



No. H-220275
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

ROYAL BANK OF CANADA

PETITIONER

AND

MBA ASSET MANAGEMENT INC., iFLY VANCOUVER INC., FREE FLIGHT
FORMATION INC., 1088384 B.C. LTD., TDR ELECTRIC INC. (aka TDR ELECTRIC INC.),
TAYLOR DOUGLAS ROSS and PARKWAY CONSTRUCTION GP, LLC

RESPONDENTS

ORDER MADE AFTER APPLICATION
(SALE PROCESS ORDER)

BEFORE) THE HONOURABLE)
) JUSTICE GOMERY) July 20, 2023
))

ON THE APPLICATION OF KPMG Inc. (the “**Receiver**”), in its capacity as the court-appointed Receiver of the assets, undertakings and property (collectively, the “**Property**”) of iFLY Vancouver Inc., Free Flight Formation Inc. and 1088384 B.C. Ltd. (together, the “**Debtors**”), coming on for hearing at Vancouver, British Columbia, on this day, and on hearing Mishaal Gill, counsel for the Receiver, and Victor Barta, counsel to Lynda Sharpe; AND UPON READING the materials filed including the Receiver’s First Report to Court dated July 18, 2023 (the “**Receiver’s Report**”);

THIS COURT ORDERS that:

1. The time for service of the Notice of Application for this order be and is hereby abridged such that the application is properly returnable today and service upon any interested party other than those parties on the Service List.
2. All capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the order of the Honourable Madam Justice Shergill made in these proceedings on May 19, 2023 (the “**Receivership Order**”).

3. All references herein as to time shall mean local time in Vancouver, British Columbia, any reference to an event occurring on a business day shall mean prior to 5:00 p.m. on such business day, unless otherwise indicated herein, and any event that occurs on a day that is not a business day shall be deemed to occur on the next business day.

SALE PROCESS

4. The Receiver is hereby authorized to take steps to market and sell the Property and carry out a sale process substantially in the form attached as Schedule "A" to this Order (the "**Sale Process**").
5. The Receiver is hereby authorized and empowered to take all steps and actions as may be necessary to carry out the Sale Process, including without limitation the following:
 - (a) execute, assign, issue and endorse documents of whatever nature in connection with the Sale Process;
 - (b) market any or all of the Property pursuant to and in accordance with the Sale Process, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate; and
 - (c) apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances.
6. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(0) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors (collectively, "**Potential Bidders**"), but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information and provide proof of same. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner

which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed, and provide proof of same.

7. From and after the date of this order, all communications and information requests made by Potential Bidders will be made to the Receiver.
8. KPMG Inc. shall incur no liability or obligation as a result of it carrying out the Sale Process, save and except in the event of any gross negligence or willful misconduct on its part.

GENERAL

9. The Receiver may, from time to time, apply to this Honourable Court for advice and directions in connection with the Sale Process or the discharge of their powers and duties hereunder.
10. Endorsement of this Order by counsel appearing on this application, other than counsel for The Receiver, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT.



Signature of Mishaal Gill
Lawyer for the Receiver

BY THE COURT

REGISTRAR

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*check'd as
to form*

SCHEDULE "A"
SALE PROCESS

Schedule "A" to Sale Process Approval Order

SALE PROCESS

INTRODUCTION

On May 19, 2023, the Supreme Court of British Columbia (the "**Court**") granted an order (the "**Receivership Order**") in Supreme Court of British Columbia Action No. H-220275, Vancouver Registry, which, among other things, appointed KPMG Inc. as receiver (in such capacity, the "**Receiver**") of the assets, undertakings and property (collectively, the "**Property**") of iFLY Vancouver Inc., Free Flight Formation Inc. and 1088384 B.C. Ltd. (together, the "**Debtors**") and granted the Receiver the authority to list, market and sell the Property.

On July 20, 2023, the Court granted an order (the "**Sale Process Order**") authorizing the Receiver to market and sell the Property in accordance with the Sale Process Order and this Sale Process.

The Sale Process Order and this Sale Process shall exclusively govern the process for soliciting and selecting one or more bids for the sale of all or substantially all of the Property, or such part of the Property as the Receiver may determine in its sole discretion.

Capitalized terms used and not otherwise defined herein shall have the definitions ascribed to them in Schedule "A" hereto.

Unless otherwise indicated, any event occurring on a day that is not a Business Day shall be deemed to occur on the next Business Day.

Solicitation Process

1. This Sale Process describes, among other things: (a) the manner in which Prospective Bidders may gain access to due diligence materials concerning the Property; (b) the manner in which bids are to be submitted, received and negotiated; (c) the process for the ultimate selection of one or more successful bids; and (e) the process for the approval thereof by the Court.
2. The Receiver shall conduct the Sale Process, which may involve additional intermediate steps or transactions to facilitate closing of a sale, as required, including obtaining such additional Court orders as may be necessary.
3. In the event that there is a disagreement or clarification required as to the interpretation or application of this Sale Process, the Sale Process Order or the responsibilities of the Receiver thereunder, the Court will have the jurisdiction to hear such matters and provide advice and directions upon the application of the Receiver or any interested party with a hearing on no less than two (2) Business Days' notice.

"As Is, Where Is"

4. The sale of the Property will be on an "as is, where is" basis and without surviving representations, warranties, covenants or indemnities of any kind, nature or description by the Debtors, the Receiver, or any of their directors, officers, agents, advisors or other professional advisors, except to the extent expressly set forth in any relevant Purchase Agreement.

“Free of any and all Claims and Interests”

5. In the event of a sale, all of the rights, titles and interests of the Debtors in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, claims, charges, options, royalties, interests or other encumbrances thereon and thereagainst (collectively, the “**Claims**”) pursuant to an approval and vesting order (the “**Approval Order**”) to be made by the Court. Contemporaneously with such Approval Order being made, all such Claims, to the extent valid and enforceable, shall attach to the net proceeds of the sale of such Property (without prejudice to any claims or causes of action regarding priority, validity or enforceability thereof), except to the extent otherwise set forth in the relevant Purchase Agreement.

Solicitation of Interest

6. As soon as reasonably practicable after the Sale Process Order is granted, in consultation with the Debtors’ shareholders, including Lynda Sharpe and her counsel, the Receiver will finalize a list of Prospective Bidders who, in the Receiver’s reasonable business judgment, may be interested in acquiring some or all of the Property.
7. As soon as reasonably practicable after the Sale Process Order is granted, the Receiver shall deliver a teaser letter in respect of the Property being offered for sale to the Prospective Bidders, along with a copy of this Sale Process.
8. In addition, the Receiver may place advertising with such publications as it, in its reasonable business judgment, believes may assist in identifying other interested parties.
9. Any Prospective Bidders that contact the Receiver will be sent a blank NDA, in form and substance acceptable to the Receiver, which shall inure to the benefit of the Debtors and any purchaser of the Property.

Participation Requirements

10. Unless otherwise ordered by the Court, in order to receive a Bid Package, conduct its due diligence and participate in the Sale Process, an interested party must deliver to the Receiver:
 - (a) an executed NDA, and
 - (b) reasonable proof of financial capacity, if requested by the Receiver,and upon doing so each such interested party shall be deemed to be a “**Potential Bidder**”.

Due Diligence

11. The Receiver will provide to each Potential Bidder a Bid Package outlining the opportunity to acquire part, all, or substantially all, of the Property.
12. Each Potential Bidder shall have access to such materials and information relating to the Property for the purpose of conducting due diligence as the Receiver, in its reasonable business judgment, deems appropriate. The Debtors and the Receiver shall not be obligated to furnish any due diligence information after the Bid Deadline.
13. The Receiver and its respective officers, directors, employees, agents, counsel and professional advisors are not responsible for, and will have no liability with respect to, any information obtained by any Prospective

Bidder, Potential Bidder or Qualified Bidder in connection with the Property. The Debtors and the Receiver, and their respective officers, directors, employees, agents, counsel and professionals, do not make any representations or warranties whatsoever as to the information or the material provided, except in the case of the Debtors to the extent expressly provided in any Purchase Agreement.

14. Prior to the Bid Deadline, the Receiver may engage in discussions with any or all of the Potential Bidders to determine and explore the level of interest of any such Potential Bidder and may request from any such Potential Bidder such further information as the Receiver deems appropriate.

Sale Bidding Process

15. In order to qualify as a Qualified Bidder, a Potential Bidder must deliver a Qualified Bid to the Receiver on or before the Bid Deadline.
16. A bid will be considered a Qualified Bid only if it includes an executed Purchase Agreement (in a form to be provided by the Receiver no later than 21 days prior to the Bid Deadline) executed by the Potential Bidder, which complies with or is accompanied by all of the following:
 - a) a letter stating that the Purchase Agreement is irrevocable until the earlier of (a) the approval by the Court of a Successful Bid; and (b) 30 days following the Bid Deadline, provided however that if such Purchase Agreement is selected as the Successful Bid it shall remain irrevocable until the closing of the Transaction contemplated in such Successful Bid or is terminated in accordance with the terms of such Successful Bid;
 - b) it specifies the Property being purchased, the purchase price, how the purchase price is to be paid, and provides for a closing of the Transaction no later than 15 Business Days after the granting of the Approval Order;
 - c) there is no request or entitlement to any break-fee, expense reimbursement or similar type of payment;
 - d) evidence, satisfactory to the Receiver, to allow it to make a reasonable determination as to the Potential Bidder's (and its direct and indirect owners and their principals) financial and other capabilities to consummate the Transaction;
 - e) it is not conditioned on the outcome of unperformed due diligence by the Potential Bidder or obtaining any financing and includes an acknowledgement and representation that the Potential Bidder has had an opportunity to conduct any and all required due diligence prior to executing the Purchase Agreement;
 - f) it includes an acknowledgement and representation that the Potential Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents, information and other due diligence materials and the Property to be acquired; (ii) did not rely upon any written or oral statements, representations, promises, warranties or guarantees whatsoever, whether express or implied (by operation of law or otherwise), regarding the Property to be acquired or the completeness of any information provided in connection therewith, including by the Debtors and the Receiver and their respective officers, directors, employees, agents, counsel and professional advisors, except as expressly stated in the Purchase Agreement submitted by it; (iii) is a sophisticated party capable of making its own assessments in respect of the Purchase Agreement;

- and (iv) has had the benefit of independent legal, tax, accounting and other relevant professional advice in connection with the Purchase Agreement;
- g) it is accompanied by a refundable deposit (the “**Deposit**”), in a form and amount acceptable to the Receiver, to be held in accordance with paragraph 27 herein; and
 - h) it contains any other information reasonably requested by the Receiver.
17. Notwithstanding paragraphs 15 and 16, the Receiver may waive compliance with any one or more of the Qualified Bid requirements specified above and deem such non-compliant bids to be Qualified Bids.

Qualified Bids

18. As soon as reasonably practicable after the Bid Deadline, but in no case later than fifteen (15) days after the Bid Deadline, the Receiver shall review and assess all Qualified Bids received.
19. If the Receiver determines that (a) no Qualified Bid was received; or (b) at least one Qualified Bid was received but it is not likely that the transactions contemplated therein will be consummated, the Receiver shall forthwith (i) terminate this Sale Process; (ii) notify each Potential Bidder (including any Qualified Bidders) that this Sale Process has been terminated; (iii) consult with the Debtors’ creditors regarding the Receiver’s next steps; and (iv) report to the Court as and when the Receiver determines appropriate.
20. If the Receiver determines that (a) one or more Qualified Bids were received; and (b) it is reasonably likely that the transactions contemplated by one or more of such Qualified Bids will be consummated, this Sale Process shall not be terminated and the Receiver will proceed to negotiate with one or more of the Qualified Bidders in an attempt to conclude a transaction.

Selection Criteria

21. In determining the highest and best offer among Qualified Bids, a single Qualified Bid for all or substantially all of the Company Property and/or Company Business generally will be viewed as preferable to a combination of Qualified Bids.
22. Evaluation criteria with respect to any Qualified Bid may include, but are not limited to, factors such as (a) the purchase price, including the form of consideration; (b) the counterparties to the Transaction; (c) any other proposed transaction documents; (d) other factors affecting the speed, certainty and value of the Transaction, including conditions and any regulatory approvals required to close the Transaction; (e) the assets included or excluded from the Qualified Bid and the transaction costs and risks associated with closing multiple transactions versus a single transaction for all or substantially all of the Property; and (f) the likelihood and timing of consummating the Transaction.
23. After considering each of the Qualified Bids received by the Bid Deadline, the Receiver will identify the highest or otherwise best Qualified Bid received (such offer, the “**Successful Bid**”, and the Qualified Bidder(s) who made the Successful Bid is the “**Successful Bidder**”).
24. The Receiver shall finalize any further ancillary or definitive documents required to fulfil the obligations set out in the Purchase Agreement in respect of the Successful Bid, if any, conditional upon the approval of the Court.

25. All Qualified Bids (other than the Successful Bid) shall be deemed rejected by the Receiver on and as of the date of approval of the Successful Bid by the Court.

Approval Hearing

26. As soon as reasonably practicable, the Receiver shall set down a hearing (the “**Approval Hearing**”) to obtain the Approval Order. The Approval Hearing may be adjourned or rescheduled by the Receiver, without further notice, by notice to the service list maintained by the Receiver.

Deposits

27. All Deposits shall be retained by the Receiver and invested in a non-interest bearing trust account in a Schedule I Bank in Canada. Upon closing of the Transaction with the Successful Bidder, the Deposit paid by the Successful Bidder shall be applied to the purchase price to be paid by the Successful Bidder. The Deposits of all Qualified Bidders not selected as the Successful Bidder shall be returned to such bidders within five (5) Business Days of the Approval Order being granted by the Court. If the Sale Process is terminated in accordance with the terms herein, all Deposits shall be returned to the bidders within five (5) Business Days of the date upon which it is determined that this Sales Process is terminated.
28. If the Successful Bidder breaches its obligation to close the Transaction, it shall forfeit its Deposit to the Receiver, provided however that the forfeit of such Deposit shall be in addition to, and not in lieu of, any other rights in law or equity that the Receiver has against such Successful Bidder, and the party holding the Deposit shall be obligated to release the funds to the Receiver, subject to the claims of the Receiver and the Debtors’ creditors.

Approvals

29. For greater certainty, the approvals required pursuant to the terms of this Sale Process are in addition to and not in substitution for any other approvals required by the BIA or any other statute or are otherwise required at law in order to implement a definitive agreement with a Successful Bidder, as the case may be.

Notice Party

30. The “Notice Party” is the Receiver. The address to be used for delivering documents to the Notice Party is as follows:

KPMG Inc.
Attention: Huey Lee
Email: hueylee@kpmg.ca

Attention: Michelle Regan
Email: michelleregana@kpmg.ca

31. A bid shall be delivered to all Notice Party at the same time by electronic mail, personal delivery or courier.

Reservation of Rights

32. The Receiver, in its sole discretion:

- a) may reject, at any time, any bid that is (i) inadequate or insufficient; or (ii) not in conformity with the requirements of the BIA, this Sale Process or any orders of the Court;
 - b) in accordance with the terms hereof, may impose additional terms and conditions and otherwise seek to modify this Sale Process at any time in order to maximize the results obtained;
 - c) is not obligated to select the highest bid when determining which Qualified Bid shall be selected as the Successful Bid;
 - d) in accordance with the terms hereof, may accept bids not in conformity with this Sale Process;
 - e) extend the deadlines contained in this Sale Process, provided that the Bid Deadline shall not be extended beyond December 1, 2023; and
 - f) may terminate or abandon this Sale Process if the Receiver determines, in its business judgment, that doing so is in accordance with its duties as court-appointed Receiver.
33. At or before the Approval Hearing, the Receiver may impose such other terms and conditions in the negotiation of a Purchase Agreement as the Receiver may determine to be in the best interest the Debtors' estate and its creditors, provided that such terms and conditions are not inconsistent with this Sale Process.
34. This Sale Process does not, and shall not be interpreted to, create any contractual or other legal relationship between the Receiver and any other party, other than as specifically set forth in definitive agreements that may be executed by the Receiver.

No Amendment

35. Except as provided herein, there shall be no amendments to this Sale Process, including for greater certainty the process and procedures set out in this document, without the prior written consent of the Receiver unless otherwise ordered by the Court upon application and appropriate notice.

Further Orders

36. At any time during this Sale Process, the Receiver may apply to the Court for advice and directions with respect to the discharge of their powers and duties hereunder.

SCHEDULE "A"

DEFINED TERMS

"Bid Deadline" means October 1, 2023;

"Bid Package" means the package of information to be provided by the Receiver to each Potential Bidder, which shall describe the opportunity to acquire all or substantially all of the Property;

"Business Day" means any day other than (a) a Saturday or Sunday; or (b) a day that is a statutory holiday in Vancouver, British Columbia;

"NDA" means a confidentiality and non-disclosure agreement, in a form and substance acceptable to the Receiver, to be executed and delivered by all parties interested in submitting a bid to purchase some of all of the Property;

"Notice Party" means the Receiver;

"Prospective Bidders" means all parties known to the Receiver that are or may be interested in submitting a bid to purchase some of all of the Property;

"Purchase Agreement" means any agreement entered into for the purposes of purchasing some or all of the Property;

"Qualified Bid" means a bid submitted to the Receiver by a Potential Bidder that complies with the requirements set out in Paragraph 16 of the Sales Process;

"Qualified Bidder" means a Potential Bidder that has submitted a Qualified Bid;

"Sale Process" means the sale process for the sale of some or all of the Property contemplated herein;

"Transaction" means the transaction for the sale of some or all of the Property contemplated in the Successful Bid.

No. H-220275
Vancouver Registry

ROYAL BANK OF CANADA

PETITIONER

AND

MBA ASSET MANAGEMENT INC., IFLY VANCOUVER INC., FREE
FLIGHT FORMATION INC., 1088384 B.C. LTD., TDR ELECTRIC INC. (AKA
TDR ELECTRIC INC), TAYLOR DOUGLAS ROSS AND PARKWAY
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RESPONDENTS

ORDER MADE AFTER APPLICATION

(SALE PROCESS ORDER)

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