

SUPERIOR COURT

(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

Nos. **500-11-062928-235** (main number after the consolidation)
500-11-062927-237
500-11-062929-233

DATE: **November 3, 2023**

PRESIDING : Me VINCENT-MICHEL AUBÉ, Registrar (JA0858)

IN THE MATTER OF THE RECEIVERSHIP OF:

LXR PRODUITS DE LUXE INTERNATIONAL INC.

LXR CANADA INC.

GROUPE GLOBAL LXR INC.

Debtors

-and-

**THE REGISTRAR OF THE REGISTER OF PERSONAL AND MOVABLE REAL RIGHTS
(Québec)**

Mis-en-Cause

-and-

CANADIAN IMPERIAL BANK OF COMMERCE

Petitioner

-and-

KPMG INC.

Receiver

APPROVAL AND VESTING ORDER

- [1] **ON READING** the *Application to Appoint a Receiver and to Approve and Implement a Transaction* (the "**Application**") of the Petitioner, Canadian Imperial Bank of Commerce, the affidavit and the exhibits in support thereof, as well as the report of KPMG Inc. dated November 1, 2023 (the "**Report**");
- [2] **SEEING** the service of the Application and the absence of contestation;
- [3] **SEEING** the submissions of counsel and the representations regarding the urgency of the situation;
- [4] **SEEING** the Order Appointing a Receiver rendered in respect of the Debtors on November 3, 2023;
- [5] **SEEING** that it is appropriate to issue an order approving the transaction(s) (the "**Transaction**") contemplated by the agreement entitled Asset Purchase Agreement (the "**Purchase Agreement**") by and between Receiver, as vendor, and Fashionphile Group, LLC (the "**Purchaser**"), as purchaser, copy of which was filed as Exhibit R-11A to the Application, and vesting in the Purchaser the assets described in the Purchase Agreement (the "**Purchased Assets**");

WHEREFORE THE COURT:

- [6] **GRANTS** the Application;

SERVICE

- [7] **ORDERS** that any prior delay for the presentation of this Application is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.
- [8] **PERMITS** service of this Order (this "**Order**") at any time and place and by any means whatsoever.

SALE APPROVAL

- [9] **ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement by the Receiver, as vendor, is hereby authorized and approved, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to but only with the consent of the Receiver and the Purchaser.

EXECUTION OF DOCUMENTATION

- [10] **AUTHORIZES** the Receiver and the Purchaser to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the Purchase Agreement (Exhibit R-11A) and any other ancillary document which could be required or useful to give full and complete effect thereto.

AUTHORIZATION

- [11] **ORDERS** and **DECLARES** that this Order shall constitute the only authorization required by the Receiver, as vendor, to proceed with the Transaction and that no shareholder, director or regulatory approval, if applicable, shall be required in connection therewith.

VESTING OF PURCHASED ASSETS

- [11] **ORDERS** and **DECLARES** that upon the issuance of a Receiver's certificate substantially in the form appended as **Schedule "A"** hereto (the "**Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, rights of retention, security interests (whether contractual, statutory or otherwise), liens, charges, hypothecs, mortgages, pledges, deemed trusts, assignments, judgments, executions, writs of seizure or execution, notices of sale, options, adverse claims, levies, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, contractual rights relating to the Property, or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**"), including without limiting the generality of the foregoing all Encumbrances created by order of this Court and all charges, security interests or charges evidenced by registration, publication or filing pursuant to the *Civil Code of Québec*, the Personal Property Security Act of any Canadian Province or any other applicable legislation providing for a security interest in personal or movable property and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Purchased Assets be expunged and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate.
- [12] **DECLARES** that upon issuance of the Certificate, the Transaction shall be deemed to constitute and shall have the same effect as a sale under judicial authority as per the provisions of the *Code of Civil Procedure* and a forced sale as per the provisions of the *Civil Code of Quebec*.
- [13] **ORDERS and DIRECTS** the Receiver to file with the Court a copy of the Certificate, forthwith after issuance thereof.

CANCELLATION OF SECURITY REGISTRATIONS

- [14] **ORDERS** the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Certificate, to reduce the scope of the registrations number **17-0588946-0001** in connection with the Purchased Asset in order to allow the transfer to the Purchaser of the Purchased Assets free and clear of such registrations.
- [15] **ORDERS** that upon the issuance of the Certificate, the Receiver, as vendor, and/or the Purchaser shall be authorized to take all such steps as may be necessary to effect the discharge of all Encumbrances registered against the Purchased Assets, including

filing such financing change statements in the personal property registries of any Canadian Province (**Personal Property Registries**) as may be necessary, from any registration filed against the Vendor in any Personal Property Registries, provided that the Receiver, as vendor, and the Purchaser shall not be authorized to effect any discharge that would have the effect of releasing any collateral other than the Purchased Assets, and Receiver, as vendor, and/or the Purchaser shall be authorized to take any further steps by way of further application to this Court.

NET PROCEEDS

- [16] **ORDERS** that the purchase price for the sale of the Purchased Assets shall be remitted to the Receiver at closing of the Transaction and the amount thereof remaining after the Receiver's compliance with Section 3.2(5) of the Purchase Agreement (such remaining amount being the "**Net Proceeds**") shall be distributed in accordance with applicable legislation.
- [17] **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the Net Proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that upon payment of the Purchase Price (as defined in the Purchase Agreement) by the Purchaser, all Encumbrances shall attach to the Net Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

VALIDITY OF THE TRANSACTION

- [18] **ORDERS** that notwithstanding:
- (i) the pendency of these proceedings;
 - (ii) any petition for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ("**BIA**") and any order issued pursuant to any such petition; or
 - (iii) the provisions of any federal or provincial legislation;

the vesting of the Purchased Assets contemplated in this Order, as well as the execution of the Purchase Agreement pursuant to this Order, are to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Purchaser or the Receiver.

LIMITATION OF LIABILITY

- [19] **DECLARES** that, subject to other orders of this Court, nothing herein contained shall require the Receiver to occupy or to take control, or to otherwise manage all or any part of the Purchased Assets. The Receiver shall not, as a result of this Order, be

deemed to be in possession of any of the Purchased Assets within the meaning of environmental legislation, the whole pursuant to the terms of the BIA.

- [20] **DECLARES** that no action lies against the Receiver by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Receiver or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph.

GENERAL

- [21] **ORDERS** that the Purchaser or the Receiver shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.
- [22] **ORDERS** that the Purchase Agreement and Exhibit R-11 to the Application as well as Appendices B and C to the Report be kept confidential and under seal until further order of this Court.
- [23] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada;
- [24] **DECLARES** that the Purchaser and the Receiver shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the Purchaser or the Receiver shall be the foreign representative of the Debtor. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Purchaser and the Receiver as may be deemed necessary or appropriate for that purpose;
- [25] **REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order;
- [26] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever;

THE WHOLE WITHOUT COSTS.



Me VINCENT-MICHEL AUBÉ
Registrar

JA0858