

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

THE HONOURABLE ) WEDNESDAY, THE 23<sup>RD</sup>  
 )  
JUSTICE CAVANAGH ) DAY OF NOVEMBER, 2022

B E T W E E N :

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**CUTTING EDGE PRECISION SERVICES ULC,  
PROPER WINDSOR HOLDINGS ULC and  
SGM REAL ESTATE HOLDINGS ULC**

Respondents

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by Albert Gelman Inc., in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of each of Cutting Edge Precision Services ULC, Proper Windsor Holdings ULC and SGM Real Estate Holdings ULC (“**SGM**”) for an order approving the sale and transfer (the “**Transaction**”) of the real property municipally known as 3230 Moynahan Street, Oldcastle, Ontario and legally described in Schedule B hereto (the “**Real Property**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver, as seller, and, *inter alios*, 3305 Deziel Inc. (the “**Purchaser**”), a purchaser, dated November 4, 2022 and appended to the First Report of the Receiver dated November 14, 2022 (the “**First Report**”), and vesting in the Purchaser, SGM’s right, title and interest in and to the Real Property, was heard this day at 330 University Avenue, Toronto, Ontario via videoconference due to the COVID-19 pandemic.

**ON READING** the Motion Record of the Receiver, including the First Report, and on hearing the submissions of counsel for the Receiver and all other parties listed on the Counsel Slip, and no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Samantha Hans sworn November 14, 2022, filed:

### **SERVICE**

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

### **DEFINED TERMS**

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein have the meaning ascribed to them in the Sale Agreement.

### **APPROVAL AND VESTING**

3. **THIS COURT ORDERS AND DECLARES** that 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 and for the conveyance of the Real Property to the Purchaser.

4. **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**"), SGM's right, title and interest in and to the Real Property described on Schedule B hereto 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 Order of The Honourable Justice Kimmel dated October 21, 2022; (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; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Real Property are hereby expunged and discharged as against the Real Property.

5. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Essex (No. 12) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Real Property identified in Schedule B hereto in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Real Property shall stand in the place and stead of the Real Property, 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 Real Property with the same priority as they had with respect to the Real Property immediately prior to the sale, as if the Real Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver’s Certificate, forthwith after delivery thereof.

8. **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)(the “**BIA**”) in respect of SGM and any bankruptcy order issued pursuant to any such applications; and

- (c) any assignment in bankruptcy made in respect of SGM;

the vesting of the Real Property in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of SGM and shall not be void or voidable by creditors of SGM, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA 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.

9. **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.

10. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01a.m. on the date of this Order and is enforceable without the need for entry or filing.

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**Schedule A – Form of Receiver’s Certificate**

Court File No. CV-22-00688427-00CL

***ONTARIO***

**SUPERIOR COURT OF JUSTICE**

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**B E T W E E N :**

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Applicant

- and -

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Respondents

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Kimmel of the Ontario Superior Court of Justice (the “**Court**”) dated October 21, 2022, Albert Gelman Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of Cutting Edge Precision Services ULC, Proper Windsor Holdings ULC and SGM Real Estate Holdings ULC (“**SGM**” and collectively, the “**Debtors**”).

B. Pursuant to an Order of the Court dated November 23, 2022, the Court approved the agreement of purchase and sale made as of November 4, 2022 (the “**Sale Agreement**”) between the Receiver, Arlen Tool Co. Ltd. and 3305 Deziel Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser, SGM’s right, title and interest in and to the Real Property, which

vesting is to be effective with respect to the Real Property 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 Real Property; (ii) the Debtors have obtained an Order of the Court approving the balance of transactions contemplated by the Sale Agreement and vesting in Arlen Tool Co. Inc., Cutting Edge Precision Services ULC's right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement but excluding the Real Property); (iii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iv) the Transactions (as defined in the Sale Agreement) have been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchasers have 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 the Sale Agreement have been satisfied or waived by the Receiver and the Purchasers;
3. The Transactions have been completed to the satisfaction of the Receiver; and
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE] .

**Albert Gelman Inc.**, in its capacity as Receiver of the undertaking, property and assets of the Debtors, and not in its personal capacity

Per: \_\_\_\_\_

Name:

Title:

### **Schedule B – Real Property**

The property municipally known as 3230 Moynahan Street, Oldcastle, Ontario and being legally described as PT LT 12 CON 7 SANDWICH EAST PT 1 & 2 12R3585; S/T R694390; TECUMSEH (being all of PIN 75234-0119 (LT)) (the “**Real Property**”).

### **Schedule C – Claims to be deleted and expunged from title to the Real Property**

1. Charge registered as Instrument No. CE965703 on September 28, 2020 from SGM Real Estate Holdings ULC in favour of Business Development Bank of Canada securing the sum of \$2,500,000.
2. Notice of Assignment of Rents General registered as Instrument No. CE965710 on September 28, 2020 from SGM Real Estate Holdings ULC in favour of Business Development Bank of Canada related to Charge No. CE965703;
3. Notice registered as Instrument No. CE1054405 on January 7, 2022 by The Toronto-Dominion Bank;
4. Charge registered as Instrument No. CE1099384 on September 1, 2022 from SGM Real Estate Holdings ULC in favour of The Toronto-Dominion Bank securing the sum of \$2,500,000;
5. Notice of Assignment of Rents General registered as Instrument No. CE1099385 on September 1, 2022 from SGM Real Estate Holdings ULC in favour of The Toronto-Dominion Bank related to Charge No. CE1099384; and
6. Notice of Lease registered as Instrument No. CE646098 on January 30, 2015 between Proper Windsor Holdings ULC and Cutting-Edge Technologies Ltd.



**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property**

**(unaffected by the Vesting Order)**

**A. General**

1. All existing any work orders, deficiency notices, notices of violation or other similar communication from any municipal or governmental authority, board of insurance underwriters, regulatory authority or otherwise that is outstanding requiring or recommending that work or repairs in connection with the Real Property or any part of the Real Property is required.
2. Any municipal agreements and agreements with publicly regulated utilities.
3. Subdivision agreements, site plan control agreements, servicing or industrial agreements, utility agreements, airport zoning regulations and other similar agreements with Government Authorities or private or public utilities affecting the development or use of the Real Property.
4. Any easements for the supply of domestic utility or telephone services to the Real Property or adjacent properties.
5. Encumbrances respecting minor encroachments by the Real Property over neighbouring lands and/or permitted under agreements with the owners of such other lands and minor encroachments over the Lands by improvements of abutting land owners.
6. Title defects or irregularities which are of a minor nature and in the aggregate will not materially impair the use or marketability of the Real Property for the purposes for which it is presently used or proposed to be used.
7. Any easements or rights of way in favour of any Governmental Authority, any private or public utility, any railway company or any adjoining owner, including easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present use of the Real Property.
8. Any unregistered liens, or other encumbrances of any nature claimed by or held by His Majesty the King in the Right of Canada or the Province of Ontario or any agency or authority under or pursuant to any applicable legislation, statute or regulation.

9. All reservation, limitations, provisos, and conditions expressed in the original grant of title of the lands and premises comprising the Property from the Crown.

**B. Specific**

10. Notice registered as Instrument No. R459284 on January 7, 1970 to the Department of Transport;

11. Reference Plan registered as Instrument No. 12R1158 on November 6, 1973;

12. Reference Plan registered as Instrument No. 12R3585 on April 20, 1977;

13. Transfer Easement registered as Instrument No. R694390 on April 22, 1977 in favour of Corporation of The Township of Sandwich South;

14. Notice registered as Instrument No. R844423 on October 27, 1981 to the Department of Transport;

15. Notice registered as Instrument No. R844424 on October 27, 1981 to the Department of Transport;

16. Notice of Lease registered as Instrument No. CE513664 on April 11, 2012 between Mikkon Machine Tools Ltd. and Solar Power Network Inc.;

17. Notice of Assignment of Lessee Interest In Lease registered as Instrument No. CE531683 on August 13, 2012 between Solar Power Network Inc. and Solar Power Network 002 Inc.;

18. Notice of Assignment of Lessee Interest in Lease registered as Instrument No. CE617768 on July 11, 2014 between Solar Power Network 002 Inc. and Powerstream Inc.; and

19. Application to Change Name Instrument registered as Instrument No. CE646813 on February 6, 2015 related to Instrument No. CE646098.

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Applicant

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Respondents

Court File No. CV-22-00688427-00CL

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

**Proceedings commenced at Toronto**

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**APPROVAL AND VESTING ORDER**

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