

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

THE HONOURABLE

JUSTICE BLACK

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THURSDAY, THE 15TH

DAY OF FEBRURY, 2024

B E T W E E N :

ORTHO STUDIO EXPRESS, INC.

Applicant

- and -

DIGITAL ORTHODONTIC CARE INC.

Respondent

**APPROVAL AND VESTING ORDER
(Arcadlab Purchase Agreement)**

THIS MOTION, made by Richter Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of Digital Orthodontic Care Inc. (the “**Debtor**”) for an order, among other things,

- (i) the sale transaction (the “**Transaction**”) contemplated by the purchase agreement (the “**Arcadlab Purchase Agreement**”) between the Receiver and Ortho Studio Express, Inc. (the “**Purchaser**”) dated October 6, 2023, and
- (ii) vesting in favour of the Purchaser all of the Debtor’s right, title and interest in and to the assets described in the Arcadlab Purchase Agreement (the “**Purchased Assets**”),

was heard this day by judicial videoconference via Zoom at Toronto, Ontario.

ON READING the Motion Record of the Receiver dated February 10, 2024, including the Second Report of the Receiver dated February 9, 2024 (the “**Second Report**”), 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 for service of the Notice of Motion, the Motion Record of the Receiver and the Second Report is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

ARCADLAB PURCHASE AGREEMENT

2. **THIS COURT ORDERS** that the Transaction is hereby approved and that the execution by the Receiver of the Arcadlab Purchase Agreement attached as Appendix "F" of the Second Report 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, benefit, and interest in and to the Purchased Assets described in the Arcadlab Purchase 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; (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; and (iii) those Claims listed on **Schedule "B"** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "C"**) 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.

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 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 other Canadian and foreign court, tribunal, regulatory or administrative body ("**Judicial Body**") to give effect to this Order and to assist the Receiver and its respective agents in carrying out the terms of this Order. All Judicial 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, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its 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.



Justice W. Black

**SCHEDULE “A” –
Form of Receiver’s Certificate**

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

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

BETWEEN

ORTHO STUDIO EXPRESS, INC.

Applicant

-and-

DIGITAL ORTHODONTIC CARE INC.

Respondent

**RECEIVER’S CERTIFICATE
(Arcadlab Purchase 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 (the “**Receiver**”) of the undertaking, property, and assets of Digital Orthodontic Care Inc. (the “**Debtor**”).

B. Pursuant to an Order of the Court dated August 17, 2023, the Court approved certain sale procedures in respect of certain of the Debtor’s assets (the “**Sale Procedures**”).

C. Pursuant to an Order of the Court dated February 15, 2024, the Court approved the Agreement of Purchase and Sale made as of October 6, 2023 (the “**Arcadlab Purchase 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 setout in Article 5 of the Arcadlab Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iv) the transaction has been completed to the satisfaction of the Receiver.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Arcadlab Purchase 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 Purchase Agreement;
2. The conditions to Closing as set out in the Purchase 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:

SCHEDULE "B"
Claims

Nil.

SCHEDULE "C"
Permitted Encumbrances

Nil.

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and

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Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER
(Arcadlab Purchase Agreement)**

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