

COURT FILE NUMBER 2401-02664
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF LYNX AIR HOLDINGS CORPORATION
and 1263343 ALBERTA INC. dba LYNX AIR

DOCUMENT **APPROVAL AND VESTING ORDER (AERO)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **OSLER, HOSKIN & HARCOURT LLP**
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File Number: 1246361

DATE ON WHICH ORDER WAS PRONOUNCED: May 21, 2024
NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Justice Mah
LOCATION OF HEARING: Edmonton, Alberta

UPON THE APPLICATION of Lynx Air Holdings Corporation (“**Lynx Holdco**”) and 1263343 Alberta Inc. dba Lynx Air (“**Lynx Opco**”, and together with Lynx Holdco, the “**Applicants**”) for an Order approving the transaction (the “**Transaction**”) contemplated by an Asset Purchase Agreement between AERO3 Inc. (the “**Purchaser**”) and Lynx Opco dated May 10, 2024 (“**APA**”), a redacted copy of which is exhibited to the Affidavit of Michael Woodward sworn May 13, 2024 and an unredacted copy of which is exhibited to the Confidential Affidavit of Michael Woodward sworn May 13, 2024, and vesting in the Purchaser all of Lynx Opco’s right, title and interest in and to the assets described in the APA (the “**Purchased Assets**”); **AND UPON** reviewing the Initial Order granted in these proceedings on February 22, 2024 (the “**Initial**

Order”); **AND UPON** reviewing the Fourth Report of FTI Consulting Canada Inc. in its capacity as Monitor of the Applicants (the “**Monitor**”); **AND UPON** hearing from counsel for the Applicants, counsel for the Monitor, counsel for the Purchaser, and counsel for any other party appearing at the application; **AND UPON** noting that capitalized terms used but not otherwise defined in this Order shall have the meaning given to such terms in the APA;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTION

2. The Transaction and the APA are hereby approved and the execution of the APA by Lynx Opco is hereby authorized and approved, with such minor amendments as Lynx Opco and the Purchaser, with the consent of the Monitor, may deem necessary. Lynx Opco is hereby authorized and directed to perform its obligations under the APA and Lynx Opco and the Monitor are authorized to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and the terms of this Order. In the event of any conflict between the terms of the APA and this Order, this Order shall govern.

VESTING OF ASSETS

3. Upon delivery of a Monitor’s certificate to the Purchaser substantially in the form set out in Schedule “A” hereto (the “**Monitor’s Certificate**”), all of Lynx Opco’s right, title and interest in and to the Purchased Assets shall vest absolutely in the name of the Purchaser, free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, 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:

- (a) any encumbrances or charges created by any Order granted in these Proceedings;
and
- (b) any charges, security interests or claims evidenced by registrations pursuant to the Personal Property Security Act (Alberta) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”)

and for greater certainty, this Court orders that all Claims including the Encumbrances affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

4. Upon delivery of the Monitor’s Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities and any other applicable registrar or government ministries or authorities exercising jurisdiction with respect to Lynx Opco or the Purchased Assets (collectively, “**Governmental Authorities**”) are hereby authorized, requested and directed to accept delivery of such Monitor’s Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser clear title to the Purchased Assets.
5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the APA. Presentment of this Order and the Monitor’s Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances.
6. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased

Assets is required for the due execution, delivery and performance by Lynx Opco of the APA.

7. For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets from and after delivery of the Monitor's Certificate and all Claims including Encumbrances shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. Unless otherwise ordered (whether before or after the date of this Order), the Applicants shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further order of this Court.
8. Upon completion of the Transaction, Lynx Opco and all persons who claim by, through or under Lynx Opco in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser.
9. The Purchaser shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by Lynx Opco, or any person claiming by, through or against Lynx Opco.

MISCELLANEOUS

10. The Monitor is directed to file with the Court a copy of the Monitor's Certificate forthwith after delivery thereof to the Purchaser.

11. Notwithstanding:

(a) the pendency of these proceedings;

(b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "**BIA**"), and any bankruptcy order issued pursuant to any such applications; and

(c) the provisions of any federal or provincial statute:

the execution of the APA, the implementation of the Transaction and the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Applicants and shall not be void or voidable by creditors of the Lynx Holdco or Lynx Opco, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, 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.

12. The Applicants, the Purchaser and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

13. This Court shall retain exclusive jurisdiction to, among other things, interpret, implement and enforce the terms and provisions of this Order, the APA and all amendments thereto, in connection with any dispute involving the Applicants and to adjudicate, if necessary, any disputes concerning the Applicants related in any way to the Transaction.

14. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces

or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Monitor 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 order and to provide such assistance to the Monitor, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

15. Service of this Order shall be deemed good and sufficient by:

(a) Serving the same on:

- (i) the persons listed on the service list created in these proceedings;
- (ii) any other person served with notice of the application for this Order;
- (iii) any other parties attending or represented at the application for this Order;
- (iv) the Purchaser or the Purchaser's solicitors; and

(b) Posting a copy of this Order on the Monitor's website at:

<http://cfcanda.fticonsulting.com/lynxair/>

and service on any other person is hereby dispensed with.

16. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



Justice of the Court of King's Bench of Alberta

SCHEDULE “A”

Monitor’s Certificate

COURT FILE NUMBER 2401-02664

COURT COURT OF KING’S BENCH OF ALBERTA

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AND IN THE MATTER OF THE COMPROMISE OR
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and 1263343 ALBERTA INC. dba LYNX AIR

DOCUMENT **MONITOR’S CERTIFICATE**

ADDRESS FOR **OSLER, HOSKIN & HARCOURT LLP**
SERVICE AND Barristers & Solicitors
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File Number: 1246361

RECITALS

- A. Pursuant to an Order of the Honourable Justice Gill of the Court of King’s Bench of Alberta (the “**Court**”), dated February 22, 2024, FTI Consulting Canada Inc. was appointed Monitor (the “**Monitor**”) of Lynx Air Holdings Corporation (“**Lynx Holdco**”) and 1263343 Alberta Inc. dba Lynx Air (“**Lynx Opco**”, and together with Lynx Holdco, the “**Applicants**”).
- B. Pursuant to a Sale Approval and Vesting Order granted by the Honourable Justice Mah on May 21, 2024 (the “**Order**”), the Court approved an Asset Purchase Agreement between

AERO3 Inc. (the “**Purchaser**”) and Lynx Opco dated May 10, 2024 (the “**APA**”). This Monitor’s Certificate is the certificate referred to in paragraph 3 of the Order.

- C. Capitalized terms not otherwise defined herein have the meanings given to those terms in the APA.

THE RECEIVER CERTIFIES THE FOLLOWING:

1. The Purchaser has paid and Lynx Opco has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the APA.
2. The conditions to Closing as set out in the APA have been satisfied or waived by the Purchaser.
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ on _____, 2024.

FTI Consulting Canada Inc.

Name:

Title: