

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR

JUSTICE D.M. BROWN

)
)
)

THURSDAY, THE 1ST

DAY OF MAY, 2014

BETWEEN:



CALLIDUS CAPITAL CORPORATION

Applicant

- and -

**XCHANGE TECHNOLOGY GROUP LLC, IT XCHANGE FINANCIAL SERVICES
LLC, IT XCHANGE CORP., BLUERANGE TECHNOLOGY CORP.,
BLUERANGE TECHNOLOGY INC., PARTSTOCK COMPUTER LLC AND
IT XCHANGE INC.**

Respondents

**APPROVAL AND VESTING ORDER
(XTR SHARES)**

THIS MOTION, made by Duff & Phelps Canada Restructuring Inc. ("**Duff & Phelps**" or the "**Receiver**") in its capacity as Court-appointed receiver over all of the property, assets and undertakings of the Respondents (the "**XTG Debtors**"), for an order approving the transaction (the "**Transaction**") contemplated by the share purchase agreement (the "**Agreement**") between the Receiver and Herr Siegbert Herbert Franz, (the "**Purchaser**") and vesting in the Purchaser the right, title and interest of Xchange Technology Group LLC (the "**XTG Parent**") in and to the

shares of Xchange Technology GmbH as described in the Agreement (the “**XTR Shares**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Third Report of the Receiver dated April 25, 2014 (the “**Third Report**”), and on hearing the submissions of counsel for the Receiver and such other counsel as are present, no one else appearing for any other person on the service list, although properly served as appears from the Affidavit of Lynn Lee sworn April 28, 2014, filed.

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein, be and is hereby abridged such that the motion is properly returnable today and this Court hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Confidential Appendix to the Third Report shall be sealed until further order of this Court.
3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved. The execution of the Agreement by the Receiver is hereby authorized and approved, and 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 the XTR Shares to the Purchaser, including resolutions and consents.
4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's Certificate to the Purchaser substantially in the form attached as Schedule A hereto (the “**Receiver's Certificate**”), all of the right, title and interest of the XTG Parent in and to the XTR Shares shall vest absolutely in the 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 Order of the Honourable Justice Morawetz dated October 29, 2013 (ii) and all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) 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 of the Encumbrances affecting or relating to the XTR Shares are hereby expunged and discharged as against the XTR Shares.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the XTR Shares shall stand in the place and stead of the XTR Shares, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the XTR Shares with the same priority as they had with respect to the XTR Shares immediately prior to the sale, as if the XTR Shares had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. **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 XTG Parent and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the XTG Parent;

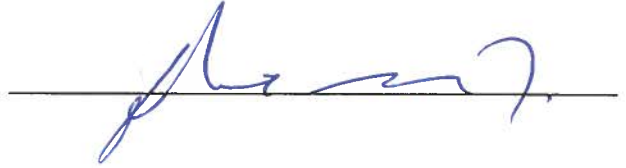
the vesting of the XTR Shares in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the XTG Parent and shall not be void or voidable by creditors of the XTG Parent, nor shall it constitute nor be deemed to be a settlement, fraudulent 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.

8. **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.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

 MAY 01 2014



Schedule A – Form of Receiver’s Certificate

Court File No. CV-13-10310-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

CALLIDUS CAPITAL CORPORATION

Applicant

- and -

**XCHANGE TECHNOLOGY GROUP LLC, IT XCHANGE FINANCIAL SERVICES
LLC, IT XCHANGE CORP., BLUERANGE TECHNOLOGY CORP.,
BLUERANGE TECHNOLOGY INC., PARTSTOCK COMPUTER LLC AND
IT XCHANGE INC.**

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (the "Court") dated October 29, 2013, Duff & Phelps Canada Restructuring Inc. was appointed as the receiver (the "Receiver") of all of the property, assets and undertakings of the Respondents (collectively, the “**XTG Debtors**”).

B. Pursuant to an Order of the Court dated November 22, 2013, the Court approved the agreement (the “**Agreement**”) regarding the sale and purchase of the 100% equity interest owned by Xchange Technology Group LLC (the “**XTG Parent**”) in Xchange Technology GmbH (the “**XTR Shares**”) between the Receiver and Herr Siegbert Herbert Franz (the

“Purchaser”), and provided for the vesting in the Purchaser of the Debtors’ right, title and interest in and to the XTR Shares, which vesting is to be effective with respect to the XTR Shares upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the XTR Shares; (ii) that the conditions to closing as set out in the Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the XTR Shares payable pursuant to the Agreement;
2. The conditions to closing as set out in the Agreement have been satisfied or waived by the Receiver and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Receiver.
5. This Certificate was delivered by the Receiver at [TIME] on ____ [DATE].

**DUFF & PHELPS CANADA
RESTRUCTURING INC., in its capacity as
Court-appointed Receiver over all of the
property, assets and undertakings of the
Respondents, and not in its personal capacity**

Per: _____

Name:

Title:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at TORONTO

**APPROVAL AND VESTING ORDER
(XTR SHARES)**

CHAITONS LLP
Barristers and Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Harvey Chaiton
LSUC Registration No. 21592F
Tel: (416) 218-1129
Fax: (416) 218-1849
E-mail: Harvey@chaitons.com

**Lawyers for Duff & Phelps Canada
Restructuring Inc., in its capacity as court-
appointed Receiver of the Respondents**