

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

THE HONOURABLE MR.) FRIDAY, THE 29TH
)
JUSTICE BROWN) DAY OF NOVEMBER, 2013

B E T W E E N:

RETURN ON INNOVATION ADVISORS LTD., AS AGENT

Applicant

- and -

MCCOWAN MANUFACTURING LTD.

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C 1985, c. B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of McCowan Manufacturing Ltd. (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement (the "**Sale Agreement**") between the Receiver and 1016998 Ontario Limited dated November 19, 2013 and appended to the Report of the Receiver dated November 22, 2013 (the "**First Report**"), as assigned by 1016998 Ontario Limited to 2397411 Ontario Inc. (the "**Purchaser**"), and vesting in the Purchaser the Debtor's right, title

and interest in and to the "Purchased Assets" (as such term is defined in the Sale Agreement) (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Lynn Lee sworn November 26, 2013, filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale 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 the Purchased Assets to the Purchaser.

2. **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 Sale 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 Madam Justice Mesbur dated November 12, 2013; 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 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 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.

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

5. **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 Debtor'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.

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

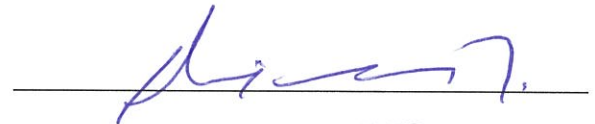
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made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

7. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

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 A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

NOV 29 2013



Schedule A – Form of Receiver’s Certificate

Court File No. CV-13-10136-00CL

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

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RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of The Honourable Madam Justice Mesbur of the Ontario Superior Court of Justice (the "**Court**") dated November 12, 2013, BDO Canada Limited was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of McCowan Manufacturing Ltd. (the "**Debtor**").

B. Pursuant to an Order of the Court dated November 29, 2013, the Court approved the asset purchase agreement made as of November 19, 2013 (the "**Sale Agreement**") between the Receiver and 1016998 Ontario Limited, as assigned by 1016998 Ontario Limited to 2397411 Ontario 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 Sections 5.01 and 5.03 of the Sale 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 Sale 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 Sale Agreement;
2. The conditions to Closing as set out in Sections 5.01 and 5.03 of the Sale 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 December ___, 2013.

**BDO CANADA LIMITED, in its capacity as
Receiver of the undertaking, property and
assets of McCowan Manufacturing Ltd., and
not in its personal capacity**

Per: _____

Name: Ken Pearl

Title: Vice President

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Court File No. CV-13-10136-00CL

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SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

**APPROVAL AND VESTING
ORDER**

CHATTONS LLP
Barristers & Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Harvey Chaiton
LSUC # 21592F
Tel: (416) 218-1129
Fax: (416) 218-1849
E-mail: harvey@chaitons.com

Sam Rappos
LSUC # 51399S
Tel: (416) 218-1137
Fax: (416) 218-1837
E-mail: samr@chaitons.com

Lawyers for the Receiver