



**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

**IN THE MATTER OF THE RECEIVERSHIP OF iFLY VANCOUVER INC., FREE
FLIGHT FORMATION INC. and 1088384 B.C. LTD.**

**SECOND REPORT TO COURT OF THE RECEIVER
FEBRUARY 22, 2024**

**KPMG INC., IN ITS CAPACITY AS
COURT-APPOINTED RECEIVER**
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1. INTRODUCTION AND PURPOSE OF REPORT

Introduction

1. On May 19, 2023 (the “**Appointment Date**”), on the application of Royal Bank of Canada (“**RBC**”), the Supreme Court of British Columbia (the “**Court**”) granted an order (the “**Receivership Order**”) pursuant to section 243 of the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, c. B-3 (the “**BIA**”) and section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253 appointing KPMG Inc. (“**KPMG**”) as receiver and manager (in such capacity, the “**Receiver**”) of all the assets, undertakings and properties (collectively, the “**Property**”) of iFly Vancouver Inc. (“**iFly Vancouver**”), Free Flight Formation Inc. (“**Free Flight**”) and 1088384 B.C. LTD (“**108**”, and together with iFly Vancouver and Free Flight, the “**Companies**” or the “**Debtors**”).
2. On July 14, 2023, the Receiver filed its First Report to Court (the “**First Report**”) in support of the Receiver’s application for an order approving its proposed process for the marketing and sale of the Property (the “**Sale Process**”) and to provide an update on the status of these receivership proceedings (the “**Proceedings**”) generally.
3. On July 20, 2023, the Court granted an order (the “**Sale Process Order**”) whereby this Court, among other things, approved the Sale Process, in the form attached as Schedule “A” to the Sale Process Order, in respect of the sale of the Property on an “as-is-where-is” basis with a bid deadline of October 1, 2023 (the “**Bid Deadline**”).
4. Electronic copies of all prescribed materials are available on the Receiver’s Website at: www.kpmg.com/ca/ifly-vancouver (the “**Receiver’s Website**”).

Purpose of the Report

5. This is the Receiver’s Second Report to Court (the “**Second Report**” or this “**Report**”) which has been prepared to provide the Court with information regarding:
 - a) the activities of the Receiver since the date of the First Report;
 - b) the results of the Sale Process;
 - c) the Proposed Transaction (as defined herein);

- d) the Receiver’s recommendation that this Court grant an order (the “**Approval and Vesting Order**”):
 - i. approving the PSA (as defined herein) and authorizing and directing the Receiver to take such steps as necessary to complete the Proposed Transaction contemplated thereby; and
 - ii. vesting title to the Purchased Assets (as defined herein) in the Purchaser (as defined herein), free and clear of all liens, claims encumbrances, except any permitted encumbrances, upon the Receiver filing a certificate confirming, among other things, the receipt by the Receiver of the Purchase Price; and
- e) the Receiver’s interim statement of receipts and disbursements (the “**Interim SRD**”) for the period from the Appointment Date to and including December 31, 2023 (the “**Period**”).

Terms of Reference

- 6. In preparing this Second Report, the Receiver has been provided with, and has relied upon, unaudited and draft financial statements and other information concerning the Debtors (collectively, the “**Information**”) which was prepared by the Debtors or their representatives and has held discussions with the Debtors’ management and representatives.
- 7. The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants Handbook, and accordingly the Receiver expresses no opinion or other form of assurance in respect of the Information.
- 8. The information contained in this Second Report is not intended to be relied upon by any prospective purchaser or investor in any transaction with the Receiver.
- 9. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

2. ACTIVITIES OF THE RECEIVER SINCE THE FIRST REPORT

10. The Receiver's activities to the date of the First Report are detailed therein. The Receiver's activities since the date of the First Report have included:

Operations

- a) reviewing invoices and arranging payments to vendors, including storage, security and insurance in respect of the Property;
- b) monitoring cash flows and attending to various banking matters, including reviewing monthly bank reconciliations.

Sale Process

- c) collating financial and other information as it relates to the Property, and reviewing and executing non-disclosure agreements to allow potential bidders access to the information;
- d) preparing marketing materials in respect of the sale of the Property, including a teaser document and a confidential information memorandum;
- e) attending to various calls and emails with interested parties to discuss the Property and to explain the Sale Process;
- f) with the assistance of the Receiver's legal counsel, Fasken Martineau DuMoulin LLP ("**Fasken**"), preparing a form of purchase and sale agreement for use by potential bidders when submitting offers to purchase;
- g) reviewing all offers received;
- h) negotiating, finalizing and executing the PSA;
- i) facilitating payment of the Deposit and the Non-Refundable Portion (as those terms are defined herein) to the Receiver in trust;
- j) providing updates to and consulting with RBC, including in respect of the Sale Process and the Proposed Transaction.

Statutory & Other Duties

- k) maintaining and updating the Receiver's Website;
- l) preparing and reviewing all application materials; and

Other Stakeholder Communications

- m) communicating with the Debtors, vendors, creditors, parties purporting to have an interest in the Property and other stakeholders in respect of these Proceedings.

3. RESULTS OF THE SALE PROCESS

Marketing period

11. The Bid Deadline was October 1, 2023.
12. As contemplated by the Sale Process Order, the Receiver undertook the following steps, among others, to market the Property:
 - a) preparation of advertising materials published in the Globe and Mail and the weekly insolvency industry newsletter, Insolvency Insider;
 - b) preparation of a non-confidential teaser (the “**Teaser**”) describing the Property for sale and including a link to the Receiver’s Website, to be made available to prospective purchasers; and
 - c) preparation of an information memorandum describing the opportunity and Property in more detail.
13. After the Sale Process Order was granted, and in accordance with the Sale Process, the Receiver, directly and through its counsel, contacted counsel for Lynda Sharpe, Winright Law, on numerous occasions to request their list of potential bidders so as to ensure they were provided notice and details of the Sale Process and the marketing materials. On September 11, 2023, Winright Law provided to the Receiver a list of four potential bidders. The Receiver attempted to contact those parties by email and/or phone on the same day. Between September 11 and 13, 2023, the Receiver emailed the same parties advising of the Sale Process and attaching the Teaser and a link to the Receiver’s Website. No responses were received from any of the parties referred to the Receiver by Winright Law.
14. In addition, the Receiver:
 - a) canvassed KPMG’s Corporate Finance group (“**KPMG Finance**”) for potential bidders by issuing direct emails to 971 KPMG Finance professionals across the global KPMG network; and
 - b) contacted 19 global indoor skydiving operators (the “**Operators**”) identified through a web search by direct email attaching the Teaser.

15. The Receiver received one response from KPMG Finance and two responses from Operators. The Receiver exchanged emails and arranged calls with those parties to provide additional non-confidential information to them.
16. Parties interested in participating in the Sale Process were asked to deliver to the Receiver an executed confidentiality agreement, at which point, such parties were granted access to confidential financial and other information concerning the Property as well as a template asset purchase agreement prepared by the Receiver.

Results of the Sale Process

17. During the marketing period, and in advance of the Bid Deadline, bids were received from two different bidders.
18. The Receiver reviewed each of the bids and engaged in discussions with both parties to discuss their respective offers and potential amendments thereto. Each bidder submitted an amended bid subsequent to the Bid Deadline.
19. The Receiver identified one bid as superior, and, after further negotiations, entered into a purchase and sale agreement (the “PSA”) dated for reference February 8, 2024 with 1439474 B.C. Ltd. (the “Purchaser”), the proposed purchaser. A copy of the executed PSA is attached hereto as **Appendix “A”**.
20. The only other bid (the “**Alternate Bid**”) was a bid for a purchase of IFly Vancouver’s equipment assets, including blower fans and related assembly equipment, for a purchase price of \$330,000. The PSA and Proposed Transaction, as detailed further in this report, provide far greater value than that contemplated in the Alternate Bid.
21. The Receiver is of the view that the Sale Process was fair, reasonable, transparent, and provided the highest and best value for the Property in the circumstances given the unique nature of the Property and the fact that construction of the premises at the leased building site (the “**Lands**”) is substantially incomplete.

4. PROPOSED TRANSACTION

22. Capitalized terms not otherwise defined in this section have the meanings ascribed to them in the PSA.
23. The Purchaser is owned, in part, by MBA Asset Management Inc. (“**MBA**”), which owns the Lands that are leased to 1088. MBA has also guaranteed iFly Vancouver’s obligations to RBC up to \$7,115,000 plus interest thereon. MBA’s guarantee is secured by, among other things, a mortgage of the Lands. As at June 28, 2022, MBA was indebted to RBC in the amount of \$7,236,578.57, and interest has continued to accrue since that time.
24. The proposed transaction contemplated by the PSA (the “**Proposed Transaction**”) is to be completed by way of a reverse vesting order (“**RVO**”), and is summarized as follows:
- a) the Purchaser will acquire all of the outstanding shares of iFly Vancouver (the “**Shares**”) and its interest in the Approved Contracts, the Equipment, the Permits and Licenses, the Rights and the Warranties (collectively, and together with the Shares, the “**Purchased Assets**”);
 - b) as part of the Proposed Transaction, 1088 will assign to the Purchaser its interest as tenant under the Lease of the Lands;
 - c) the Excluded Assets, all liabilities of iFly Vancouver and all encumbrances attaching to the Purchased Assets, other than those agreed to be assumed by the Purchaser, will be transferred to and assumed by Free Flight;
 - d) the purchase price payable to the Receiver for the Purchased Assets is \$8,000,000 (“**Purchase Price**”), exclusive of GST, and is payable as follows:
 - i. a cash deposit of \$500,000 (the “**Deposit**”) by way of certified cheque, bank draft or wire transfer, payable to the Receiver, in trust, within two (2) business days of the Execution Date;
 - ii. a release of the \$200,000 held by RBC (the “**Non-Refundable Portion**”) directly to the Receiver for its immediate use; and
 - iii. the balance of the Purchase Price, by wire transfer delivered to the Receiver;

- e) iFly Vancouver is to be removed from these Proceedings and released from the purview of all orders of the Court granted herein, save and except for the Approval and Vesting Order;
 - f) the Receiver will assign Free Flight into bankruptcy within a reasonable period of time not to exceed thirty (30) days after the Closing Date; and
 - g) it is a condition precedent to the PSA that RBC, in consideration for receipt of the net proceeds of the Purchase Price, subject to certain holdbacks, deliver to the Receiver an executed release, releasing MBA from all obligations arising under the MBA Guarantee and all security held by RBC in respect of such obligations, including the MBA Mortgage.
25. Under the PSA, iFly Vancouver will retain certain “**Approved Contracts**”, including:
- a) the Equipment Agreement with Skyventure International (UK) Limited (the “**Supplier**”), an affiliate of iFly Franchising, LLC (the “**Franchisor**”), pursuant to which certain parts and components for a vertical wind tunnel, along with other equipment (collectively the “**Equipment**”), were acquired by iFly Vancouver;
 - b) the Franchise Agreement with the Franchisor by which iFly Vancouver was granted the right to use the Franchisor’s control system software, its business systems and its trade name and other intellectual property (collectively the “**Rights**”); and
 - c) the Intercreditor Agreement among iFly Vancouver, the Supplier, the Franchisor and RBC.
26. iFly Vancouver’s obligations under the Approved Contracts are not “Excluded Liabilities” under the PSA, and will continue to be obligations of iFly Vancouver after the closing of the Proposed Transaction. The Purchaser acknowledges in the PSA that the Franchisor has purported to terminate the Franchise Agreement and that the Franchisor and the Supplier claim that iFly has no ability to use the Equipment or the Rights.
27. The Receiver’s counsel conducted a review of the security held by RBC and, upon completing its review, delivered an independent opinion to the Receiver indicating that RBC’s security is valid and enforceable, subject to the usual and ordinary assumptions and qualifications.
28. The PSA was executed on February 8, 2024, and the Receiver has received the Deposit and the Non-Refundable Portion, such that the sole condition to closing of the PSA is the granting of the Approval and Vesting Order within forty-five (45) days following execution of the PSA, i.e. March 24, 2024.

29. The Receiver recommends that this Court grant the Approval and Vesting Order approving the PSA and the Proposed Transaction contemplated thereby as, in the view of the Receiver:
- a) the Sale Process, as approved by this Court, was fair, transparent, and reasonable in the circumstances, particularly given the unique nature of the Property and the state of construction on the Lands;
 - b) the PSA provides the highest and best value for the Property and only one other offer, of significantly less value, was received for the sale of the Property;
 - c) the sole condition to closing the PSA is the issuance of the Approval and Vesting Order; and
 - d) the indebtedness owed to RBC, the Companies' sole secured creditor, continues to increase and RBC is supportive of the Proposed Transaction despite the fact that it will suffer a significant shortfall.
30. In recommending the Proposed Transaction, including by way of RVO, the Receiver notes that the Proposed Transaction:
- a) enhances the value and best facilitates the preservation of iFLY Vancouver's current business by maintaining the Permits and Licenses currently in place with the City of Richmond necessary to re-commence and complete construction of the facility;
 - b) preserves the company's historical tax attributes;
 - c) preserves iFLY Vancouver's interest in the Approved Contracts and avoids any litigation around the assignment of rights and interests in respect thereof; and
 - d) contemplates a purchase price which is significantly greater than that proposed under the only other offer received, which provided for the acquisition of only the company's equipment.
31. A copy of the proposed Approval and Vesting Order is attached hereto as **Appendix "B"**.

5. STATEMENT OF RECEIPTS AND DISBURSEMENTS

32. As shown in the Interim SRD below, during the Period, the Receiver had cash receipts (including borrowings) of approximately \$787,600, and cash disbursements of approximately \$257,500. As at December 31, 2023, the Receiver's cash on hand was approximately \$530,100.

| Interim Statement of Receipts and Disbursements | |
|--|------------------|
| For the period 19 May 2023 to December 31 2023 (\$CAD) | |
| | Amount (CAD \$) |
| Receipts | |
| Receivers borrowings ¹ | 250,000 |
| Deposit sale of assets ² | 533,303 |
| Interest | 4,335 |
| Total receipts | 787,639 |
| Disbursements | |
| Receiver Fees | (98,914) |
| Legal Fees | (41,169) |
| Storage costs | (54,541) |
| Insurance | (31,200) |
| Security and fencing costs | (11,824) |
| SISP advertisements | (3,033) |
| Appraisal fees | (3,000) |
| GST/ PST paid | (13,562) |
| OSB filing fee | (226) |
| Bank charges | (60) |
| Total disbursements | (257,528) |
| Balance in receivers account | 530,110 |

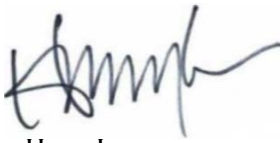
6. RECEIVER'S RECOMMENDATIONS

33. The Receiver respectfully recommends that this Court grant the Approval and Vesting Order approving the PSA and the Proposed Transaction on the terms sought by the Receiver.

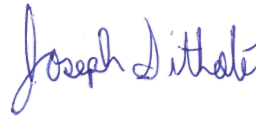
This Report is respectfully submitted this 22nd day of February, 2024.

KPMG Inc.

**In its capacity as Court-appointed Receiver of
iFly Vancouver Inc., Free Flight Formation Inc. and 1088384 B.C. LTD.
and not in its personal or corporate capacity**



Per: Huey Lee
Senior Vice President



Joe Sitholé
Vice President

APPENDIX "A"
PURCHASE AND SALE AGREEMENT

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is dated for reference February 8, 2024 and is made

BETWEEN:

**KPMG INC., in its capacity as Receiver of IFLY VANCOUVER INC.,
FREE FLIGHT FORMATION INC. and 1088384 B.C. LTD.**

(the “**Vendor**”)

AND:

1439474 B.C. LTD.

(the “**Purchaser**”)

BACKGROUND:

- A. iFly Vancouver Inc. (the “**Franchisee**”) Free Flight Formation Inc. (“**Free Flight**”) and 1088384 B.C. Ltd. (collectively, the “**Companies**”) own certain assets, undertakings and properties (the “**Companies’ Property**”);
- B. On May 19, 2023, the Supreme Court of British Columbia (the “**Court**”) made an order (the “**Receivership Order**”) in Supreme Court of British Columbia Action No. H-220275, Vancouver Registry (the “**Action**”) appointing KPMG Inc. (the “**Receiver**”) as receiver of the Companies’ Property and authorized the Receiver to, among other things, sell the Companies’ Property;
- C. On July 20, 2023, the Court granted an order (the “**Sale Process Order**”) approving, among other things, a sale process for soliciting and selecting one or more bids for the sale of all or substantially all of the Companies’ Property, or such part of the Companies’ Property, as the Receiver may determine in its sole discretion (the “**Sale Process**”);
- D. MBA Asset Management Inc. (“**MBA**”) is the owner of certain real estate with an address and legal description of:

Civic: 9151 VAN HORNE WAY RICHMOND V6X 1W2
Legal Description: PID: 028-018-141 LOT 4 SECTION 22 BLOCK 5 NORTH RANGE 6 WEST NEW WESTMINSTER DISTRICT PLAN BCP42058

(the “**Real Property**”)
- E. MBA leased the Real Property to the Franchisee and 1088384 B.C. Ltd. (“**1088**”) pursuant to a lease between MBA, as landlord, and the Franchisee and 1088, as tenant, dated April 1, 2018, as amended by a lease addendum dated November 13, 2019 (collectively, the “**Lease**”), where

the Companies were constructing an indoor skydiving business with some of the Companies' Property;

- F. iFly Franchising, LLC (the "**Franchisor**") and the Franchisee are parties to an iFly Franchise Agreement dated August 26, 2016 (the "**Franchise Agreement**") whereby the Franchisor granted the right to use its control system software, its business system for the operation of certain equipment for entertainment, education, training and similar purposes and its trade name, service marks, trademarks, emblems and indicia of origin, including the mark "iFLY" as further set out in the Franchise Agreement (the "**Rights**");
- G. The Franchisee purchased from Skyventure International (UK) Limited (the "**Supplier**"), an affiliate of the Franchisor, parts and components for a vertical wind tunnel together with certain systems, chiller units, components, motors, panels, fans, sensors and drives for the Franchisee to construct a vertical wind tunnel (the "**Equipment**") pursuant to an equipment purchase agreement dated August 25, 2016 (the "**Equipment Agreement**") between the Supplier and the Franchisee;
- H. Pursuant to an inter-creditor agreement dated for reference March 19, 2020 (the "**Inter-Creditor Agreement**") among Royal Bank of Canada ("**RBC**"), the Franchisor, the Supplier and the Franchisee, RBC agreed to purchase from the Franchisee and lease-back to the Franchisee, the Equipment;
- I. Pursuant to various agreements among the Companies and RBC, the Companies are indebted to RBC;
- J. Pursuant to an agreement of guarantee and postponement of claim dated December 16, 2019 (the "**MBA Guarantee**"), MBA guaranteed all obligations of iFly to RBC up to \$7,115,000, plus interest thereon at RBC's prime interest rate plus 5% per annum;
- K. Pursuant to an indenture of mortgage and assignment of rents dated December 16, 2019 (the "**MBA Mortgage**"), MBA granted a mortgage of the Lands in favour of RBC as security for its obligations to RBC, including under the MBA Guarantee;
- L. As June 28, 2022, the Companies were indebted to RBC in the amount of \$11,139,135.90 and MBA was indebted to RBC in the amount of \$7,236,578.57, and interest continues to accrue thereon in accordance with the terms of the agreements among the Companies, MBA and RBC;
- M. MBA is a shareholder of the Purchaser; and
- N. The Purchaser has agreed to purchase, and the Receiver has agreed to sell, the Shares (and by virtue of the purchase of the Shares, acquire the rights to the Purchased Assets) on the terms and conditions of this agreement (the "**Sale Transaction**").

FOR CONSIDERATION, the receipt and sufficiency of which is acknowledged by each of the parties, the parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 Definitions. In this Agreement:

- (a) “**1088**” has the meaning given to it in Recital E;
- (b) “**Approved Contracts**” means:
 - (i) the Equipment Agreement;
 - (ii) the Franchise Agreement;
 - (iii) the Intercreditor Agreement; and
 - (iv) the Lease;
- (c) “**Bankruptcy Assignment**” has the meaning given to it in Section 11.16.
- (d) “**Business**” means the operation of an iFly indoor skydiving attraction;
- (e) “**Business Day**” means any day that is not a Saturday, Sunday, Boxing Day, Easter Monday or statutory holiday in British Columbia.
- (f) “**Closing**” means the successful completion of the Sale Transaction.
- (g) “**Closing Date**” means the date that is 90 days after the date the Vesting Order is pronounced by the Court, or any other date as may be agreed by the Vendor and Purchaser.
- (h) “**Closing Documents**” has the meaning given to it in Section 9.4.
- (i) “**Companies**” has the meaning given to it in Recital A.
- (j) “**Companies’ Property**” has the meaning given to it in Recital A.
- (k) “**Contracts**” means all contracts or agreements relating to the use or operation of the Property, the Purchased Assets, or any part thereof, or the operation of the Business, including, without limitation, purchase and sale agreements, options to purchase, contracts relating to the operation, maintenance, cleaning, security, signage, fire protection or servicing of the Real Property, Equipment or any part thereof made by or on behalf of the Vendor.
- (l) “**Court**” has the meaning given to it in Recital B.
- (m) “**Deposit**” means the sum of Seven Hundred Thousand Dollars (\$700,000.00).
- (n) “**Equipment**” has the meaning given to it in Recital G, and as more particularly described in Schedule A.

- (o) “**Equipment Agreement**” has the meaning given to it in Recital G.
- (p) “**Encumbrance**” means 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 including, without limiting the generality of the foregoing:
 - (i) any encumbrances or charges created by the Receivership Order;
 - (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system;
 - (iii) any agreement, lease, license, option or claim, easement, right of way, restriction, execution or other encumbrance (including any notice or other registration in respect of any of the foregoing) affecting title to or the ownership of the Purchased Assets or any part thereof or interest therein.
- (q) “**ETA**” means the *Excise Tax Act* (Canada).
- (r) “**Excluded Assets**” means: (i) Contracts which are not Approved Contracts; (ii) the rights of the Vendor under this Agreement; (iii) corporate income taxes receivable and GST refunds; (v) cash and cash equivalents, including the \$1,500,000 held by RBC as security for the Letter of Credit; and (vi) any proceedings, claims or causes of action for the benefit of the Vendor.
- (s) “**Excluded Liabilities**” means any Liabilities of the Companies that are not expressly assumed by the Purchaser under this Agreement including without limitation:
 - (i) any taxes of or relating to the Business or the Purchased Assets, including statutory deductions and remittances, GST, and sales taxes, in respect of any period prior up to and including the Closing Date;
 - (ii) any Liabilities or Encumbrances in respect of any litigation involving the Vendor, the Purchased Assets or the Business commenced or threatened or resulting from any event or circumstance prior to the Closing Date;
 - (iii) any other Encumbrances made, filed, claimed, perfected or otherwise arising or resulting from any event or circumstance prior to the Closing Date;
 - (iv) all shares of capital stock or other equity interest in securities in any entity other than the Shares;
 - (v) Contracts which are not Approved Contracts;

- (vi) any Liabilities relating to or arising out of the assets of the Vendor which are not being acquired by the Purchaser, including, without limitation, Liabilities for terminating, not complying with or defaulting under any Contract other than the Approved Contracts;
 - (vii) any Liabilities for a breach or non-compliance with any applicable law;
 - (viii) the Liabilities of the Franchisee under this Agreement; and
 - (ix) any other assets, property or obligations which, pursuant to the terms and conditions of this Agreement, remain the property of the Vendor after the completion of the transactions contemplated herein including, without limitation, the rights of the Vendor under this Agreement.
- (t) **“Execution Date”** means the date that this Agreement is executed by the Vendor.
 - (u) **“Franchise Agreement”** has the meaning given to it in Recital F;
 - (v) **“Franchisee”** has the meaning given to it in Recital E;
 - (w) **“Franchisor”** has the meaning given to it in Recital F;
 - (x) **“Governmental Authority”** means (i) any domestic or foreign government, whether national, federal, provincial, state, territorial, municipal or local (whether administrative, legislative, executive or otherwise), (ii) any agency, authority, ministry, department, regulatory body, court, central bank, bureau, board or other instrumentality having legislative, judicial, taxing, regulatory, prosecutorial or administrative powers or functions of, or pertaining to, government, (iii) any court, tribunal, commission, individual, arbitrator, arbitration panel or other body having adjudicative, regulatory, judicial, quasi-judicial, administrative or similar functions, and (iv) any other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange or professional association.
 - (y) **“GST”** means any goods and services tax or harmonized sales tax payable pursuant to the ETA.
 - (z) **“Inter-Creditor Agreement”** has the meaning given to it in Recital H.
 - (aa) **“Interim Period”** means the period commencing on the Execution Date until and including the Closing Date.
 - (bb) **“Lease Assignment”** has the meaning given to it in Section 4.1(c).
 - (cc) **“Letter of Credit”** means the irrevocable letter of credit issued by RBC and provided to the City of Richmond as security for certain offsite civil works to be constructed pursuant to a services agreement with the City of Richmond.

- (dd) **“Liability”** means, any debts, claim, liability, duty, responsibility, obligations, commitment, assessment, cost, expense, loss, expenditure, charge, fee, penalty, fine, contribution or premium of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, absolute or contingent, direct or indirect, or due or to become due and regardless of when sustained, incurred or asserted or when the relevant events occurred or circumstances existed.
- (ee) **“Liens”** shall mean any lien, execution, hypothec, mortgage, security interest, trust or deemed trust, levy, easement, adverse claim, right of first refusal or first offer, restrictive covenant, royalty, arrangements, profits, interest, license, charge or other financial charge or claim of any nature, and any contract, option, right or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing.
- (ff) **“MBA”** has the meaning given to it in Recital D.
- (gg) **“Mutual Condition”** has the meaning given to it in Section 8.1.
- (hh) **“Permits and Licenses”** licenses, approvals, permits, consents or other rights entered into or obtained by the Vendor from any Governmental Authority, and used in connection with the Business or in respect of any of the Purchased Assets.
- (ii) **“Purchase Price”** means the amount calculated in accordance with Section 2.3.
- (jj) **“Purchased Assets”** means:
- (i) the Approved Contracts;
 - (ii) the Equipment;
 - (iii) the Permits and Licenses;
 - (iv) the Rights; and
 - (v) the Warranties,
- but excluding the Excluded Assets.
- (kk) **“Purchaser’s Solicitors”** means the firm of solicitors or agents as are retained by the Purchaser from time to time and written notice of which is provided to the Vendor.
- (ll) **“RBC”** has the meaning given to it in Recital H.
- (mm) **“Receiver”** has the meaning given to it in Recital B.
- (nn) **“Receivership Order”** has the meaning given to it in Recital B.
- (oo) **“ResidualCo”** means Free Flight Formation Inc., to which all of the Excluded Assets and Liabilities of the Franchisee will be transferred by the Vendor in connection with the closing of the transactions contemplated herein.

- (pp) **“Rights”** has the meaning given to it in Recital F.
- (qq) **“Sale Process”** has the meaning given to it in Recital C.
- (rr) **“Sale Process Order”** has the meaning given to it in Recital C.
- (ss) **“Sale Transaction”** has the meaning set out in Recital N.
- (tt) **“Shares”** means all of the issued and outstanding shares in the capital of the Franchisee.
- (uu) **“Supplier”** has the meaning given to it in Recital G.
- (vv) **“Vendor’s Solicitors”** means Fasken Martineau DuMoulin LLP.
- (ww) **“Vesting Order”** has the meaning given to it in Section 8.1.
- (xx) **“Warranties”** means all subsisting warranties and guarantees benefiting any of the Purchased Assets or any part thereof that are assignable without consent and in effect on the Closing Date.

ARTICLE 2 – PURCHASE AND SALE

- 2.1 Agreement of Purchase and Sale.** Subject to the terms and conditions of this Agreement and based on the representations and warranties contained in this Agreement, the Vendor agrees to sell and the Purchaser agrees to purchase the Shares for the Purchase Price on the Closing Date free and clear of all Excluded Liabilities and Encumbrances. For avoidance of doubt, the Purchaser will not assume any liability in respect of the Excluded Liabilities.
- 2.2 As Is, Where Is.** The Purchaser, via the purchase of the Shares, is acquiring the Purchased Assets “as is, where is” as of the Closing Date. Neither the Vendor, nor anyone on its behalf, represents or warrant the condition or state of repair of any of the Purchased Assets. The Purchaser must satisfy itself, and accept the Purchased Assets on a strictly “as is, where is” basis on the terms of this Agreement. The Purchaser acknowledges, covenants and agrees that it has been advised that the Franchisor has purported to terminate the Franchise Agreement and that the Franchisor and the supplier claim that the Companies have no ability to use the Equipment or the Rights. Further, the Purchaser acknowledges, covenants and agrees that it has been advised that the Franchisor has denied repayment and any liability to repay the “Royalty” pursuant to section 5.2.4 of the Franchise Agreement. The Purchaser agrees, acknowledges and understands that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Purchased Assets. Except as otherwise expressly provided for in this Agreement or in the Closing Documents, the Vendor shall have no obligations or responsibility to the Purchaser after the Closing Date with respect to any matter relating to the Purchased Assets or the condition thereof.
- 2.3 Purchase Price.** The Purchase Price to be paid by the Purchaser to the Vendor in consideration of the purchase and sale of the Shares in accordance with this Agreement will be Eight Million (\$8,000,000) Dollars, exclusive of GST (the **“Purchase Price”**).

2.4 Payment of Purchase Price.

- (a) The Purchase Price will be payable as follows:
 - (i) by payment of Five Hundred Thousand Dollars (\$500,000) of the Deposit by way of certified cheque, bank draft or wire transfer, payable to the Receiver, in trust, within two (2) Business Days of the Execution Date, which Deposit will be held in accordance with Section 2.6;
 - (ii) by release of the Two Hundred Thousand Dollars (\$200,000) held by RBC (the “**Non-Refundable Portion**”) directly to the Receiver for its immediate use; and
 - (iii) provided that the Mutual Condition have been satisfied or waived in accordance with Section 8.1, the balance of the Purchase Price, by wire transfer of immediately available funds.

2.5 Bidding Procedures. The Vendor and the Purchaser acknowledge that this Agreement and the transactions contemplated hereby are subject to Court approval. The Purchaser acknowledges and agrees that, notwithstanding acceptance of this offer by the Vendor, other prospective purchasers may attend in Court in person or by agent at the hearing of the motion to approve this Agreement and such prospective purchasers may make competing offers which may be approved by the Court. The Vendor may be compelled to advocate that the Court consider other offers in order to obtain the highest price for the Purchased Assets (whether by purchase of the Shares or by purchase of the Purchased Assets). The Vendor gives no undertaking to advocate the acceptance of this Agreement. To protect his, her or its interest in purchasing the Shares, the Purchaser acknowledges and agrees that he, she or it should attend at the Court hearing in person or by agent and be prepared there to make such amended or increased offer to purchase the Purchased Assets (whether by purchase of the Shares or by purchase of the Purchased Assets) as the Court may permit or direct.

2.6 Deposit. The Deposit (other than the Non-Refundable Portion) will be held by the Receiver, in trust. The Deposit will be dealt with as follows:

- (a) on the Closing Date, the Deposit will be credited on account of the Purchase Price; or
- (b) if, after the Mutual Condition in Section 8.1 herein is satisfied or waived, the Purchaser fails to complete the purchase of the Shares in accordance with this Agreement or if the Purchaser repudiates this Agreement, then the Deposit will be forfeited to the Vendor as liquidated damages, as the Vendor’s sole and exclusive remedy; or
- (c) if the Mutual Condition in Section 8.1 herein is not satisfied or waived within the applicable time periods contemplated in Section 8.1, the Deposit (less the Non-Refundable Portion) will be returned to the Purchaser forthwith without any deduction; or
- (d) if the Purchaser is not in default of any of its obligations under this Agreement and the Vendor fails to complete the sale of the Shares in accordance with this Agreement or if the Vendor repudiates this Agreement, then the Deposit (less the Non-Refundable

Portion) will be returned to the Purchaser upon demand by the Purchaser on or after the Closing Date, without prejudice to any other rights or remedies of the Purchaser whether at law or in equity;

2.7 Non-Refundable Portion. The Non-Refundable Portion may be retained by the Receiver for its own use in its sole discretion and is not refundable to the Purchaser in any circumstance except:

- (a) if the Mutual Condition in Section 8.1 herein is not satisfied or waived within the applicable time periods contemplated in Section 8.1; and
- (b) the Vendor obtains Court approval to sell the Purchased Assets to a third-party purchaser other than the Purchaser, and the purchase and sale of the Purchased Assets (whether by purchase of the Shares or by purchase of the Purchased Assets) to such Court approved third-party purchaser completes,

then the Receiver will refund the Non-Refundable Portion to the Purchaser forthwith.

ARTICLE 3 – AUTHORIZATION AND INSPECTION

3.1 Authorization. The Vendor hereby authorizes the Purchaser and its agents, consultants and advisors to meet with or correspond with appropriate statutory or governmental authorities having jurisdiction over the Purchased Assets or the Vendor for the purposes of this transaction, including but not limited to inquiries with respect to compliance with laws, by laws, regulations and assessments. The Vendor will promptly, at the Purchaser’s request, execute and deliver any authorizations reasonably required by the Purchaser to authorize the statutory or governmental authorities to release information to the Purchaser, provided such authorizations explicitly do not authorize or request any inspections with respect to the Property.

3.2 Inspection. The Purchaser and its advisors will be entitled upon reasonable notice to the Vendor and in accordance with the Vendor’s reasonable requirements as to security to inspect the Purchased Assets, provided that such access for such purposes will be at reasonable times scheduled by the Vendor at the Purchaser’s request and, at the option of the Vendor, subject to the Vendor’s supervision. The Purchaser will be responsible for and indemnify the Vendor for all costs, injuries or damages to the Purchased Assets, or to the Vendor, its agents or employees, directly arising out of such inspection by the Purchaser and such indemnity will survive the completion of the transactions contemplated herein or earlier termination of this Agreement.

ARTICLE 4 – GENERAL COVENANTS

4.1 Covenants of the Vendor. The Vendor:

- (a) throughout the Interim Period will keep, maintain and repair the Purchased Assets in their present condition, reasonable wear and tear excepted;
- (b) except in accordance with paragraph (c) below, throughout the Interim Period will not enter into any commitment or agreement or Contract, any agreement to lease, offer to

lease or lease the Purchased Assets or modify any material terms or terminate any of the Approved Contracts, Permits and Licenses or any mortgage or charge relating to the Purchased Assets or that would form an Encumbrance on the Purchased Assets without the prior written consent of the Purchaser, which the Purchaser may withhold in its sole discretion, or without Order of the Court; and

- (c) prior to the Closing Date, cause 1088 to assign its interest as tenant in the Lease to the Franchisee such that the Franchisee is the sole tenant under the Lease (the “**Lease Assignment**”).

ARTICLE 5– RISK

- 5.1 Risk.** The Purchased Assets will be at the risk of the Vendor until completion of closing on the Closing Date and thereafter at the risk of the Purchaser. The Vendor is not required to maintain any insurance relating to the Purchased Assets, but if there is such insurance, the Vendor will hold any insurance policies or compensation policies, and any proceeds of any insurance policies or compensation, if any, in trust for the Franchisee and the Purchaser as their interests appear.

ARTICLE 6 – POSSESSION

- 6.1 Possession Date.** The Purchaser will, upon completion of the purchase and sale, have possession of the Purchased Assets as of the Closing Date free and clear of all Encumbrances.

ARTICLE 7 – REPRESENTATIONS AND WARRANTIES

- 7.1 Purchaser’s Representations and Warranties.** The Purchaser represents and warrants to the Vendor, regardless of any independent investigation that the Vendor may cause to be made that:
 - (a) the Purchaser is a corporation incorporated and existing under the laws of British Columbia;
 - (b) the Purchaser has the corporate power and authority to enter into this Agreement and to perform its obligations under this Agreement;
 - (c) neither the Purchaser’s entering into this Agreement nor the performance of its terms will result in the breach of or constitute a default under any term or provision of any indenture, mortgage, deed of trust or other agreement to which the Purchaser is bound or subject.

ARTICLE 8 – CONDITIONS PRECEDENT

- 8.1 Mutual Condition.** The obligation of the parties to complete the transactions contemplated by this Agreement will be subject to the following mutual condition (the “**Mutual Condition**”), for the benefit of both the Vendor and the Purchaser:

- (a) that on or before the date that is forty-five (45) days following execution of this Agreement by both parties, the Vendor will have obtained (at the sole cost of the Vendor) an Order or Orders of the Court substantially in the form set out in **Schedule B** and satisfactory to the Vendor and the Purchaser (collectively, the “**Vesting Order**”):
- (i) approving the sale of the Shares to the Purchaser on the terms of this Agreement, or the issuance of a new share in the Franchisee in the name of the Purchaser and subsequent cancellation of the Shares;
 - (ii) transferring and assigning all of the Excluded Assets and Liabilities of the Franchisee to ResidualCo;
 - (iii) on completion of the Sale Transaction under this Agreement, vesting title to the Shares (if a new share in the Franchisee is not issued and the Shares subsequently cancelled) in and to the Purchaser, free and clear of all Encumbrances except the Permitted Encumbrances;
 - (iv) removing the Franchisee from the receivership proceedings and releasing it from the purview of all orders of the Court granted in respect of the receivership proceedings, save and except for the Vesting Order;
 - (v) releasing the Purchaser, the Franchisee, the Shares and the Purchased Assets from any and all claims arising from or in respect of: (A) any or all claims or Encumbrances and the Excluded Liabilities against or relating to the Franchisee, the Shares or the Purchased Assets existing immediately prior to the Closing Date; (B) the insolvency of the Franchisee prior to the Closing Date; (C) the commencement or existence of the receivership proceedings; or (D) the completion of the Sale Transaction;
 - (vi) authorizing and directing the Receiver to pay to RBC net proceeds of sale of the Shares after reserving an amount which is, in the Receiver’s opinion, sufficient to satisfy any obligations of the Receiver and pay the accrued and estimated fees and disbursement so the Receiver and its legal counsel through to completion of the receivership (the “**RBC Distribution**”); and
 - (vii) authorizing and directing the Vendor to assign the ResidualCo into bankruptcy within a reasonable period not to exceed thirty days after the Closing Date.

The Mutual Condition is for the mutual benefit of the Vendor and the Purchaser and may not be waived unilaterally by either party. Both parties agree that they will use all reasonable commercial efforts to satisfy the Mutual Condition. If the Mutual Condition has not been satisfied by the applicable deadline provided for in this Section 8.1, then the Purchaser’s and Vendor’s obligation to complete the Sale Transaction pursuant to this Agreement will be an end.

ARTICLE 9- CLOSING

9.1 Closing. The closing of the Sale Transaction will commence at 10:00 a.m. (Vancouver time) on the Closing Date in the offices of the Purchaser's Solicitors.

9.2 Vendor's Closing Documents. On or before the Closing Date, the Vendor will deliver, or cause the Vendor's Solicitors to deliver, to the Purchaser's Solicitors in trust to be held in escrow as provided in this Agreement, the following documents duly executed as applicable and all in a form satisfactory to the Purchaser, acting reasonably:

- (a) Court certified copy of the Vesting Order and any other Orders of the Court as are necessary, all in a form registerable in all necessary offices required to effect the transfer of the Shares to the Purchaser, or the issuance of a new share in the Franchisee in the name of the Purchaser and subsequent cancellation of the Shares;
- (b) the Lease Assignment and the consent of MBA to such assignment;
- (c) confirmation that the Vendor has caused the transfer of the Shares (or the issuance of a new share in the Franchisee in the name of the Purchaser and subsequent cancellation of the Shares) in accordance with the Vesting Order;
- (d) a statutory declaration by an authorized officer of the Vendor that the Vendor is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada);
- (e) all corporate records and account books of the Franchisee that are in the possession or control of the Vendor;
- (f) in consideration for the RBC Distribution, an executed release from RBC releasing MBA from all obligations arising under the MBA Guarantee, and all security held by RBC relating to such obligations, including the MBA Mortgage, provided that the Purchaser has posted a sufficient amount or replacement letter of credit with the City of Richmond for the City of Richmond to release the Letter of Credit; and
- (g) such other documents and assurances as may be reasonably required by the Purchaser to give full effect to the intent and meaning of this Agreement.

9.3 Purchaser's Closing Documents. In addition to payment of the Purchase Price, on or before the Closing Date, the Purchaser will deliver, or cause the Purchaser's Solicitors to deliver, to the Vendor's Solicitors in trust to be held in escrow as provided in this Agreement, the following duly executed as applicable:

- (a) the Letter of Credit (if not already returned directly to RBC);
- (b) such other documents and assurances as may be reasonably required by the Purchaser to give full effect to the intent and meaning of this Agreement.

9.4 Preparation and Form of Documents. The closing documents contemplated in Sections 9.2 and 9.3 (other than the Vesting Order) (collectively, the "**Closing Documents**") will be prepared

by the Purchaser's Solicitors and delivered to the Vendor's Solicitors at least five Business Days before the Closing Date. The Closing Documents (including the Vesting Order) will be in a form and substance reasonably satisfactory to the parties and their respective solicitors. The Vendor will provide the Purchaser with drafts of all material to be filed with the Court no later than three (3) Business Days prior to the date of any hearing of the Court regarding the Vesting Order or such other date as may be agreed to by the parties.

9.5 Payment into Trust. On or before the Closing Date, the Purchaser will pay to the Purchaser's Solicitors in trust, by way of certified cheque, bank draft, or wire transfer, funds in an amount equal to the Purchase Price, as adjusted.

9.6 Closing Procedure. All Closing Documents, funds, and other items delivered by the parties will be held in trust by the Vendor's Solicitors and the Purchaser's Solicitors until completion of closing on the Closing Date in accordance with this Agreement. The Purchaser will cause the Purchaser's Solicitors to pay to the Vendor's Solicitors by wire transfer, the balance of the Purchase Price and upon payment of the Purchase Price the Closing Documents will be released to the appropriate parties.

9.7 Concurrent Requirements. It is a condition of Closing that all matters of payment, execution and delivery of documents by each party to the other pursuant to the terms of this Agreement will be deemed to be concurrent requirements and it is specifically agreed that nothing will be complete at the closing until everything required as a condition precedent at the closing has been paid, executed and delivered.

9.8 Payment by Wire Transfer. Notwithstanding anything else contained herein, the Purchaser will make all commercially reasonable efforts to ensure that the balance of the Purchase Price (the "**Closing Payment**") will be paid to and received by the Vendor's Solicitors on or before 5:00 p.m. (Vancouver time) on the Closing Date. If for any reason out of the control of the Purchaser (which, for greater certainty, will not include any event which is a default by the Purchaser under this Agreement), the Purchaser cannot ensure that such amount will be received by the Vendor's Solicitors on or before 5:00 p.m. (Vancouver time) on the Closing Date, then provided the Purchaser's Solicitors confirm in writing to the Vendor's Solicitors on the Closing Date that the Purchaser's Solicitors are holding the Closing Payment in their trust account, they may make the payment to the Vendor's Solicitors on or before 5:00 p.m. (Vancouver time) on the next Business Day following the Closing Date and the Purchaser will pay to the Vendor, in addition to the Closing Payment, simple interest on such amount at a rate equal to three percent (3.0%) per annum for each day after the Closing Date until the adjusted Purchase Price is received by the Vendor's Solicitors (and if it is received after 5:00 p.m. (Vancouver time) on any day, then an additional day's interest will be added). For example, if the Closing Date occurs on a Friday, the funds are wired on the following Monday and the adjusted Purchase Price is received by the Vendor's Solicitors at 6:00 p.m. (Vancouver time) the day after wiring, the Purchaser will pay the Vendor four days' interest on the balance of the Purchase Price.

9.9 Termination. Notwithstanding any other provision of this Agreement:

- (a) this Agreement will automatically terminate upon the completion of the transactions contemplated herein, upon which, all of the representations, warranties and covenants contained herein will merge and there will be no survival of any representation, warranties or covenants contained in this Agreement except for pursuant to Sections 3.2 and 11.7; and
- (b) the Vendor may terminate this Agreement at any time prior to receipt of the Vesting Order if the Vendor determines it is inadvisable to present this Agreement to the Court for any reason whatsoever, and in any such event the Vendor shall have no further obligations or liability to the Purchaser under this Agreement or otherwise except for pursuant to Sections 3.2 and 11.7.

ARTICLE 10- TAXES

11.1 Other Taxes. The Purchaser will be responsible for all transfer taxes, fees and expenses in connection with the transfer of the Shares and the Vendor will be responsible for any taxes or fees in respect of the disposition of the Shares including, without limitation, income tax.

ARTICLE 11- GENERAL

11.1 Further Assurances. Each of the parties will execute and deliver all such further documents and do such further acts and things as may be reasonably required from time to time to give effect to this Agreement.

11.2 No Merger. The execution and delivery of the Closing Documents is not intended to and will not in any way merge or otherwise restrict the terms, covenants, conditions, representations, warranties or provisions made or to be performed or observed by the parties contained in this Agreement other than the obligation to deliver the Closing Documents.

11.3 Entire Agreement. This Agreement constitutes the entire agreement between the Vendor and the Purchaser pertaining to the purchase and sale of the Shares and supersedes all prior agreements and undertakings, negotiations and discussions, whether oral or written, of the Vendor and the Purchaser and there are no representations, warranties, covenants or agreements between the Vendor and Purchaser except as set out in this Agreement.

11.4 Amendment. Subject to Section 11.5, this Agreement may only be altered or amended by an agreement in writing executed by all of the parties.

11.5 Solicitors as Agents. Any notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement may be given or delivered and accepted or received by the Purchaser's Solicitors, on behalf of the Purchaser, and by the Vendor's Solicitors, on behalf of the Vendor, and any tender of Closing Documents and the Purchase Price may be made upon the Vendor's Solicitors and the Purchaser's Solicitors, as the case may be.

11.6 Notices. Any notice, document or communication required or permitted to be given under this Agreement will be in writing and delivered by hand or electronic transmission as follows:

(a) if to the Vendor:

KPMG Inc.
1100 – 777 Dunsmuir Street
Vancouver, BC V7Y 1K3

Attention: Huey Lee/Michelle Regan
E-mail hueylee@kpmg.ca and michelleregana@kpmg.ca

with a copy to the Vendor's Solicitors:

Fasken Martineau DuMoulin LLP
2900 – 550 Burrard Street
Vancouver, BC V6C 0A3

Attention: Kibben Jackson and Sarah Batut
E-mail: kjackson@fasken.com, sbatut@fasken.com

(b) if to the Purchaser:

1439474 B.C. Ltd.
2707 Clarke Street
Port Moody, BC V3H 1Z5

Attention: Grant Norwitz/Andrew Liu/Tirta Liu
E-mail: grunty63@gmail.com and Andrew@vcbleasing.com and
liutirta@gmail.com

with a further copy to the Purchaser's Solicitors:

Golbey Levine
2707 Clarke Street
Port Moody, BC V3H 1Z5

Attention: Justin Levine
E-mail: justin@golbey.com

or to such other address in Canada as either party may in writing advise. Any notice, document or communication will be deemed to have been given on the Business Day when delivered by hand if delivered prior to 5 p.m. (Vancouver time), otherwise will be deemed to be delivered and received on the next Business Day; or, if made by email, will be deemed to have been given on the Business Day when transmitted if it is so transmitted prior to 5 p.m. (Vancouver time) on the day of transmittal, otherwise will be deemed to be given and received on the next Business Day.

11.7 Fees. Each of the parties will pay its own legal fees and fees of its consultants. The Purchaser will pay all registration costs and property transfer tax payable in connection with its purchase of the Shares.

- 11.8 Time.** Time is of the essence of this Agreement.
- 11.9 Tender.** Unless otherwise set out herein, any tender of documents or money may be made upon the party being tendered or upon its solicitors and money will be tendered by certified cheque, bank draft, or wire transfer.
- 11.10 Enurement.** This Agreement will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.
- 11.11 Assignment.** The Purchaser may not assign this Agreement, nor any rights and interests herein, without the prior written consent of the Vendor, which consent may be unreasonably withheld. If the Vendor consent to any assignment: (i) the assignee will enter into an agreement pursuant to which the assignee agrees to be bound by all of the obligations and Liability of the Purchaser under this Agreement as if it was the original Purchaser; and (ii) the Purchaser is not released from its obligations and Liability under this Agreement until the completion of the transactions contemplated in this Agreement, at which time the assignor will be automatically released from all of its obligations and Liability under this Agreement without the need for any further deliveries or instruments of release.
- 11.12 Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in it.
- 11.13 Waiver.** No waiver of any of the provisions of this Agreement will be deemed or will constitute a waiver of any other provision nor will any waiver constitute a continuing waiver unless otherwise expressed or provided.
- 11.14 Currency.** All dollar amounts referred to are Canadian dollars.
- 11.15 Construction.** The division and headings of this Agreement are for reference only and are not to affect construction or interpretation.
- 11.16 Bankruptcy of ResidualCo.** Following the Closing, the Vendor shall assign ResidualCo into bankruptcy (the “**Bankruptcy Assignment**”). Notwithstanding any terms to the contrary herein, it is understood and agreed that, until such time as the Bankruptcy Assignment has been completed, any net proceeds from the sale of the Shares (including the Deposit (less the Non-Refundable Portion) and the cash portion of the balance of the Purchase Price contemplated in Section 2.4(a)(iii)) shall remain in trust with the Vendor’s Solicitors, not to be distributed until after the completion of the Bankruptcy Assignment.
- 11.17 Receiver’s Capacity.** The Purchaser acknowledges and agrees that, except as set out in this Agreement, the Receiver, acting in its capacity as the Receiver of the Companies’ Property, will have no liability in connection with this Agreement whatsoever in its capacity as Receiver, in its personal or corporate capacity, or otherwise. The provisions of this Section 11.17 shall not merge on, but shall survive, Closing.
- 11.18 Counterparts and Execution.** This Agreement may be executed in counterparts and delivered by electronic transmission including by PDF format, and each such counterpart will constitute an original and all such counterparts together will constitute one and the same agreement.

11.19 Schedules. The following schedules are attached to and form a part of this Agreement:

Schedule A – Equipment

Schedule B – Form of Vesting Order

[Signature page follows]

The parties are signing this Agreement as of the date set out above.

KPMG INC., in its capacity as Receiver of IFLY VANCOUVER INC., FREE FLIGHT FORMATION INC. and 1088384 B.C. LTD. and not in its personal or corporate capacity

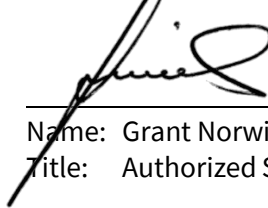


By: _____

Name: Huey Lee

Title: Senior Vice President

1439474 B.C. LTD.



By: _____

Name: Grant Norwitz

Title: Authorized Signatory

**SCHEDULE A
EQUIPMENT**

| Qty | Year | Manufacturer | Model | Description |
|-----|------|---------------|------------------------|---|
| 4 | 2020 | Howden | 280JMG/100/8/12 | Axial fan's, 10' dia, 89" D, WEG 350 hp, 900 rpm, Frame 5807/8/9TZ, 21.5 CL/PA, Max temp 122, 13 blade |
| 2 | 2020 | Rittal | KT 005 cUL 410A 500V-6 | Variable frequency control cabinets, Siemens G130 Enclosed, PO- 10605 |
| 192 | 2020 | iFly | 200428-01 | Replacement vanes, 8" W X 32' Aluminum construction |
| 24 | 2020 | IMMSA | | Galvanized split frame stiffener support bracket flanges, 6" W X 24' |
| | 2020 | | | Crate of airfoil thrust restraint plates stainless steel construction, 62X26X13, 3724 lb |
| 4 | 2020 | American Fan | | Aluminum nose cones, PO# POR0008184, PN W703833, 1000 HUB |
| 16 | 2020 | The VMC Group | VMA-50653-1E-5980 | Isolator pads |
| | | | | (4) skids with mod 111-040-1702 no fly barrier assembly, 111-080- 0002 Skyventure 4 fan thrust restraint kit, (72) 10460-01 Dynamat 24" X 48" X 0.067" thick self-adhesive sound deadener, 111-020-003 pitot tube kit straight 14R4.5, 111-500-0104-R2 combo lighting kit tall w/BRKTS, 111-500-0102 14R4-Commkit, KTSV005 02.R1 open air rtd kit, KT 22M-FW-78E0 SPR/2SW-eTile Kit w/i7, software, 2 sonic walls, spare e Tile, (4) Tophat Lrg- Large metal tophat for enclosure |
| 14 | | | | 63" W X 12" T X 13'L aluminum/galvanized baffles |
| 5 | | | | 63" W X 12" T X 23'L aluminum/galvanized baffles Steel support frame |
| 5 | | | | 63" W X 12" T X 23'L aluminum/galvanized baffles (unable to access inside container) |
| | | | | 5' fiberglass step ladder, Ryobi RY3500 generator, (4) jerry cans |
| | | | | (2) boxes of pre-applied underslab membrane, Powersmart 170cc lawn mower, fan, (2) buckets of metal clips, mop bucket, light |
| | | | | Pressure transmitter switch panel, ELO ET1519L touch screen monitor |
| | | | | 8' fiberglass step ladder, (4) boxes of double sided seismic colorseal CDS-0150, Samsung 32" mod DN32J4500AF |

| | | | |
|------|---------|----------|---|
| | | | (4) steel enclosure boxes, 16 1/2" X 14" X 19 1/4", (10) pieces of fiberglass strip panels |
| | | | (5) boxes of CRC polyurethane construction sealant (2) boxes of Dymonic FC sealant, (1) box of Dow Corning 790 sealant,(6) boxes of DE-Comp D-415W white sealant |
| | | | (13) boxes of washers (concrete ray boxless, Inlet transition duct, T4 quarter-round seal, outlet transition duct, primary difuser assembly, turn vane bank) |
| | | | (5) boxes of 3M marine adhesive sealant (7) boxes of Briahnton Best 1/2-13X2-1/2 hex cap screws(12) galvanized 8 1/2" X 7 1/4" galvanized brackets, (12) Tie rod assembly's |
| | | | (4) fiberglass 17" X 18" doors with locks and clips, (3) curved fiberglass doors 33 1/2" X 33", (2) fiberglass doors 33 1/2" X 33 1/2" |
| 2020 | Pentair | SRA/SRAX | Lift out rail system, 2 1/2" through 4" with (2) Myers 3RHX50M2-53 5 hp, 50' cables, (1) 5 hp DCP, (4) narrow angle control switches, Stainless steel float brackets, 50' power and float cords, lobby alarm |
| | | | Knack job box, (2) boxes of nails, 5' wood step ladder, (18) pieces of fiberglass molded panels custom made |
| | | | (6) folding tables, (4) chairs, cooler, Mitsubishi VFD control cabinet, Mitsubishi I/O cabinet, (8) galvanized brackets, (14) large galvanized brackets, (3) small skids steel shims, |
| | | | (6) sealed crates. Packing list attached listed CF connector plates, (16) cable bearing assemblies, CF weldment sides, glass retention angles, electrical pass through covers, (100) machine screws, temp covers, Extrusion clips |
| | | | (14) custom fiberglass molded panels |
| | | | (11) custom fiberglass molded panels |
| | | | (15) custom fiberglass molded panels |
| | | | (6) crates with custom glass, a few sheets damaged |
| | | | 14' inside dia, 1/4" thick steel/stainless 1/2 ring |

25' inside dia, 1/4" thick steel/stainless
1/2 ring with thin 25' inside dia, 1/4" thick
steel/stainless 1/2 ring

14' inside dia, 1/4" thick steel/stainless
1/2 ring

(22) rolls of 4' wide sheet matting
underlay weather damaged

PVC pipe connection bank AWC
sensors in crate on top of containers

APPENDIX "B"
PROPOSED APPROVAL AND VESTING ORDER

**SCHEDULE B
FORM OF VESTING ORDER**

See attached.

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

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

APPROVAL AND VESTING ORDER

BEFORE THE HONOURABLE)
JUSTICE GOMERY) [●], 2024
)

THE APPLICATION of KPMG Inc., in its capacity as the court-appointed receiver (in such capacity, the “**Receiver**”) of the assets, undertakings and property (collectively, the “**Property**”) of iFLY Vancouver Inc. (“**iFly**”), Free Flight Formation Inc. (“**Free Flight**”) and 1088384 B.C. Ltd. (together, the “**Debtors**”), coming on for hearing on the this day; AND ON HEARING Kibben Jackson, counsel for the Receiver, and those other counsel and parties listed on Schedule "A" hereto;

THIS COURT ORDERS AND DECLARES THAT:

1. The sale transaction (the “**Transaction**”) contemplated by the Purchase and Sale Agreement dated December 29, 2023 (the “**Sale Agreement**”) between the Receiver, as vendor, and 1439474 B.C. Ltd. (the “**Purchaser**”), as purchaser, a copy of which is attached as Schedule “B” hereto, is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Receiver and the

completion of the transaction contemplated thereby (the “**Transaction**”) is hereby authorized and approved, the Receiver is hereby authorized and directed to take such additional steps and to execute and deliver such additional documents as may be necessary or desirable for the completion of the Transaction, including without limitation for the issuance of the New Common Share (as defined herein) and the conveyance to the Purchaser of the Debtors’ interest in the Purchased Assets (as defined in the Sale Agreement), the execution of the documents and completion of the steps enumerated in and contemplated by the Sale Agreement and herein.

2. Upon delivery by the Receiver to the Purchaser of a certificate (the “**Receiver’s Certificate**”), substantially in the form attached as Schedule “C” hereto, confirming receipt by the Receiver of the full amount of the Purchase Price (as defined in the Sale Agreement), the following shall occur and be deemed to have occurred on the Closing Date (as defined in the Sale Agreement) in the following sequence:
 - a. first, all of the iFLY’s right, title and interest in and to the Excluded Assets and Excluded Liabilities (as defined in the Sale Agreement) shall vest absolutely and exclusively in Free Flight, and any and all Claims and Encumbrances (as defined herein) shall continue to attach to the Excluded Assets with the same nature and priority as they had immediately prior to their transfer;
 - b. second, without the need for any further action by any of iFLY’s shareholders, directors or officers, iFLY shall allot and issue one common voting share without par value in the capital of iFLY (the “**New Common Share**”) to the Purchaser, or such other entity as the Purchaser may direct, and the issuance of the New Common Share is hereby authorized, approved and validated, and, concurrently, and without the need for any further action by iFLY or any of its shareholders, directors or officers, all other issued and outstanding securities of iFLY (but, for clarity, excluding the New Common Share), including without limitation any shares in iFLY, any options and warrants issued by iFLY to acquire any shares in iFLY, and any other document, instrument or writing of iFLY commonly known as a security, are hereby cancelled, none of which shall be with any further force or effect, and the obligations of iFLY thereunder, or in any way related thereto, shall be satisfied and discharged, with no compensation or

- participation being provided or payable therefor, or in connection therewith, and all certificates formerly representing any such securities shall be deemed to be cancelled and shall be null and void;
- c. third, the New Common Share and all of the Debtors' interest in and to the Purchased Assets shall vest absolutely in the Purchaser in fee simple, 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 any orders of this court; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (iii) those Claims enumerated in Schedule "D" hereto (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; and
 - d. fourth, iFLY shall cease to be a Respondent in these proceedings and shall be deemed released from the purview of all orders of this court granted in these proceedings, save and except for this order.
3. The net proceeds from the issuance and sale of the New Common Share and the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver's Certificate all Claims shall attach to the net proceeds from the sale of the New Common Share and the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Debtors' interest in the Purchased Assets had not been transferred and the Purchased Assets remained in the possession or control of the person having had possession or control immediately prior to the sale.
 4. The Receiver is to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof.

5. Subject to the terms of the Sale Agreement, possession of the New Common Share and the Purchased Assets shall be delivered by the Receiver to the Purchaser at 12:00 noon on the Closing Date.
6. The Receiver and the Purchaser shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court.
7. Notwithstanding:
 - (a) these proceedings;
 - (b) any applications for a bankruptcy order in respect of any of the Debtors now or hereafter made pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”) and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made by or in respect of any of the Debtors,

the vesting of the New Common Share and of the Debtors’ interest in the Purchased Assets (including the New Common Share) in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Debtors and shall not be void or voidable by creditors of any of the Debtors, nor shall it constitute or be deemed to be a transfer at undervalue, 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.
8. Immediately after the Closing Date, the Receiver is hereby authorized and directed to bankrupt Free Flight. Neither iFLY nor the Purchaser shall be liable for any obligations of Free Flight, whether in their capacities as direct or indirect shareholders of Free Flight or otherwise.
9. In addition to and without limiting the rights and protections afforded to the Receiver pursuant to the Receivership Order (as defined in the Sale Agreement) made herein, the Receiver and its employees and representatives shall not incur any liability as a result of acting in accordance with this Order or administering Free Flight, save and except for any

gross negligence or wilful misconduct on the part of any such parties. All protections afforded to the Receiver pursuant to the Receivership Order, any further order granted in these proceedings or the BIA shall continue to apply.

10. The Receiver or any other party affected by this order have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this order.
11. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, 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.
12. 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 Kibben Jackson
Lawyer for KPMG Inc., in its capacity as the
court-appointed receiver of the assets,
undertakings and property of iFLY Vancouver
Inc., Free Flight Formation Inc. and 1088384 B.C.
Ltd.

BY THE COURT

REGISTRAR

Schedule "A"

(List of Counsel)

| Counsel name/litigant | Party represented |
|------------------------------|--------------------------|
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