

Court File No. CV-24-00716267-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
JUSTICE STEELE)
MONDAY, THE 29TH
DAY OF JULY, 2024

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SKYLINK EXPRESS INC. (the "**Applicant**")

**APPROVAL AND VESTING ORDER
(C-GEGA CESSNA 208B, MSN 208B-0379 (RANDIGO LLC))**

THIS MOTION, made by the Applicant, Skylink Express Inc., (the "**Applicant**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Applicant and Randigo LLC (the "**Purchaser**") dated July 12, 2024 and appended to the Fifth Report of KSV Restructuring Inc. in its capacity as the monitor of the Applicant (in such capacity, the "**Monitor**") dated July 19, 2024 (the "**Fifth Report**"), and vesting in the Purchaser the Applicant's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of David Atkins, sworn July 19, 2024 and the exhibits attached thereto and the Fifth Report and on hearing the submissions of counsel for the Applicant, Momentum Decisive Solutions Canada Inc., The Toronto-Dominion Bank (the "**Bank**"), the Monitor and those other parties present although duly served as appears from the Affidavits of Service of Lauren Archibald sworn July 22, 2024 and Katie Parent sworn July 23, 2024, filed:

1 **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Applicant is hereby authorized and approved, with such minor amendments as the Applicant and Monitor may deem necessary. The Applicant 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 Purchased Assets to the Purchaser.

2 **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Monitor's Certificate**"), all of the Applicant's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule "B" hereto 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 Cavanagh dated March 11, 2024 (as amended and restated); (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Personal Property Security Act* (Manitoba), the *Personal Property Security Act* (Saskatchewan), and the *Personal Property Security Act* (British Columbia) or any other personal property registry system; (iii) all international interests and associated rights registered with the International Registry of Mobile Assets operating under the framework of the *Convention on International Interests in Mobile Equipment* and the *Protocol on Matters Specific to Aircraft Equipment* ("**International Registry**"); (iv) any Irrevocable De-registration and Export Request Authorisation ("**IDERA**") registered with the Canadian Civil Aircraft Register ("**CCAR**") and (v) those Claims listed on Schedule "C" 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.

3 **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the 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.

4 **THIS COURT ORDERS** that all governmental authorities and any other applicable registrar or government ministries or authorities exercising jurisdiction with respect to the Applicant or the Purchased Assets, including without limitation, any personal property security register in any Province in Canada, the Federal Aviation Administration aircraft registry, the International Registry and Transport Canada (including the CCAR) (collectively, the “**Governmental Authorities**”) are hereby authorized requested and directed to accept delivery of the Monitor’s Certificate and a copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance (including any deregistration of IDERA with the CCAR) as may be required to convey or record in favour of the Purchaser clear title to the Purchased Assets and deregistration of the Purchased Assets with the CCAR.

5 **THIS COURT ORDERS** that the Bank registers as a Transacting User Entity with the International Registry (as defined in the International Registry) and it designates a Professional

User Entity with such registry (as defined in the International Registry) for the discharge of its international interests.

6 **THIS COURT ORDERS** that the Applicant, the Bank and the Purchaser are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable to effect the discharge of the Encumbrances including but not limited to providing the consents to discharge of any international interests, associated rights or rights to discharge Encumbrances in favour of the Bank.

7 **THIS COURT ORDERS and DIRECTS** each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement (irrespective if the explicit consent of any other party is required in writing or otherwise) and the 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, or any recordation of same, and cancel and discharge registrations and IDERA.

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

9 **THIS COURT ORDERS** that the Applicant and the Monitor, on behalf of the Applicant and in its capacity as Escrow Agent under the APA, are hereby authorized and directed, without further order of the Court, to distribute the Purchase Price (as defined in the APA), net of the commission payable to the Agent (as defined in the Fifth Report), to Bank (the "**Distribution**").

10 **THIS COURT ORDERS** that the Monitor and the Applicant are hereby authorized and directed to take all reasonably necessary steps and actions to effect the Distribution in accordance with the provisions of this Order, and shall not incur any liability as a result of making the Distribution.

11 **THIS COURT ORDERS** that the Distribution shall be made free and clear of all Encumbrances and shall reduce the obligations under the TD Loan Facilities and TD Loan Security (each as defined in the Fifth Report).

12 **THIS COURT ORDERS** that, notwithstanding:

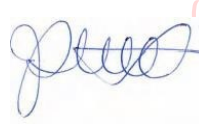
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Applicant and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy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

the Distribution 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 the Applicant and shall not be void or voidable by creditors of the Applicant, nor shall it constitute nor be deemed to be a 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.

13 **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 Applicant, the Monitor and their respective 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 Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this

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Order or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.



Digitally signed
by Jana Steele
Date: 2024.07.29
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Schedule "A" - Form of Monitor's Certificate

Court File No. CV-24-00716267-00CL

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IN THE MATTER OF THE *COMPANIES' CREDITORS
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ARRANGEMENT OF SKYLINK EXPRESS INC. (the "**Applicant**")

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (the "Court") dated March 11, 2024, KSV Restructuring Inc. was appointed as the monitor (the "**Monitor**") of Skylink Express Inc. (the "**Applicant**").

B. Pursuant to an Order of the Court dated **[DATE]**, the Court approved the agreement of purchase and sale made as of July 12, 2024 (the "**Sale Agreement**") between the Applicant and Randigo LLC (the "**Purchaser**") and provided for the vesting in the Purchaser of the Applicant's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 3.5 of the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Applicant and the Monitor.

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

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THE MONITOR CERTIFIES the following:

1. The Purchaser has paid and the Applicant has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 3.5 of the Sale Agreement have been satisfied or waived by the Applicant and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Applicant and the Monitor.
4. This Certificate was delivered by the Monitor at _____ [a.m./p.m.] on [DATE].

**KSV Restructuring Inc., in its capacity as Monitor of
Skylink Express Inc., and not in its personal capacity**

Per: _____

Name:

Title:

Schedule "B" - Purchased Assets

- Cessna Grand Caravan airframe, manufacturer's serial number 208B-0379 (the "**Airframe**");
- Pratt and Whitney Canada PT6A-114A engine, engine's serial number PC0687 (the "**Engine**");
- all appurtenances, appliances, parts, avionics, instruments, components, accessions, furnishings, items of equipment and accessories installed thereon or appurtenant thereto as set forth in the Aircraft Specification attached as Exhibit A to the Sale Agreement; and
- all Aircraft Documents (as defined in the Sale Agreement)

Schedule "C" – Partial Discharges to be Registered

Personal Property Security Act (Ontario) Security

Debtor	Secured Party	Reference File Number	Collateral Description
Skylink Express Inc.	The Toronto-Dominion Bank	767158866	Reference to the following under "Motor Vehicle" and "General Collateral Description" to be removed: <ul style="list-style-type: none">• Pratt & Whitney Canada PT6A Series Serial No. PC0687• Cessna 208B Serial No. 208B-0379

Personal Property Security Act (Manitoba) Security

Debtor	Secured Party	Registration Number	Collateral Description
Skylink Express Inc.	The Toronto-Dominion Bank	202017958706	Reference to the following under "Serial Numbered Goods" and "General Collateral Description" to be removed: <ul style="list-style-type: none">• Pratt & Whitney Canada PT6A Series Serial No. PC0687• Cessna 208B Serial No. 208B-0379

Personal Property Security Act (British Columbia) Security

Debtor	Secured Party	Base Registration Number	Collateral Description
Skylink Express Inc.	The Toronto-Dominion Bank	561393M	Reference to the following under "Vehicle Collateral" and "General Collateral" to be removed: <ul style="list-style-type: none">• Pratt & Whitney Canada PT6A Series Serial No. PC0687• Cessna 208B Serial No. 208B0379

Personal Property Security Act (Saskatchewan) Security

Debtor	Secured Party	Registration Number	Collateral Description
Skylink Express Inc.	The Toronto-Dominion Bank	302097989	Reference to the following under "Serial Property" and "General Property" to be removed: <ul style="list-style-type: none">• Pratt & Whitney Canada PT6A Series Serial No. PC0687• Cessna 208B Serial No. 208B0379

International Registry

- File number 1809935 in favour of The Toronto-Dominion Bank, as creditor, against Skylink Express Inc., as debtor, in respect of Pratt & Whitney Canada PT6A Series Serial No. PC0687 as shown on Priority Search Certificate Number 1945188.
- File number 1809904 in favour of The Toronto-Dominion Bank, as creditor, against Skylink Express Inc., as debtor, in respect of Cessna 208B Serial No. 208B0379 as shown on Priority Search Certificate Number 1945186.

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ACT, R.S.C. 1985, c. C-36, AS AMENDED

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Applicant

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PROCEEDING COMMENCED AT
TORONTO

**APPROVAL AND VESTING ORDER
(C-GEGA CESSNA 208B, MSN 208B-0379 (RANDIGO LLC))**

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Lawyers for the Applicant