.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Debtor and shall not be void or voidable by creditors of Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT 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.



Digitally signed by
Mr. Justice Cavanagh

Schedule A- Form of Receiver's Certificate

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BETWEEN:

1199403 ONTARIO INC., 1274442 ONTARIO INC., and GULU THADANI

Applicants

-and-

SAPTASHVA SOLAR S.A.

Respondent

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (the "**Court**") dated January 24, 2022, Ira Smith Trustee & Receiver Inc. was appointed as receiver (the "**Receiver**") of Saptashva Solar S.A. (the "**Debtor**"), without security, to exercise the powers and duties as specifically set out in the Appointment Order with respect to the assets, undertakings and properties of the Debtor acquired for, or used in relation to the business carried on by the Debtor, including all proceeds thereof.

B. Pursuant to an Order of the Court dated ●, 2024 the Court approved the asset purchase agreement made as of April 4, 2024 (the "**Purchase Agreement**") between the Receiver, as vendor, and 1000851861 Ontario Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Purchase 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 Purchase Agreement;
2. The conditions to closing as set out in the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, respectively; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**IRA SMITH TRUSTEE & RECEIVER
INC., in its capacity as Receiver of Saptashva
Solar S.A., and not in its personal capacity
and without personal or corporate liability**

Per: _____
Name:
Title:

**1199403 ONTARIO INC. - and- SAPTASHVA SOLAR S.A.
ET AL.**

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SUPERIOR COURT OF JUSTICE
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PROCEEDING COMMENCED AT TORONTO

APPROVAL AND VESTING ORDER

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Inc.