

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

THE HONOURABLE ) THURSDAY, THE 15TH  
 )  
JUSTICE BLACK ) DAY OF FEBRUARY, 2024  
 )

B E T W E E N:

**ORTHO STUDIO EXPRESS, INC.**

**Applicant**

**-and-**

**DIGITAL ORTHODONTIC CARE INC.**

**Respondent**

**APPROVAL AND VESTING ORDER  
(Stalking Horse Agreement)**

**THIS MOTION**, made by Richter Inc., in its capacity as the Court-appointed receiver (the “**Receiver**”) without security, of the undertaking, property and assets of the Digital Orthodontic Care Inc. (the “**Debtor**”) for an order, *inter alia*,: (i) approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Stalking Horse Agreement**”) dated August 9, 2023 between the Receiver and Ortho Studio Express, Inc. (the “**Purchaser**”) and appended as Appendix “E” to the Second Report of the Receiver dated February 9, 2024 (the “**Second Report**”); and (ii) vesting in the Purchaser, the Debtor’s right, title and interest in and to the assets and property described in the Stalking Horse Agreement (the “**Purchased Assets**”), was heard today by video conference.

**ON READING** the Motion Record of the Receiver dated February 10, 2024, including the Second Report of the Receiver, and on hearing the submissions of counsel for the Receiver and

for the Applicant, and no one appearing for any other parties, although duly served as appears from the affidavit of service of Levi Rivers sworn February 12, 2024, filed.

## **SERVICE**

1. **THIS COURT ORDERS** that the time and method for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

## **APPROVAL OF SALE TRANSACTION**

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved and the execution of the Stalking Horse Agreement by the Receiver is hereby authorized and approved,, *nunc pro tunc*. 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 Purchased Assets to the Purchaser.

3. **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 Debtor's right, title and interest in and to the Purchased Assets described in the Stalking Horse Agreement 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 Osborne dated July 4, 2023; 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 (all of which are collectively referred to as "Encumbrances"), and, for greater certainty, this Court orders that all the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **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 (the "**Net Proceeds**") shall stand in the place and stead of the Purchased Assets, 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 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.

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

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

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 Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

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 Debtor and shall not be void or voidable by creditors of the Debtor, 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.

**GENERAL**

8. **THIS COURT ORDERS** that the Receiver shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or in any other foreign jurisdiction to give effect to this Order and to assist the Purchaser, the Receiver 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 the Debtor, the Purchaser, and the Receiver, as an officer of this Court, as may be necessary or desirable to recognize and give effect to this Order and to assist the Purchaser, the Receiver and their respective agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this Order is effective from the date that it is made, and is enforceable without any need for entry and filing.



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Justice W. Black

**Schedule "A" – Form of Receiver's Certificate**

Court File No. CV-23-00699238-00CL

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

B E T W E E N:

**ORTHO STUDIO EXPRESS, INC.**

**Applicant**

**-and-**

**DIGITAL ORTHODONTIC CARE INC.**

**Respondent**

**RECEIVER'S CERTIFICATE  
(Stalking Horse Agreement)**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Osborne of the Ontario Superior Court of Justice (the "**Court**") dated July 4, 2023, Richter Inc. was appointed as the receiver and receiver and manager (the "**Receiver**") of the undertaking, property and assets of Digital Orthodontic Care Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated February 15, 2024, the Court approved the agreement of purchase and sale attached dated August 9, 2023 (the "**Stalking Horse Agreement**") between the Receiver and Ortho Studio Express, Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor'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 Receiver 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 the Stalking Horse 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 Stalking Horse Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Stalking Horse Agreement;
2. The conditions to Closing as set out in the Stalking Horse Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**Richter Inc., solely in its capacity as Receiver of the Property, and not in its personal capacity**

Per: \_\_\_\_\_

Name:

Title:

**ORTHO STUDIO EXPRESS, INC.**

and

**DIGITAL ORTHODONTIC CARE INC.**

Applicant

Respondent

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

Proceedings commenced at Toronto

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(Stalking Horse Agreement)**

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**RECONSTRUCT LLP**

Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2305, P.O. Box 120  
Toronto, ON M5J 2J3

**Caitlin Fell** LSO No. 60091H

cfell@reconllp.com

Tel: 416.613.8282

Fax: 416.613.8290

**Lawyers for the Receiver.**