

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.)

TUESDAY, THE 4TH

JUSTICE HAINEY)

DAY OF MAY, 2021

**IN THE MATTER OF SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE*
ACT, R.S.O. 1990, C. C.43, AS AMENDED**

B E T W E E N:

CALLIDUS CAPITAL CORPORATION

Applicant

- and -

JD NORMAN CANADA, ULC

Respondent



APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver (the “**Receiver**”) of the property, assets and undertakings of JD Norman Canada, ULC (the “**Debtor**”) for an order, *inter alia*, (i) approving the Liquidation Services Agreement dated April 20, 2021 (the “**Liquidation Services Agreement**”) between the Receiver and Corporate Assets Inc. (the “**Liquidator**”) as appended in redacted form to the Second Report of the Receiver dated April 27, 2021 (the “**Second Report**”) and included in unredacted form as Confidential Appendix “2” to the Second Report, (ii) approving the transaction contemplated by the Liquidation Services Agreement (the “**Transaction**”), (iii) vesting in each purchaser (each, a “**Purchaser**”) of assets described in the Liquidation Services Agreement all of the Debtor’s right, title and interest in such assets, (iv) approving the Second Report and the activities of the

Receiver described therein, and (v) sealing the confidential appendices to the Second Report (the “**Confidential Appendices**”), was heard this day by judicial videoconference via Zoom at Toronto, Ontario due to the COVID-19 crisis.

ON READING the Second Report, and on hearing the submissions of counsel for the Receiver, counsel for Callidus Capital Corporation and those other parties present, no one else appearing although duly served as appears from the affidavit of service of Chloe Nanfara, made April 28, 2021:

1. **THIS COURT ORDERS** that any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Liquidation Services Agreement.
2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable today and any further service thereof is hereby dispensed with.
3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Liquidation Services Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of any machinery and equipment of the Debtor sold to any Purchaser in accordance with the Liquidation Services Agreement (each, an “**M&E Asset**” and, collectively, the “**M&E Assets**”).
4. **THIS COURT ORDERS** that the Liquidator is hereby authorized to market and sell the M&E Assets in accordance with the Liquidation Services Agreement.
5. **THIS COURT ORDERS** that all Sales shall be conducted in accordance with the Liquidation Services Agreement, subject to any variation thereto agreed to in writing by the Receiver and the Liquidator.
6. **THIS COURT ORDERS AND DECLARES** that the Liquidator is hereby permitted to sell the M&E Assets and that upon the Liquidator completing the sale of any of the M&E Assets to a Purchaser and delivering a bill of sale or similar conveyance document to such Purchaser (a

“**Bill of Sale**”), all of the Debtor’s right, title and interest in and to the M&E Assets described in such Bill of Sale shall vest absolutely in such Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order of the Honourable Justice Hainey dated February 12, 2021; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system.

7. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of each M&E Asset, including, without limitation, any net minimum guarantee amount payable to the Receiver under the terms of the Liquidation Services Agreement (the “**Proceeds**”), shall stand in the place and stead of that M&E Asset, and that from and after the delivery of the Bill of Sale in respect of that M&E Asset, all Claims shall attach to the Proceeds with the same priority as they had with respect to each M&E Asset immediately prior to the sale thereof.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

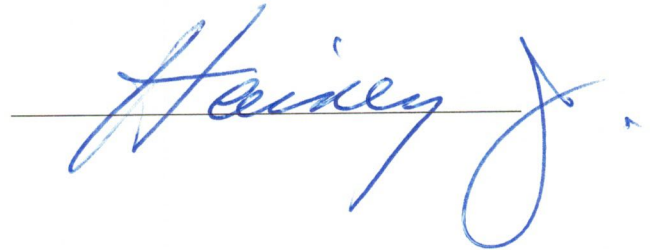
the sale and vesting of title to each M&E Asset in a Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or

other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT ORDERS** that the Second Report be and is hereby approved and the activities of the Receiver as described therein be and is hereby approved.

10. **THIS COURT ORDERS** that the Confidential Appendices be and are hereby sealed until further order of this Honourable Court.

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

A handwritten signature in blue ink, appearing to read "Hailey J.", is written over a horizontal line. The signature is cursive and extends to the right of the line.

**CALLIDUS CAPITAL
CORPORATION**

JD NORMAN CANADA, LLC

Court File No.: CV-21-00656820-00CL

and

Applicant

Respondent

ONTARIO
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT: TORONTO

APPROVAL AND VESTING ORDER

OSLER, HOSKIN & HARCOURT LLP
100 King Street West, 1 First Canadian Place
Suite 6200, P.O. Box 50, Toronto ON M5X 1B8

Marc Wasserman (L.S.O.# 44066M)
Email: mwasserman@osler.com
Tel: 416-862-4908

Counsel for the Court-Appointed Receiver