

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

**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 EARTH BORING CO. LIMITED,
YARBRIDGE HOLDINGS INC., TROLAN INVESTMENTS LTD.
AND YARFIELD SERVICES LIMITED**

**FACTUM OF THE APPLICANTS
(Approval and Reverse Vesting Order)**

September 8, 2025

RECONSTRUCT LLP
80 Richmond Street West
Suite 1700
Toronto, ON M5H 2A4

Caitlin Fell LSO No. 60091H
Tel: 416.613.8282
Email: cfell@reconllp.com

Brendan Bissell LSO No. 40354V
Tel: 416.613.0066
Email: bbissell@reconllp.com

Jessica Wuthmann LSO No. 72442W
Tel: 416.613.8288
Email: jwuthmann@reconllp.com

Fax: 416.613.8290

Lawyers for the Applicants

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PART I – INTRODUCTION AND OVERVIEW

A. Introduction

1. Earth Boring Co. Limited (“**EBCL**”), Yarbridge Holdings Inc. (“**Yarbridge**”), Trolan Investments Ltd. (“**Trolan**”), and Yarfield Services Limited (“**Yarfield**”, together with EBCL, Yarbridge and Trolan, the “**Applicants**”) bring a motion for approval of a transaction to sell substantially all of their assets and business on a going concern basis. The proposed transaction is in the form of a reverse vesting order (“**RVO**”). The motion also seeks related relief for approval of a share subscription agreement by the purchaser under the transaction, release of claims, and releases of parties involved in the restructuring, as well as conventional relief pertaining to report and fee approval for the Monitor, and sealing of confidential information.

B. Overview

2. The Applicants obtained an initial order (as amended from time to time, now the “**TARIO**”) under the *Companies Creditors Arrangement Act*, RSC 1985, c. C-36, as amended (the “**CCAA**”) from this Court on April 17, 2025. The Court also granted a Lien Regularization Order (“**LRO**”).

3. On May 28, 2025, the Court granted an order (the “**SISP Approval Order**”), which, among other things: (a) approved the sale and investment solicitation process (the “**SISP**”); and (b) approved the appointment of PricewaterhouseCoopers Corporate Finance Inc. as Sales Advisor (the “**Sales Advisor**”) to assist the Monitor and the Applicants with implementing the SISP.

4. On August 14, 2025, the Court granted an order (the “**Stay Extension Order**”) which, among other things, extended the stay of proceedings up to and including September 12, 2025 and extended certain deadlines of the SISP.

5. On the Phase II Bid Deadline of the SISP, only one binding offer was received, which was the offer from Barrier Ridge Capital Inc., on behalf of and in trust for a corporation to be incorporated (the "**Purchaser**"). After extensive review and negotiation of the bid by BDO Canada Limited ("**BDO**") in its capacity as Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**"), in consultation with the Applicants' primary secured creditors the Bank of Montreal ("**BMO**") and the Business Development Bank of Canada ("**BDC**"), the Monitor declared the Purchaser's bid as the highest and best bid (the "**Successful Bid**").

6. The Applicants now seek a RVO in the form attached at tab 3 of the Applicants' motion record (the "**RVO**"), which, among other things:

- (a) approves the Share Subscription Agreement dated September 3, 2025 (the "**Subscription Agreement**") between EBCL, Yarbridge, and Trolan (collectively, the "**Vendors**") and the Purchaser;
- (b) approves the transactions contemplated in the Subscription Agreement (collectively, the "**Transactions**"), and authorizes the Vendors to take such additional steps and execute such additional documents as necessary or desirable for the completion of the Transactions;
- (c) declares 1001343933 Ontario Inc. ("**ResidualCo**") to be an Applicant;
- (d) approves a sequence of steps that shall be deemed to have occurred upon delivery of a closing certificate by the Monitor (the "**Closing Time**");
- (e) approves the release of all claims arising in connection with or relating to these CCAA proceedings, the Subscription Agreement, the consummation of the Transactions, and/or any closing document, agreement, document, instrument, matter or transaction involving the Applicants arising in connection with or

pursuant to any of the foregoing (collectively, the “**Released Claims**”) as against (a) the current directors and officers of the Applicants (the “**Released D&O’s**”), as well as the shareholders, employees, consultants, legal counsel and advisors of the Applicants; (b) the current directors, officers, shareholders, consultants, legal counsel and advisors to ResidualCo; (c) the Purchaser and its legal counsel and their respective current directors, officers, partners, employees, and advisors; and (d) the Monitor and its legal counsel and their respective affiliates, directors, officers, partners, employees, and advisors (the persons listed in (a), (b), (c) and (d) being collectively, the “**Released Parties**”); provided that nothing in this paragraph shall waive, discharge, release, cancel or bar any claim for gross negligence, fraud or willful misconduct or any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA, or (x) any obligations of the Released Parties under, or in connection with, the Subscription Agreement, or (y) the liabilities and obligations of Eugene Woodbridge with respect to the agreement between Eugene Woodbridge and BMO;

- (f) orders that no person shall be permitted to preserve or perfect a Lien Claim (as defined below) under the *Construction Act*, RSO 1990, c C.30 on any Continuing Project Contracts in respect to services or work performed prior to the Filing Date (“**Pre-Filing Lien Claims**”), and that any such Pre-Filing Lien Claims be and are hereby vacated and shall only be entitled to seek recovery on account of any Pre-Filing Lien Claims by way of a claim on the Lien Charge pursuant to and in accordance with the terms of the LRO and any other Order granted by the Court;
- (g) grants certain enhanced powers to the Monitor including to perform any functions or duties the Monitor considers necessary or desirable to facilitate or assist the winding-down of ResidualCo and bringing these CCAA proceedings to an end;

- (h) extends the Stay of Proceedings (as defined herein) to October 31, 2025;
- (i) approves the Fourth Report of the Monitor (the “**Fourth Report**”), and the activities of the Monitor and its counsel described therein;
- (j) approves the fees and disbursements of the Monitor and its counsel (collectively, the “**Professional Fees**”) as set out in the Affidavits of Clark Lonergan and Heather Fisher (the “**Fee Affidavits**”), each attached to the Fourth Report;
- (k) seals Confidential Exhibit “1” to the affidavit of Eugene Woodbridge sworn September 3, 2025 (the “**Fifth Woodbridge Affidavit**”) and the Confidential Appendix to the Fourth Report (together with the Confidential Exhibit “1”, the “**Confidential Materials**”) until the earlier of the closing of the Transactions or further order of the Court;
- (l) authorizes the Monitor to retain a termination reserve to fund the remainder of these CCAA proceedings; and
- (m) authorizes a distribution to BMO of the funds received by the Monitor in accordance with section 7.2(j) of the Subscription Agreement (the “**BMO Lease Funds**”).

7. The Applicants submit that it is appropriate to grant the requested relief including the approval of the Subscription Agreement. The SISP thoroughly canvassed the market for a sale and/or investment of the Applicants and their assets. The Subscription Agreement represents the best available outcome that permits the Vendors to continue as a going-concern for the benefit of their stakeholders, including their 77 employees, customers, and suppliers.

8. The reverse vesting structure of the Transactions is necessary to preserve the value of the Vendors' Certifications, Continuing Project Contracts, and Tax Losses, while enabling the Vendors to have access to additional funding to satisfy or assume certain liabilities which will preserve the going concern value of its business.

9. The Monitor supports the within motion and the Applicants' request for the RVO.

PART II – FACTS

10. The facts with respect to this motion are summarized below but are more fully set out in the Fifth Woodbridge Affidavit. A more detailed background of these CCAA proceedings is set out in the Affidavits of Eugene Woodbridge sworn April 16, 2025 and May 23, 2025.¹

11. Capitalized terms used but not otherwise defined in this factum have the meanings given to them in the Fifth Woodbridge Affidavit and the Subscription Agreement.

C. Background

12. The Applicants are engaged in the business of trenchless construction services, which includes, among other things, microtunneling, mixed microtunneling and boring, auger boring, and directional drilling (the "**Business**").²

13. In the last year, the Applicants experienced an acute liquidity crisis precipitated by changes to guidelines in government funding, unforeseeable cost increases on one of the Applicants' largest projects, delays in project tendering and the shouldering of the upfront costs of certain insurance claims. As a result, the Applicants sought and obtained the TARIO.³

¹ Fifth Woodbridge Affidavit, Exhibit "C", Affidavit of Eugene Woodbridge [sworn April 16, 2025](#) (without exhibits) ("**Initial Affidavit**") and Exhibit "E", Affidavit of Eugene Woodbridge [sworn May 23, 2025](#) (without exhibits).

² Fifth Woodbridge Affidavit, [para 6](#).

³ Fifth Woodbridge Affidavit, [para 8](#).

14. Pursuant to the TARIO, the Court approved a debtor-in-possession term sheet from BMO providing for a financing facility in the amount of \$5.5 million, granted a stay of proceedings, and granted certain priority charges.⁴

D. The SISP

15. A primary objective of these CCAA proceedings was to continue the pre-filing sale process that had been started by the Applicants in order to complement the Applicants' ongoing operational restructuring. As a result, the Applicants developed the SISP, in consultation with the Monitor, and the DIP Lender. The SISP was approved by this Court on May 28, 2025.⁵

16. The SISP was structured as a two-phase sale and investment solicitation process to be administered by the Sales Advisor, in consultation with the Monitor, over an 11-week period.⁶

17. The Sale Advisor administered the SISP, with the assistance of the Monitor and the Applicants (as and when appropriate), in accordance with the terms of the SISP Approval Order.⁷ The solicitation efforts are more fully described in the Fifth Woodbridge Affidavit and the Monitor's Fourth Report delivered in connection with this motion. In particular:

- (a) the Sales Advisor emailed an initial offering summary and non-disclosure agreement to approximately 126 prospective bidders about the SISP;
- (b) the Sales Advisor granted access to a virtual data room (the "VDR") to 23 parties that executed non-disclosure agreements; and

⁴ Fifth Woodbridge Affidavit, [paras 9-10](#).

⁵ Fifth Woodbridge Affidavit, [para 16](#).

⁶ Fifth Woodbridge Affidavit, [paras 17 and 19](#).

⁷ Fifth Woodbridge Affidavit, [para 25](#).

- (c) the Sales Advisor dedicated significant time and resources answering any due diligence questions posed to it.⁸

18. Before the Phase I Bid Deadline, the management of EBCL (“**Management**”) disclosed their intention to submit a bid in the SISP. As a result, the Sales Advisor and the Monitor did not share any information with Management with respect to other SISP participants or bids.⁹

19. On the Phase I Bid Deadline, the Sales Advisor received four letters of intent (“**LOI’s**”). In consultation with the Monitor, the Sales Advisor reviewed the LOIs to determine if they were Qualified Phase I Bids that were compliant with the criteria in the SISP. All four LOIs were deemed to be Qualified Phase I Bids and were permitted to advance to Phase II.¹⁰

20. During Phase II, the bidders continued to perform due diligence including attending management meetings and site visits.¹¹ On the Phase II Bid Deadline, only one binding offer was received, which was the offer from the Purchaser.¹²

21. The Sales Advisor and Monitor, in consultation with BMO, reviewed and assessed the Purchaser’s bid in the context of the criteria specified in paragraph 49 of the SISP. During that time, the Monitor exercised its discretion under the Stay Extension Order to extend the SISP timelines to allow the DIP Lender time to assess and negotiate the terms of the offer. The DIP Lender accordingly spent several weeks negotiating with the Purchaser as to terms that were acceptable to it as the senior secured lender. Following these negotiations, with the consent of the DIP Lender, the Monitor declared the bid from the Purchaser as the Successful Bid.¹³

⁸ Fifth Woodbridge Affidavit, [paras 26-28](#).

⁹ Fifth Woodbridge Affidavit, [para 30](#).

¹⁰ Fifth Woodbridge Affidavit, [para 31](#).

¹¹ Fifth Woodbridge Affidavit, [paras 32-33](#).

¹² Fifth Woodbridge Affidavit, [para 35](#).

¹³ Fifth Woodbridge Affidavit, [para 36](#).

E. The Subscription Agreement

22. The principal terms of the Subscription Agreement are as follows:¹⁴

- (a) **The Purchaser:** Barrier Ridge Capital Inc., on behalf of and in trust for a corporation to be incorporated. Management of the Vendors will own shares in the company to be incorporated as the Purchaser.
- (b) **Purchased Shares:** The Vendors shall issue to the Purchaser, and the Purchaser shall subscribe for that number and class of shares in the share capital of the Vendors from treasury, to be specified by the Purchaser at least two Business Days prior to the Closing Date, which shares shall be free and clear of all Encumbrances (“**Purchased Shares**”). In addition to the Purchased Shares, the Retained Assets and Retained Liabilities will remain with the Vendors.
- (c) **Purchase Price:** The total aggregate consideration in respect of the Purchased Shares shall be equal the aggregate value of the amounts set out below and comprised of the following (the “**Purchase Price**”): (a) subject to the adjustment in section 3.2, payment in cash of an amount under seal (the “**Cash Consideration**”); (b) payment of 50% of the Accounts Receivable derived from the Continuing Project Contracts up to a specific maximum amount; (c) an amount equal to the Cure Costs for the Retained Leases and the Retained Contracts as of the Closing Time; (d) an amount equal to \$250,000 on account of proceeds of litigation between Monteith & Sutherland Limited v. Novex Insurance Company; and (d) the

¹⁴ Fifth Woodbridge Affidavit, [para 37](#).

total obligations and indebtedness of the Retained Liabilities as of the Closing Time;

- (d) **Adjustment to the Purchase Price:** The Subscription Agreement provides for an adjustment to the Purchase Price where the DIP Facility is greater or less than \$5,500,000;
- (e) **Employees:** The Purchaser will determine which employees it will assume and continue to employ prior to closing. The Purchaser intends to keep the majority of the Vendors' employees;
- (f) **Retained Liabilities:** Certain liabilities articulated in section 2.4 of the Subscription Agreement including (i) wages, vacation pay and benefit plans owing to any employee that continues employment with the Applicants after the Closing Time; (ii) the mortgage and indebtedness of Yarbridge Holdings Inc. and Trolan Investments Ltd., to BDC; (iii) ordinary course Post-Filing Trade Liabilities in respect of the Continuing Project Contracts; (iv) the Cure Costs and obligations arising from the Retained Leases and Retained Contracts from and after the Closing Time; and (v) Tax Liabilities of the Vendors beginning after the Closing Date;
- (g) **Excluded Assets:** (i) Tax records, (ii) books and records related to the Excluded Liabilities and Excluded Assets, (iii) Excluded Contracts, (iv) Excluded Leases, and (v) in respect of the Caledon Project, all uncollected accounts receivable that have been invoiced by the applicable Vendor prior to the Closing Date;
- (h) **Excluded Liabilities:** All Claims (being amounts owing pre-filing) and all debts, obligations and liabilities of the Vendors or any predecessors thereof except for

the Retained Liabilities. For clarity this includes but is not limited to any liabilities: (i) relating to or under the Excluded Contracts and Excluded Assets, (ii) relating to or under the Excluded Leases including any claims related to the disclaimer of leases, and (iii) for all Terminated Employees;

- (i) **Closing Conditions:** The key conditions to closing, among others, are (i) the approval of the RVO; (ii) BMO shall have released the personal guarantors from the indebtedness owing to BMO; (iii) the mortgages of BDC shall remain in place on terms satisfactory to BDC; (iv) the BMO Leases shall be paid out by no later than November 1, 2025; and (v) Management and executives of the Vendor remain employed by the Purchaser; and
- (j) **Closing Date:** Five Business Days after the conditions to closing have been satisfied.

23. If the Subscription Agreement is approved and the RVO is granted, the Transactions will result in, among other things, the Business continuing as a going concern for the benefit of the Vendors' stakeholders including their employees, customers, and suppliers.¹⁵

F. The Reverse Vesting Structure is Necessary

24. The Transactions contemplated in the Subscription Agreement have been structured as a "reverse vesting" transaction. In consultation with the Vendors and the Monitor, the Purchaser concluded that a reverse vesting structure was necessary and appropriate to preserve and maximize value in the circumstances.¹⁶ Specifically, the Certifications, Tax Losses, and

¹⁵ Fifth Woodbridge Affidavit, [para 38](#).

¹⁶ Fifth Woodbridge Affidavit, [paras 40-41](#).

Continuing Project Contracts are non-transferable assets that cannot be preserved within a traditional asset purchase transaction.¹⁷

PART III – ISSUES

25. The issues to be determined by this Honourable Court are whether to:
- (a) approve the Subscription Agreement and approve the Transactions described therein;
 - (b) cancel the Existing Shares and add ResidualCo as an Applicant;
 - (c) grant the requested releases;
 - (d) extend the Stay of Proceedings up to and including October 31, 2025;
 - (e) approve the sealing provision;
 - (f) prevent the perfecting of Pre-Filing Lien Claims;
 - (g) permit the distribution to BMO; and
 - (h) approve the Monitor's Fourth Report and Professional Fees.

PART IV – LAW & ARGUMENT

A. The Reverse Vesting Transactions and Subscription Agreement Should be Approved

26. The proposed Transactions are structured as a reverse vesting transaction in order to preserve value of the Business for the benefit of the Purchaser.

27. A reverse vesting transaction typically involves a series of steps whereby: (a) the

¹⁷ Fifth Woodbridge Affidavit, [paras 42-49](#).

purchaser becomes the sole shareholder of the debtor company; (b) the debtor company retains its assets, including contracts and permits; and (c) the liabilities not assumed by the purchaser or related to the purchased assets are vested out and transferred, together with any excluded assets, to a newly incorporated entity. The assets and liabilities vested in the newly incorporated entity (in this case, ResidualCo) are then addressed through a bankruptcy or similar process.¹⁸

28. The Court has broad jurisdiction under section 11 of the CCAA to grant reverse vesting orders.¹⁹ Reverse vesting orders have been recognized by the Court on a number of occasions where the court is satisfied that a reverse vesting structure is appropriate and warranted.²⁰

(i) The Section 36(3) Factors and Soundair Factors Support the Transaction

29. Approval of a RVO first involves consideration of whether the non-exhaustive factors enumerated under section 36(3) of the CCAA²¹ and the factors articulated by the Court of Appeal for Ontario in *Royal Bank of Canada v. Soundair Corp* for approval of a sale of the business have been met.²² Together, these factors include: (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances; (b) whether the monitor approved the process leading to the proposed sale; (c) whether the monitor filed with the court a report stating that in their opinion the sale would be more beneficial to the creditors than a sale or disposition under a bankruptcy; (d) the extent to which the creditors were consulted; (e) the effects of the proposed sale on the creditors and other interested parties; (f) whether the consideration to be received for

¹⁸ *Just Energy Group Inc et al v Morgan Stanley Capital Group Inc et al*, 2022 ONSC 6354 [**Just Energy**] [McEwen J.], [para 27](#) citing *Arrangement relatif à Blackrock Metals Inc*, 2022 QCCS 2828 [**Blackrock**] (original English version) [Paquette C.J.], [para 85](#), leave to appeal ref'd [2022 QCCA 1073](#), leave to appeal ref'd [2023 CanLII 36969](#) (SCC).

¹⁹ *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 [**CCAA**], [ss. 11](#) and [36](#). See *Just Energy*, [paras 29-32](#); *Blackrock*, [para 87](#); *Harte Gold Corp (Re)*, 2022 ONSC 653 [**Harte Gold**] [Penny J.], [paras 18-20](#) and [37](#).

²⁰ *Harte Gold*, [para 38](#). See *Validus Power Corp et al v Macquarie Equipment Finance Limited*, 2024 ONSC 250 [**Validus**], [paras 43-44](#); *Fresh City Farms and Mama Earth Organics*, 2024 ONSC 2016 [**Fresh City Farms**], [paras 34-35](#). *Atlas Global Brands Inc*, 2024 ONSC 5570 [**Atlas Global**], [paras 10-21](#).

²¹ CCAA, [s. 36\(3\)](#)

²² *Canwest Global Communications Corp*, 2010 ONSC 2870, [para 13](#) citing *Royal Bank of Canada v Soundair Corp*, (1991) 4 O.R. (3d) 1 (CA).

the assets is reasonable and fair, taking into account their market value; (g) whether sufficient effort has been made to obtain the best price and that the debtors have not acted improvidently; (h) the efficacy and integrity of the process by which offers have been obtained; (i) whether the interests of all parties have been considered; and (j) whether there has been unfairness in the working out of the process.²³

30. Unless a proposed transaction plainly offends section 36(3) or the *Soundair* principles, the business judgment of the parties and the court-appointed Monitor will normally be approved where the marketing and sale process was fair, reasonable, transparent and efficient.²⁴

31. The Applicants submit that the Transactions and Subscription Agreement satisfy Section 36(3) of the CCAA and the *Soundair* principles. The evidence demonstrates that the Transactions represent the best option and outcome available in the circumstances. Specifically:

- (a) **The SISP was developed with the Monitor.** The SISP was developed with significant input from the Monitor and the Sales Advisor. The SISP was also approved by the Court.²⁵
- (b) **The SISP was fair, transparent, and reasonable.** The SISP was conducted by the Sales Advisor and Monitor in an open and transparent manner in accordance with the SISP Approval Order. The SISP provided a broad and flexible process to canvass the market for the best possible result for all stakeholders.²⁶
- (c) **The SISP made sufficient effort to obtain the best price.** The SISP was originally planned to be seven weeks, but the Monitor exercised its reasonable

²³ *Acerus Pharmaceuticals Corporation (Re)*, 2023 ONSC 3314, [paras 10-11](#).

²⁴ *Sanjel Corporation (Re)*, 2016 ABQB 257, [para 57](#). See also *Arrangement relatif à FormerXBC Inc (Xebex Adsorption Inc)*, 2023 QCCS 1818, [para 13](#).

²⁵ Fifth Woodbridge Affidavit, [paras 13 and 16](#).

²⁶ Fifth Woodbridge Affidavit, [paras 51-53](#).

business judgement to extend the SISP by over four more weeks to ensure a competitive bidding process.²⁷

(d) **The Transactions are in the best interests of the stakeholders.** The Subscription Agreement represents the best and only opportunity for the Business to continue as a going-concern for the benefit of its many stakeholders including employees, suppliers and customers. Specifically, the Transactions represent numerous tangible benefits to stakeholders, including:²⁸

- (i) the Applicants will continue operating as a going concern which will preserve employment for the majority of the Vendors' 77 employees, as well as the ongoing relationships with suppliers and customers, and permit the Vendors to complete the 18 Continuing Project Contracts;
- (ii) the Vendors will continue the bonded construction projects, thereby minimizing losses to Aviva and the project owners;
- (iii) the Purchaser will pay the Cash Consideration for the equipment of the Vendors on closing;
- (iv) the Purchaser will assume the mortgage and indebtedness of Yarbridge and Trolan owing to BDC; and
- (v) all Cure Costs under the Retained Contracts and Retained Leases will be assumed and paid by the Purchaser.

(e) **The Monitor supports the Transactions.** The Monitor believes the Transaction

²⁷ Fifth Woodbridge Affidavit, [para 53](#).

²⁸ Fifth Woodbridge Affidavit, [para 38](#).

presents the best possible outcome for the stakeholders in the circumstances.²⁹

- (f) **There is no viable alternative to the Transactions.** There is no other proposed transaction. Without the Transactions, the Applicants will cease operations and liquidate their assets in a bankruptcy, which would be a devastating outcome relative to the proposed Transactions.³⁰
- (g) **The Consideration given by the Purchaser is fair and reasonable.** The consideration to be received under the Subscription Agreement is fair and reasonable in the circumstances taking into account their market value and the broad canvassing of the potentially interested parties during the pre-filing sale process and the SISP.³¹ If there was any other transaction available in the market that offered a higher purchase price, and therefore greater recoveries for creditors, the SISP provided a sufficient opportunity for such a superior transaction to emerge.
- (h) **There is no material prejudice to any creditor as a consequence of the Transaction.** The Subscription Agreement produces a transaction that is more favourable to stakeholders than any other viable alternative.³² Although Aviva has advised it opposes the Purchaser buying the accounts receivable on the basis it would be prejudicial to it and other lien claimants, accounts receivable is property of a debtor, which therefore means they can be sold in a transaction (after which such claims continue against the proceeds of sale).³³

²⁹ Fifth Woodbridge Affidavit, [para 53](#).

³⁰ Fifth Woodbridge Affidavit, [para 54](#).

³¹ Fifth Woodbridge Affidavit, [para 53](#).

³² Fifth Woodbridge Affidavit, [para 49](#).

³³ See for example *Comstock Canada Ltd. (Re)*, 2013 ONSC 4756, [paras 54-55](#).

(ii) The Reverse Vesting Structure is Appropriate

32. If the *Soundair* test is met, the Court is then obligated to address the test for approval of a ‘reverse vesting order’ developed in *Harte Gold*: (a) why is the reverse vesting order is necessary in this case; (b) whether the reverse vesting transaction structure produces an economic result at least as favourable as any other viable alternative; (c) whether any stakeholder is worse off under the reverse vesting transaction structure than they would have been under any other viable alternative; and (d) whether the consideration being paid for the debtors’ business reflects the importance and value of the licences and permits (or other intangible assets) being preserved under the reverse vesting transaction structure.

33. In *Just Energy*, Justice McEwen noted that RVOs have been deemed appropriate in circumstances where: (a) the debtor operates in a highly regulated environment in which its existing permits, licences or other rights are difficult or impossible to reassign to a purchaser; (b) the debtor is a party to certain key agreements that would be similarly difficult or impossible to assign to a purchaser; and (c) where maintaining the existing legal entities would preserve certain tax attributes that would otherwise be lost in a traditional vesting order transaction.³⁴

34. In this matter, as in *Just Energy*, the reverse vesting structure is necessary and appropriate in these circumstances:

- (a) **The RVO is necessary.** The RVO is the only mechanism that will allow the Purchaser to retain the Vendors’ legal entity structure, which is necessary to preserve the Vendors’ critical Certifications and the Tax Losses in the amount of approximately \$48 million. It also ensures the preservation and efficient operational transfer of the Vendors’ assets and Business including the Continuing Project

³⁴ *Just Energy*, [para 34](#).

Contracts.³⁵ The Monitor is of the view that the RVO is required to facilitate the going-concern transaction.³⁶

- (b) **The RVO provides an economic result at least as favourable as any other viable alternative.** The Transactions will preserve going-concern value, employee jobs and associated economic activity, including supply and customer relationships. There is no viable alternative to the Transactions other than a liquidation, which would not yield a better outcome than the Transactions.³⁷
- (c) **No stakeholder is worse off under the RVO than under any viable alternative.** No stakeholders are in a worse position than they would otherwise be. Specifically, unsecured creditors and lien claimants are potentially in a better position than they would be in a liquidation, given the value preserved in the Business and the ongoing projects. In addition, any Cure Costs for Retained Contracts or Retained Leases will be assumed and paid by the Purchaser as if they were being assigned under section 11.2 of the CCAA.³⁸
- (d) **The consideration provided by the Purchaser reflects the value of the assets being preserved.** The Purchase Price is fair and reasonable in the circumstances, taking into account the market value of the Post-Consolidation Shares and the broad canvassing of the market during the SISP. As evidenced by the results of the SISP, no superior or other Qualified Bid was received.³⁹

B. The Court Should Cancel the Existing Shares and add ResidualCo as an Applicant

³⁵ Fifth Woodbridge Affidavit, [paras 41-49](#).

³⁶ Fifth Woodbridge Affidavit, [para 42](#).

³⁷ Fifth Woodbridge Affidavit, [para 54](#).

³⁸ Fifth Woodbridge Affidavit, [paras 38 and 42](#).

³⁹ Fifth Woodbridge Affidavit, [para 54](#).

35. As part of the RVO, all ‘Existing Shares’—being all equity interests in the Vendors other than the Purchased Shares—will be deemed terminated and cancelled without consideration. Courts have granted this relief in similar circumstances pursuant to section 11 of the CCAA and the applicable provisions of the OBCA.⁴⁰

36. The RVO also seeks to add ResidualCo as an applicant in these proceedings. Upon the transfer of all of the Excluded Assets and Excluded Liabilities to ResidualCo, ResidualCo will have minimal assets and at least \$5 million in debt. Therefore, it will also be a “debtor company” to which the CCAA applies pursuant to section 3(1).⁴¹

C. The Court Should Grant the Releases

37. The RVO contains two types of third-party releases: the Post-Filing Releases and the Pre-Filing D&O Releases (together, the “**Releases**”).

38. Courts have jurisdiction under section 11 of the CCAA to grant third-party releases in circumstances involving reverse vesting transactions.⁴² As the Quebec Superior Court noted in *Blackrock Metals*, it “is now commonplace for third-party releases, in favor of parties to a restructuring, their professional advisors as well as their directors, officers and others, to be approved outside of a plan in the context of a transaction”.⁴³

39. The CCAA expressly contemplates that claims against the directors and officers of a debtor company can be released in a plan, subject to certain exceptions,⁴⁴ which also applies

⁴⁰ CCAA, *supra*, [s. 11](#). *Just Energy*, [paras 64-66](#); *Harte Gold*, [paras 61-65](#). See *Business Corporations Act*, RSO 1990, c B.16, [s. 186\(2\)](#).

⁴¹ CCAA, [s. 3](#).

⁴² CCAA, [s. 11](#).

⁴³ *Blackrock*, [para 128](#).

⁴⁴ CCAA, [s. 5](#).

where a CCAA restructuring involves a reverse vesting transaction without a plan.⁴⁵

40. Releases in the form sought by the Applicants have been granted by CCAA Courts in recent decisions.⁴⁶ For example, in *Atlas Global* (2024), the Court approved releases for directors and officers, including pre-filing liabilities and liabilities for unpaid source deductions and excise taxes, in the context of a share purchase and subscription agreement over the opposition of the CRA. In his decision, Justice Black observed that the releases, which are substantially similar to the Releases in the within RVO, were “appropriately and rationally connected to relevant aspects of the restructuring, and appropriately limited to the extent necessary”.⁴⁷ Similarly, Justice Steele relied on the decision of Justice Black in *Atlas Global* to grant similar releases in a different reverse vesting transaction in connection with the same proceeding. She noted that the releases were sufficiently narrow as none of the releases waived rights or barred any claim or liability arising out of (1) gross negligence or wilful misconduct; (2) that was not permitted to be released under section 5.1(2) of the CCAA; or (3) that was identified as an insured claim.⁴⁸

41. In assessing whether third-party releases are appropriate, courts have referred to the *Metcalfe* and *Lydian* factors, recognizing that those factors are all part of a global analysis.⁴⁹ It is not necessary for each factor to be satisfied, nor is any single factor determinative.⁵⁰ The factors are reproduced below with their application to the facts of this case.

⁴⁵ *Re Green Relief Inc.*, 2020 ONSC 6837 [**Green Relief**] (Koehnen J), [para 76](#); *Atlas Global*, [paras 101-102](#); *Re Atlas Global Brands Inc.* (29 October 2024), Toronto CV-24-00722386-00CL (ONSC) (Order and Endorsement) (Steele J) [**Atlas Global 2**], [para 30](#).

⁴⁶ See: *Re Aleafia Health Inc. et al* (1 March 2024), Toronto CV-23-00703350-00CL (ONSC) ([CCAA Termination Order](#) and [Endorsement](#)); *2675970 Ontario Inc. et al* (28 November 2024), Toronto CV-24-00726584-00CL (ONSC) ([Approval and Reverse Vesting Order](#) and [Endorsement](#)); *Atlas Global*, [paras 101-102](#); *Atlas Global 2*, [paras 24-30](#); *Plan of Arrangement of Fire & Flower Holdings Corp et al*, 2023 ONSC 4934, [paras 24-26](#); *Green Relief*, [para 76](#).

⁴⁷ *Atlas Global*, [paras 101-102](#).

⁴⁸ *Atlas Global 2*, [para 29](#).

⁴⁹ *Metcalfe & Mansfield Alternative Investments II Corp. (Re)*, 2008 ONCA 587, [para 70](#) (leave to appeal to SCC dismissed, [2008 CanLII 46997](#)); *Lydian International Limited (Re)*, 2020 ONSC 4006 (Morawetz C.J.(as he then was)), [para 54](#); *Green Relief*, [para 27](#); *Atlas Global*, [para 26](#).

⁵⁰ See *Green Relief*, [paras 27-28](#); *Harte Gold*, [paras 79-80](#); *Just Energy*, [para 67](#).

- (a) **The Released Parties have significantly contributed to and were necessary for the restructuring.** The Released D&Os have made significant and material contributions to the CCAA proceedings including the implementation of the SISP and the negotiation of the Subscription Agreement. These individuals have been critical to the success of this restructuring, which has resulted in the Business emerging as a going-concern transaction that preserves value for stakeholders.⁵¹
- (b) **The Releases are rationally connected to the restructuring and are fair, reasonable and not overly broad.** The Releases are limited to and directly connected to the CCAA proceedings and the proposed Transactions. The Releases ensure that the Released D&Os and the Released Parties will be able to implement the proposed Transactions with certainty and finality. The Releases are sufficiently narrow in the circumstances, as the Releases both preserve claims (a) arising out of any gross negligence or willful misconduct; and (b) that are not permitted to be released pursuant to section 5.1(2) of the CCAA.⁵² There is no directors and officers' insurance which would necessitate such an exception.⁵³
- (c) **The Transactions cannot succeed without the Releases.** The Released D&Os and Released Parties have indicated that they require the Releases to achieve finality as to their ongoing liabilities, given they will retain their current positions through the closing of the Transactions and thereafter. Without the Released D&Os and the Released Parties continued involvement, the Transactions will not close. The Post-Filing Release is also necessary to quantify the D&O Charge and

⁵¹ Fifth Woodbridge Affidavit, [paras 65](#) and [71](#).

⁵² Fifth Woodbridge Affidavit, [paras 64](#) and [70-73](#).

⁵³ Initial Affidavit, [para 171](#).

the Administration Charge, which is a prerequisite to closing of the Transactions.⁵⁴

- (d) **The Releases will benefit the debtor as well as creditors.** The Releases aim to ensure the seamless transition of the Business to the Purchaser as a going concern, which is in the interest of all stakeholders, including the Applicants senior secured creditors – BMO and BDC. The Applicants are not aware of any claims against the Released Parties. The Applicants are aware of potential claims against the Released D&Os for unpaid amounts owing for source deductions and HST, as well as possible claims for breach of trust under the *Construction Act*.⁵⁵
- (e) **The Monitor’s view:** The Monitor supports the granting of the Releases as part of the approval of the proposed Transactions.⁵⁶
- (f) **The stakeholders have knowledge of the nature and effect of the Releases.** The Applicants served the parties on the Service List with the motion materials for this motion alerting them to the nature and effect of the Releases.

D. Extension of the Stay of Proceedings

42. The current Stay Period expires on September 12, 2025. The RVO extends that the Stay Period until October 31, 2025. Pursuant to section 11.02 of the CCAA, the court may grant an extension of a stay of proceedings where: (a) circumstances exist that make the order appropriate; and (b) the debtor company satisfies the court that it has acted, and is acting, in good faith and with due diligence.⁵⁷

43. The Applicants satisfy the requirements for an extension of the stay under section 11.02

⁵⁴ Fifth Woodbridge Affidavit, [paras 66](#) and [72-73](#).

⁵⁵ Fifth Woodbridge Affidavit, [para 67](#).

⁵⁶ Fifth Woodbridge Affidavit, [para 74](#).

⁵⁷ CCAA, [s. 11.02](#).

of the CCAA because the extension of the Stay Period is reasonable and appropriate to protect the *status quo* and allow the orderly implementation of the Transactions. The Applicants have also acted and continue to act in good faith and with due diligence to, among other things, stabilize the Business, prepare and implement the SISF, and negotiate the Transactions.⁵⁸

E. The Court Should Approve the Sealing Provision

44. The Applicants seek a sealing order sealing the Confidential Materials until the earlier of the closing of the Transactions or further order of the Court. The Confidential Materials contain sensitive commercial information about the value of the Applicants' assets and business, the disclosure of which would be detrimental to the interests of stakeholders before the conclusion of a transaction to sell the assets and business.

45. Pursuant to subsection 137(2) of the *Courts of Justice Act*, this Court has the jurisdiction to order that any document filed in a civil proceeding be treated as confidential, sealed and not form part of the public record.⁵⁹ The test for a sealing order was established by the Supreme Court of Canada in *Sierra Club*⁶⁰ and subsequently in *Sherman Estate*.⁶¹

46. The requirements set forth in *Sherman Estate* are satisfied. Public disclosure of the Confidential Materials poses a serious and immediate risk to the interests of stakeholders. In particular, disclosure of the Purchase Price prior to the closing of the Transactions would be highly prejudicial to any future marketing efforts that may become necessary if the Transactions do not close. No reasonable alternative measures exist that would adequately protect the commercially

⁵⁸ Fifth Woodbridge Affidavit, [paras 15](#) and [75-81](#).

⁵⁹ CJA, [s. 137\(2\)](#).

⁶⁰ *Sierra Club of Canada v. Canada (Minister of Finance)*, [2002 SCC 41](#).

⁶¹ *Sherman Estate v. Donovan*, [2021 SCC 25](#). The test involves three prerequisites which must be satisfied: (a) whether court openness posts a serious risk to an important public interest; (b) whether the order sought is necessary to prevent this serious risk to the identified interest because reasonable alternative measure will not prevent this risk; and (c) whether, as a matter of proportionality, the benefits of the order outweigh its negative effects.

sensitive information contained in the Confidential Materials. The scope of the sealing provision is appropriately limited and remains subject to further order of this Court.⁶²

F. The Court Should Prevent the Enforcement of Pre-Filing Lien Claims

47. The Applicants seek an order preventing any person from preserving or perfecting a Pre-Filing Lien Claim under the *Construction Act* on any Continuing Project Contracts in respect to services or work performed prior to the Filing Date.

48. The Court has the jurisdiction to make such an order under s. 11 of the CCAA, which permits the Court to “make any order that it considers appropriate in the circumstance”.⁶³

49. This relief is appropriate in the circumstances as the Pre-Filing Lien Claims will be vested out to ResidualCo and can be advanced as a claim against the Lien Charge against the proceeds of the Transaction. As such, the Lien Claimants will not face any prejudice. In contrast, if the lien claimants were entitled to preserve or perfect a Pre-Filing Lien Claim on the Continuing Project Contracts, that would cause prejudice to the Purchaser who is buying the Vendors free and clear of such Excluded Liabilities.⁶⁴

50. In connection with this aspect of the RVO, it is worth emphasizing that any amounts owing to potential lien claimants for post-filing or post-closing matters on the ongoing projects will not be released and will be obligations of the Applicants to be addressed in the ordinary course after closing and outside the context of these CCAA proceedings.

G. The Court Should Permit the Distribution of the BMO Lease Funds to BMO

51. The Applicants seek an order authorizing the Monitor to distribute the BMO Lease Funds

⁶² Fifth Woodbridge Affidavit, [para 84](#).

⁶³ CCAA, [s. 11](#).

⁶⁴ Fifth Woodbridge Affidavit, paras [86-88](#).

to BMO.

52. CCCA courts routinely grant orders permitting distributions. The Court has the jurisdiction to make such an order under s. 11 of the CCAA, which permits the Court to “make any order that it considers appropriate in the circumstance”.⁶⁵

53. The relief is appropriate in the circumstances as BMO has a valid, first ranking security interest with respect to the BMO Lease Funds.

H. The Court Should Approve the Monitor’s Fourth Report and Professional Fees

54. In *Re Target Canada Co.*, Morawetz R.S.J. (as he then was) stated that a request to approve a monitor’s report “is not unusual” and that there are good policy and practical reasons for the court to approve of Monitor’s activities and providing a level of protection for Monitors during the CCAA proceeding.⁶⁶

55. In this case, the Monitor’s Fourth Report, and the conduct and activities of the Monitor described therein should be approved. The Monitor has acted reasonably and carried out its activities in a manner consistent with the CCAA and in compliance with the TARIO. No party has put evidence to the contrary.

56. Pursuant to paragraph 44 of the ARIIO, this Court has jurisdiction to approve the accounts of BDO, in its capacity as Monitor, and its legal counsel, which provides that the Monitor and its legal counsel shall pass their accounts from time to time before a judge of this Court.⁶⁷

57. The test on a motion to pass accounts is to consider the “overriding principle of

⁶⁵ CCAA, [s. 11](#).

⁶⁶ *Re Target Canada Co.*, 2015 ONSC 7574, [para 2](#).

⁶⁷ Fifth Woodbridge Affidavit, Exhibit “A”, Third Amended and Restated Initial Order, [para 44](#).

reasonableness”.⁶⁸ The overall value contributed by the Monitor and its counsel is the predominate consideration in assessing the reasonableness of the accounts.⁶⁹

58. As the Court of Appeal for Ontario held in *Bank of Nova Scotia v Diemer*, the guiding principles on fee approvals of this nature is whether the fees are fair, reasonable, and proportionate given the value of the Applicants’ assets and liabilities, as well as the complexity of the Applicants’ Business and the restructuring proceeding.⁷⁰

59. The Monitor’s fees are reasonable and should be approved. The Monitor, with the assistance of Gowlings, carried out extensive activities during the times subject to the fee affidavits, as detailed in the Fourth Report. The time spent, and thus the fees and disbursements of the Monitor and its legal counsel resulting from their activities, are commensurate with the significant role and responsibilities and activities undertaken. The work has been undertaken with a view to advancing the interests of the Applicant and its stakeholders.

PART V – RELIEF REQUESTED

60. The Applicants therefore request the RVO substantially in the form of the draft attached as Tab 3 to the Motion Record be granted.

PURSUANT TO RULE 4.06.1 (2.1), THE UNDERSIGNED certifies that they are satisfied as to the authenticity of every authority cited in this factum.

Jessica Wuthmann

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 8th DAY OF SEPTEMBER, 2025

/s RECON

RECONSTRUCT LLP
Lawyers for the Applicants

⁶⁸ *Nortel Networks Inc.*, 2022 ONSC 6680, [para 10](#).

⁶⁹ *Re Nortel Networks Corporation et al*, 2017 ONSC 673, [paras 15](#) and [21](#).

⁷⁰ *Bank of Nova Scotia v. Diemer*, 2014 ONCA 851, [para 33](#).

SCHEDULE "A"**List of Authorities**

1.	<i>Just Energy Group Inc et al v Morgan Stanley Capital Group Inc et al</i> , 2022 ONSC 6354
2.	<i>Arrangement relatif à Blackrock Metals Inc</i> , 2022 QCCS 2828
3.	<i>Harte Gold Corp (Re)</i> , 2022 ONSC 653
4.	<i>Validus Power Corp et al v Macquarie Equipment Finance Limited</i> , 2024 ONSC 250
5.	<i>Fresh City Farms and Mama Earth Organics</i> , 2024 ONSC 2016
6.	<i>Atlas Global Brands Inc</i> , 2024 ONSC 5570
7.	<i>Canwest Global Communications Corp</i> , 2010 ONSC 2870
8.	<i>Royal Bank of Canada v Soundair Corp</i> , (1991) 4 O.R. (3d) 1 (CA)
9.	<i>Acerus Pharmaceuticals Corporation (Re)</i> , 2023 ONSC 3314
10.	<i>Sanjel Corporation (Re)</i> , 2016 ABQB 257
11.	<i>Arrangement relatif à FormerXBC Inc (Xebex Adsorption Inc)</i> , 2023 QCCS 1818
12.	<i>Comstock Canada Ltd. (Re)</i> , 2013 ONSC 4756
13.	<i>Re Green Relief Inc.</i> , 2020 ONSC 6837
14.	<i>Re Aleafia Health Inc. et al</i> (1 March 2024), Toronto CV-23-00703350-00CL (ONSC) (CCAA Termination Order and Endorsement)
15.	<i>2675970 Ontario Inc. et al</i> (28 November 2024), Toronto CV-24-00726584-00CL (ONSC) (Approval and Reverse Vesting Order and Endorsement)
16.	<i>Plan of Arrangement of Fire & Flower Holdings Corp et al</i> , 2023 ONSC 4934
17.	<i>Metcalfe & Mansfield Alternative Investments II Corp. (Re)</i> , 2008 ONCA 587
18.	<i>Lydian International Limited (Re)</i> , 2020 ONSC 4006
19.	<i>Sierra Club of Canada v. Canada (Minister of Finance)</i> , 2002 SCC 41

20.	<i>Sherman Estate v. Donovan</i> , 2021 SCC 25
21.	<i>Re Target Canada Co.</i> , 2015 ONSC 7574
22.	<i>Nortel Networks Inc.</i> , 2022 ONSC 6680
23.	<i>Re Nortel Networks Corporation et al.</i> , 2017 ONSC 673
24.	<i>Bank of Nova Scotia v. Diemer</i> , 2014 ONCA 851

SCHEDULE "B"

Statutory Authorities

[Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended](#)

Application

3 (1) This Act applies in respect of a debtor company or affiliated debtor companies if the total of claims against the debtor company or affiliated debtor companies, determined in accordance with section 20, is more than \$5,000,000 or any other amount that is prescribed.

Affiliated companies

(2) For the purposes of this Act,

(a) companies are affiliated companies if one of them is the subsidiary of the other or both are subsidiaries of the same company or each of them is controlled by the same person; and

(b) two companies affiliated with the same company at the same time are deemed to be affiliated with each other.

Company controlled

(3) For the purposes of this Act, a company is controlled by a person or by two or more companies if

(a) securities of the company to which are attached more than fifty per cent of the votes that may be cast to elect directors of the company are held, other than by way of security only, by or for the benefit of that person or by or for the benefit of those companies; and

(b) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the company.

Subsidiary

(4) For the purposes of this Act, a company is a subsidiary of another company if

(a) it is controlled by

(i) that other company,

(ii) that other company and one or more companies each of which is controlled by that other company, or

(iii) two or more companies each of which is controlled by that other company; or

(b) it is a subsidiary of a company that is a subsidiary of that other company.

General power of court

11 Despite anything in the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

Stays, etc. — other than initial application

11.02(2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

- (a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

11.02(3) The court shall not make the order unless

- (a) the applicant satisfies the court that circumstances exist that make the order appropriate; and
- (b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

Restriction on disposition of business assets

36 (1) A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

Notice to creditors

(2) A company that applies to the court for an authorization is to give notice of the application to the secured creditors who are likely to be affected by the proposed sale or disposition.

Factors to be considered

(3) In deciding whether to grant the authorization, the court is to consider, among other things,

- (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
- (b) whether the monitor approved the process leading to the proposed sale or disposition;
- (c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
- (d) the extent to which the creditors were consulted;
- (e) the effects of the proposed sale or disposition on the creditors and other interested parties; and
- (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

Additional factors — related persons

(4) If the proposed sale or disposition is to a person who is related to the company, the court may, after considering the factors referred to in subsection (3), grant the authorization only if it is satisfied that

- (a) good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the company; and
- (b) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition.

[Courts of Justice Act, RSO 1990, c C.43](#)

Documents public

137 (1) On payment of the prescribed fee, a person is entitled to see any document filed in a civil proceeding in a court, unless an Act or an order of the court provides otherwise.

Sealing documents

(2) A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record.

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

Court File No. CV-25-00741419-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF EARTH BORING CO. LIMITED ET AL.

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

Proceedings commenced at *Toronto*

FACTUM OF THE APPLICANTS
(Approval and Reverse Vesting Order)

RECONSTRUCT LLP
80 Richmond Street West
Suite 1700
Toronto, ON M5H 1T1

Caitlin Fell LSO No. 60091H
cfell@reconllp.com
Tel: 416.613.8282

Brendan Bissell LSO No. 40354V
bbissell@reconllp.com
Tel: 416.613.0066

Jessica Wuthmann LSO No. 72442W
jwuthmann@reconllp.com
Tel: 416.613.8288

Lawyers for the Applicants