



No. S-229607

VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**MITSUBISHI HC CAPITAL CANADA INC.**

PETITIONER

AND:

**VIC VAN ISLE CONSTRUCTION LTD., VVI CONSTRUCTION LTD., AND LORTAP  
ENTERPRISES LTD.**

RESPONDENT

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE RECEIVERSHIP OF  
VIC VAN ISLE CONSTRUCTION LTD., VVI CONSTRUCTION LTD., AND  
LORTAP ENTERPRISES LTD.**

**NOTICE OF APPLICATION**

**Name of applicant:** BDO Canada Limited, in its capacity as Court-appointed receiver and manager (the "**Receiver**") of Vic Van Isle Construction Ltd., VVI Construction Ltd., and Lortap Enterprises Ltd.

To: The Service List

TAKE NOTICE that an application will be made by the applicant to the presiding judge at the courthouse at 800 Smithe Street in Vancouver, British Columbia on June 6, 2023 at 9:45 am for the orders set out in Part 1 below.

**Part 1: ORDERS SOUGHT**

1. An order substantially in the form attached as **Schedule "A"** approving the Receiver's execution of the Auction Services Agreement dated May 18, 2023, between the Receiver and McDougall Auctioneers Ltd. ("**McDougall**") and the auction sale transactions contemplated therein.
2. An order substantially in the form attached as **Schedule "B"** approving the Receiver's execution of the Asset Purchase Agreement dated May 12, 2023, between the Receiver and Woody's Projects ("**WP**") and the transaction contemplated therein.

3. An order substantially in the form attached as **Schedule “C”** sealing on the Court record the un-redacted Auction Services Agreement (herein defined), which is Confidential Appendix 1 to the First Report of the Receiver dated May 24, 2023.

4. Such further and other relief as counsel may request and this Court finds to be just and convenient in the circumstances.

## **Part 2: FACTUAL BASIS**

### ***Background***

5. On April 11, 2023 (the **“Date of Appointment”**), BDO Canada Limited was appointed as Receiver of all the assets, undertakings, and properties (collectively, the **“Property”**) of Vic Van Isle Construction Ltd. (**“Vic Van Isle”**), VVI Construction Ltd. (**“VVI Ltd.”**), and Lortap Enterprises Ltd. (**“Lortap”**) pursuant to an Order of the Honourable Justice Fleming (the **“Receivership Order”**). Vic Van Isle, VVI Ltd. and Lortap are collectively referred to as the **“Debtors”**.

6. Vic Van Isle and VVI Ltd.'s primary business prior to the Date of Appointment was providing general contractor and design build services to construction projects located in interior British Columbia, Alberta and Ontario. Lortap's primary business prior to the Date of Appointment was millwork and cabinetry manufacturing.

7. At the Date of Appointment, the Debtors' operations had been shut down and its respective employees had been recently terminated.

8. The Debtors' books and records show accounts receivable in the aggregate amount of approximately \$2,716,696. However, a significant portion of these outstanding balances pertain to historical work that is deemed uncollectible or the customer would have a right of set-off, as the customer is also a creditor of the Debtors.

9. The Debtors owe approximately \$1,500,0000 plus accrued interest and legal costs to Mitsubishi HC Capital Canada Inc. (the **“Senior Secured Lender”**). The Debtors also owe approximately \$66,181 to various former employees in respect of Wage Earner Protection Program claims, has reported unremitted employee source deductions due to Canada Revenue Agency of approximately \$499,129 and a further \$262,310 in unremitted GST, and reported approximately \$6,411,513 owed to unsecured creditors.

10. The Debtors have estimated liabilities totaling approximately \$8,739,134.

***Solicitation, Evaluation, and Acceptance of Auction Proposals***

11. The Receiver conducted a tender process to solicit proposals and offers for the Debtors' assets (the "**Solicitation Process**"). Certain assets of the Debtors were not included as part of the Solicitation Process, as the relevant information was not available at that time, including certain assets of Vic Van Isle located on Hot Springs Cove, Tofino British Columbia (the "**Tofino Assets**"). Highlights of the Solicitation Process include:

- (a) on April 27, 2023, the Receiver issued a tender package to 22 different interested parties who were business contacts of the Debtors, auctioneers, or vendors in the local construction industry;
- (b) an advertisement for the sale of the Debtors' assets was placed in the Insolvency Insider publication on May 1, 2023;
- (c) a deadline for submission of proposals was established at 4:00 pm PST on May 12, 2023;
- (d) 12 proposals and offers were received on or before the proposal deadline, 8 of which were proposals from auctioneers and 4 were cash offers for specific equipment; and
- (e) although the Tofino Assets were not included in the Solicitation Process, WP did submit a cash offer for the Tofino Assets on an "as is where is" basis for the Receiver's consideration.

12. The Receiver, in consultation with the Senior Secured Lender, evaluated the proposals with consideration to, among other things:

- (a) the proposed purchase prices and expected recovery;
- (b) the net minimum guarantees included in auction proposals;
- (c) the fee structures included in auction proposals including commissions, buyers premiums, and related pricing structures;
- (d) the market advertisement plan, where applicable;
- (e) key dates including closing dates and timing and location of the auction;

- (f) closing risk and price risk, including any remaining due diligence or other conditions; and
- (g) the Senior Secured Lender's support of the offers.

13. Ultimately, the Receiver has selected the Auction Services Agreement submitted by McDougall (the "**Auction Services Agreement**") and the Asset Purchase Agreement submitted by WP (the "**Asset Purchase Agreement**") for approval by this Honourable Court.

14. The Auction Services Agreement was the proposal with the highest net minimum guarantee and provides certainty in terms of a recovery for the creditors.

15. The Asset Purchase Agreement includes an offer of \$20,000 for the Tofino Assets, being the highest offer received by the Receiver for the Tofino Assets. The Tofino Assets are located in a remote area that can only be accessed by barge. The Tofino Assets will also require maintenance work to make the equipment operational.

#### ***Receiver's Recommendations***

16. The Auction Services Agreement and the Asset Purchase Agreement represent the best proposals received in respect of the Property, will result in the monetization of the Property in a timely manner, and will protect the downside risk to the Debtors' stakeholders while maintaining the potential for upside realizations. The Receiver recommends that this Court approve the Receiver's execution of the Auction Services Agreement and the Asset Purchase Agreement.

### **Part 3: LEGAL BASIS**

#### ***Approval of the Agreements is Appropriate in the Circumstances***

17. The Receivership Order authorizes the Receiver to:
- (a) market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate;
  - (b) sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:

- (i) without the approval of this Court in respect of single transactions for consideration up to \$10,000, provided that the aggregate consideration for all such transactions does not exceed \$50,000; and
- (ii) with the approval of this Court in respect of any transaction in which the individual or aggregate purchase price exceeds the limits set out in subparagraph (i) above,

and in each such case notice under Section 59(10) of the *Personal Property Security Act*, RSBC 1996 shall not be required.

- (c) apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances.

18. Courts will defer to the expertise and judgment of a Court-appointed receiver in the method of sale of a debtor's assets.

***Royal Bank v. Soundair Corp.*, (1991) 46 O.A.C. 321 [Soundair], at paras.14-16, cited in *Kruger v Wild Goose Vintners Inc.*, 2021 BCSC 1406.**

19. Absent exceptional circumstances, the courts will not intervene or proceed contrary to a receiver's recommendations to approve a sale if satisfied that the receiver has acted reasonably, prudently, fairly, and not arbitrarily.

***Soundair*, at para. 58.**

20. In deciding whether a receiver who has sold a property acted properly a court should consider:

- (a) whether the receiver has made a sufficient efforts to get the best price and did not acted improvidently;
- (b) the interests of all parties;
- (c) the efficacy and integrity of the process by which offers were obtained; and
- (d) whether there has been any unfairness in the sale process.

***Soundair*, at para. 16.**

21. The Receiver's judgment with respect to the Auction Services Agreement and the Asset Purchase Agreement is that:

- (a) the process leading to the selection and execution of the Auction Services Agreement and Asset Purchase Agreement was fair and transparent and provided all participants with equal access to information and opportunity to submit an offer or proposal;
- (b) the net minimum guarantee provided under the Auction Services Agreement provides for the highest guaranteed proceeds with an opportunity for additional recoveries if auction proceeds exceed the sharing threshold;
- (c) the purchase price provided for in the Asset Purchase Agreement is commercially reasonable given the nature, location, and condition of the assets subject thereto;
- (d) the cost structure and other key terms of the Auction Services Agreement are commercially reasonable given the nature, location, and condition of the assets subject thereto and based on the Receiver's experience with auctioneers and liquidators in the context of insolvency or restructuring proceedings; and
- (e) the Receiver is satisfied that McDougall has the requisite experience and is appropriately qualified to conduct the auction process contemplated by the Auction Services Agreement.

22. The Senior Secured Lender, who is the fulcrum creditor in these proceedings, supports approval of the Auction Services Agreement and the Asset Purchase Agreement.

***A Sealing Order is Appropriate in the Circumstances***

23. The Court's authority to grant a sealing order is derived from its inherent authority to control its own processes.

***Nova Scotia (Attorney General) v. MacIntyre, [1982] 1 S.C.R. 175 at 189***

24. In the leading case on sealing orders, the Supreme Court of Canada held that a sealing order should only be granted where:

- (a) such an order is necessary in order to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation because reasonably alternative measures will not prevent the risk; and
- (b) the salutary effects of the confidentiality order, including the effects on the right of civil litigants to a fair trial, outweigh its deleterious effects, including the effects on the right to free expression, which in this context includes the public interest in open and accessible court proceedings.

***Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41  
("Sierra Club") at para. 53**

25. The Supreme Court of Canada reaffirmed its decision in *Sierra Club* in *Sherman Estates v. Donovan*, 2021 SCC 25. In that decision, the Court confirmed that the "test laid out in *Sierra Club* continues to be an appropriate guide for judicial discretion" and that the structure provided by *Sierra Club* "remains appropriate and should be affirmed"

***Sherman Estates v Donovan*, 2021 SCC 25 at para. 43 [*Sherman Estates*]**

26. Since *Sherman Estates* Canadian courts continue to grant sealing orders in insolvency proceedings. There is a public interest in ensuring the integrity of a sales process, there is no reasonable alternative measure, and, as a measure of proportionality, the benefits of an order outweigh its negative effects.

***Ontario Securities Commission v. Bridging Finance Inc.*, 2021 ONSC 4347  
at para. 24 [*Bridging Finance*]  
*Laurentian University of Sudbury*, 2021 ONSC 4769**

27. One of the factors courts consider is whether disclosure of the commercially sensitive information would undermine efforts to maximize value for stakeholders.

***Bridging Finance* at para. 26**

28. The Auction Services Agreement fits squarely within the test established by the Court in *Sierra Club*. Sealing orders in insolvency proceedings are routinely granted to prevent disclosure of confidential and commercially sensitive information regarding the market value of assets, to protect the integrity of the sales process, and to protect the privacy rights of individuals.

29. The Auction Services Agreement contains sensitive commercial information, the disclosure of which would impose a serious risk on important commercial interests of

McDougall, including but not limited to, the Net Minimum Guarantee and the Auctioneer's Fee (as defined therein), which information could detrimentally affect McDougall's negotiating position in other transactions.

30. The sealing order sought by the Receiver ensures the confidentiality of a single document, the un-redacted Auction Services Agreement. The redactions are minimal, and the remainder of the un-redacted document will be publicly available in the court file.

31. The Receiver submits that because the sealing order is narrow and relates only to private commercial interests and confidential financial information, any deleterious effects of the sealing order are minor and are outweighed by the salutary effects.

32. The procedure to be followed in British Columbia when applying for a sealing order is set out in Supreme Court of British Columbia Practice Direction No. PD-35. The Receiver has complied with the requirements of the Practice Direction.

#### **Part 4: MATERIAL TO BE RELIED ON**

33. First Report of the Receiver, dated May 24, 2023;

34. The Receivership Order.

The applicant estimates that the application will take 30 minutes.

This matter is not within the jurisdiction of a master.


**TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION:** If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed application response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;



- (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: May 24, 2023

*for*   
Signature of James W. Reid  
Lawyer for the Receiver

Miller Thomson LLP  
Barristers and Solicitors  
700-9<sup>th</sup> Avenue S.W.  
Suite 3000  
Calgary, Alberta T2P 3V4  
Phone: (403) 298-2479  
Fax: (403) 262-0007

To be completed by the court only:

Order made

in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this notice of application

with the following variations and additional terms:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Signature of  Judge  Master

## APPENDIX

### THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MITSUBISHI HC CAPITAL CANADA INC.

PETITIONER

AND:

VIC VAN ISLE CONSTRUCTION LTD., VVI CONSTRUCTION LTD., AND LORTAP ENTERPRISES LTD.

RESPONDENT

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
VIC VAN ISLE CONSTRUCTION LTD., VVI CONSTRUCTION LTD., AND  
LORTAP ENTERPRISES LTD.

ORDER MADE AFTER APPLICATION

APPROVAL OF AUCTION SERVICES AGREEMENT

BEFORE THE HONOURABLE

\_\_\_\_\_) \_\_\_\_\_, 2023  
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**THE APPLICATION** of BDO Canada Limited, in its capacity as Court-appointed receiver (the "Receiver") of the assets, undertakings and properties of Vic Van Isle Construction Ltd., VVI Construction Ltd., and Lortap Enterprises Ltd. (collectively, the "Debtors") coming on for hearing at the Courthouse at 800 Smithe Street, Vancouver, British Columbia, on the 6<sup>th</sup> day of June, 2023;

**AND ON HEARING** James W. Reid, counsel for the Receiver, and those other counsel listed on **Schedule "A"** hereto;

**AND UPON READING** the material filed, including the First Report of the Receiver dated May 24, 2023;

**THIS COURT ORDERS AND DECLARES THAT:**

1. The sale transactions (the "Transactions") contemplated by the Auction Services Agreement dated for reference May 18, 2023 (the "Auction Agreement") between the Receiver and McDougall Auctioneers Ltd. (the "Auctioneer"), a redacted copy of which

is attached as **Schedule "B"** to this Order, is hereby approved, and the Auction Agreement is commercially reasonable. The execution of the Auction Agreement by the Receiver is hereby authorized and approved, and 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 Transactions and for the conveyance to the Auctioneer or any Purchaser (as defined herein) of the assets described in the Auction Agreement (the "**Assets**").

2. The Receiver is authorized to engage the Auctioneer to sell, on a commission basis, certain assets of the Debtors currently being seized and returned to the Debtors' former business premise that do not form part of the Assets, separate from the Auction Agreement.
3. The compensation payable to the Auctioneer pursuant to the Auction Agreement is hereby approved. The Auctioneer is authorized to market and sell the Assets in accordance with the terms of the Auction Agreement.
4. Upon the sale of the Assets by the Auctioneer pursuant to the Auction Agreement, the net proceeds of such sale, which are to be paid to the Receiver in accordance with the terms of the Auction Agreement (the "**Net Sale Proceeds**"), shall be impressed with a charge in favour of the Receiver and shall be held in trust by the Auctioneer for the benefit of the Receiver until such time as the Net Sale Proceeds are paid to the Receiver.
5. Upon the completion of the Transactions contemplated by the Auction Agreement and the payment of the Net Sale Proceeds to the Receiver in accordance with the Auction Agreement, the Receiver shall deliver to the Auctioneer a certificate substantially in the form attached as **Schedule "C"** hereto certifying that the Transactions have been completed to the satisfaction of the Receiver (the "**Receiver's Certificate**").
6. Upon delivery of the Receiver's Certificate to the Auctioneer, all of the applicable Debtors' right, title and interest in and to the Assets described in the Auction Agreement that have been sold by the Auctioneer pursuant to the auction process contemplated by the terms of the Auction Agreement (the "**Purchased Assets**") shall vest absolutely in such person or persons as the Purchased Assets have been sold to (collectively the "**Purchasers**", and each a "**Purchaser**") in fee simple, 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 this Court dated April 11, 2022, in these proceedings; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia 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 Assets are hereby expunged and discharged as against the Purchased Assets.
7. For the purposes of determining the nature and priority of Claims, the Net Sale Proceeds from the sale of the Purchased Assets shall (a) stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver's Certificate all Claims shall attach to the Net Sale 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 had possession or control immediately prior to the sale; and (b) be distributed pursuant to further Order of the Court.

8. The Receiver is to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof.
9. Upon the filing of the Receiver's Certificate, the Receiver or the Auctioneer are authorized to, and to the extent necessary the Registrar of the British Columbia Personal Property Registry is upon receipt of a request from the Receiver and a filed copy of this Order together with a filed copy of the Receiver's Certificate directed to, cancel and discharge any registrations in the British Columbia Personal Property Registry (whether made before or after the date of this Order) claiming security interests in the Purchased Assets.
10. Upon the filing of the Receiver's Certificate, the Debtors and all persons who claim by, through or under the Debtors in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, shall stand absolutely and forever barred, estopped, foreclosed from and permanently enjoined from pursuing, asserting, or claiming any right, title, interest or other Claims whatsoever in respect of or to the Purchased Assets and to the extent that any such persons or entities remain in possession or control of any of the Purchased Assets, certificates, instruments, or other indicia of title representing or evidencing any right, title, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchasers (or their respective nominees) upon request.
11. The Purchasers shall, by virtue of the completion of the Transactions contemplated by this Order and the Auction Agreement, have no liability of any kind whatsoever in respect of any Claims against the Debtor.
12. The Purchasers (or their respective nominees) shall be entitled to hold and enjoy the Assets for their own use and benefit without any interference of or by the Debtor or any person claiming by or through or against the Debtors.
13. Notwithstanding:
  - (a) these proceedings;
  - (b) any applications for a bankruptcy order in respect of the Debtors now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
  - (c) any assignment in bankruptcy made by or in respect of the Debtors,

the vesting of the Purchased Assets in Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* 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.

14. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, 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.
15. The Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

**THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:**

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Signature of James W. Reid  
Lawyer for the Receiver

**BY THE COURT**

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Registrar

**SCHEDULE A  
TO APPROVAL OF AUCTION SERVICES AGREEMENT**

**COUNSEL LIST**

<b>Counsel Name</b>	<b>Party Represented</b>

**SCHEDULE B  
TO APPROVAL OF AUCTION SERVICES AGREEMENT**



**SCHEDULE C  
TO APPROVAL OF AUCTION SERVICES AGREEMENT**

**RECEIVER'S CERTIFICATE**

No. S-229607  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
VIC VAN ISLE CONSTRUCTION LTD., VVI CONSTRUCTION LTD., AND  
LORTAP ENTERPRISES LTD.

**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Supreme Court of British Columbia (the "**Court**") dated April 11, 2023, BDO Canada Limited was appointed as the receiver (in such capacity, the "**Receiver**") of the assets, undertakings, properties of Vic Van Isle Construction Ltd., VVI Construction Ltd., and Lortap Enterprises Ltd.

B. Pursuant to an Order of the Court dated \_\_\_\_\_, 2023, the Court approved the auction services agreement made as of May 18, 2023 (the "**Auction Agreement**") between the Receiver and McDougall Auctioneers Ltd. pursuant to which one or more auction transactions were authorized to be completed in accordance with the terms of the Auction Agreement (the "**Auction Transactions**").

**THE RECEIVER CERTIFIES** the following:

1. The Auction Transactions have been completed to the satisfaction of the Receiver.
2. The Certificate was delivered by the Receiver at \_\_\_\_\_ on \_\_\_\_\_.

**BDO CANADA LIMITED, in its capacity as receiver and manager of all the assets, undertakings, and properties of Vic Van Isle Construction Ltd., VVI Construction Ltd., and Lortap Enterprises Ltd. and not in its personal capacity.**

Per: \_\_\_\_\_  
Name: Chris Bowra  
Title: Vice President  
I have the authority to bind the corporation

No. S-229607

Vancouver Registry

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IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

---

IN THE MATTER OF THE RECEIVERSHIP OF  
VIC VAN ISLE CONSTRUCTION LTD., VVI  
CONSTRUCTION LTD., AND LORTAP  
ENTERPRISES LTD.

---

**ORDER MADE AFTER APPLICATION**

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MILLER THOMSON LLP  
Barristers and Solicitors  
700 – 9<sup>th</sup> Avenue S.W.  
Suite 3000  
Calgary, Alberta T2P 3V4

James W. Reid  
Phone: (403) 298-2479  
Fax: (403) 262-0007

File No.: 0267850.0001

Schedule "B"

No. S-229607

VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MITSUBISHI HC CAPITAL CANADA INC.

PETITIONER

AND:

VIC VAN ISLE CONSTRUCTION LTD., VVI CONSTRUCTION LTD., AND LORTAP ENTERPRISES LTD.

RESPONDENT

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
VIC VAN ISLE CONSTRUCTION LTD., VVI CONSTRUCTION LTD., AND  
LORTAP ENTERPRISES LTD.

ORDER MADE AFTER APPLICATION

APPROVAL OF ASSET PURCHASE AGREEMENT

BEFORE THE HONOURABLE

_____	)	_____	, 2023
	)		
	)		
	)		
	)		

**THE APPLICATION** of BDO Canada Limited, in its capacity as Court-appointed receiver (the "Receiver") of the assets, undertakings and properties of Vic Van Isle Construction Ltd., VVI Construction Ltd., and Lortap Enterprises Ltd. (collectively, the "Debtors") coming on for hearing at the Courthouse at 800 Smithe Street, Vancouver, British Columbia, on the 6<sup>th</sup> day of June, 2023;

**AND ON HEARING** James W. Reid, counsel for the Receiver, and those other counsel listed on **Schedule "A"** hereto;

**AND UPON READING** the material filed, including the First Report of the Receiver dated May 24, 2023;

**THIS COURT ORDERS AND DECLARES THAT:**

1. The sale transaction (the "**Transaction**") contemplated by the Asset Purchase Agreement dated for reference May 12, 2023 (the "**Asset Purchase Agreement**") between the Receiver and Woody's Projects (the "**Purchaser**"), a copy of which is

attached as **Schedule "B"** to this Order, is hereby approved, and the Asset Purchase Agreement is commercially reasonable. The execution of the Asset Purchase Agreement by the Receiver is hereby authorized and approved, and 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 to the Purchaser of the assets described in the Purchase Agreement (the "**Assets**").

2. Upon delivery by the Receiver to the Purchaser of a certificate substantially in the form attached as **Schedule "C"** to this Order (the "**Receiver's Certificate**"), all of the applicable Debtors' right, title and interest in and to the Assets described in the Asset Purchase Agreement (the "**Purchased Assets**") shall vest absolutely in the Purchaser in fee simple, 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 this Court dated April 11, 2022, in these proceedings; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia 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 Assets are hereby expunged and discharged as against the Purchased Assets.
3. For the purposes of determining the nature and priority of Claims, the net sale proceeds from the sale of the Purchased Assets shall (a) stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver's Certificate all Claims shall attach to the net sale 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 had possession or control immediately prior to the sale; and (b) be distributed pursuant to further Order of the Court.
4. The Receiver is to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof.
5. Upon the filing of the Receiver's Certificate, the Receiver is authorized to, and to the extent necessary the Registrar of the British Columbia Personal Property Registry is upon receipt of a request from the Receiver and a filed copy of this Order together with a filed copy of the Receiver's Certificate directed to, cancel and discharge any registrations in the British Columbia Personal Property Registry (whether made before or after the date of this Order) claiming security interests in the Purchased Assets.
6. Upon the filing of the Receiver's Certificate, the Debtors and all persons who claim by, through or under the Debtors in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, shall stand absolutely and forever barred, estopped, foreclosed from and permanently enjoined from pursuing, asserting, or claiming any right, title, interest or other Claims whatsoever in respect of or to the Purchased Assets and to the extent that any such persons or entities remain in possession or control of any of the Purchased Assets, certificates, instruments, or other indicia of title representing or evidencing any right, title,

or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser upon request.

7. The Purchaser shall, by virtue of the completion of the Transaction contemplated by this Order and the Asset Purchase Agreement, have no liability of any kind whatsoever in respect of any Claims against the Debtor.
8. The Purchaser shall be entitled to hold and enjoy the Purchased Assets for their own use and benefit without any interference of or by the Debtors or any person claiming by or through or against the Debtors.
9. Notwithstanding:
  - (a) these proceedings;
  - (b) any applications for a bankruptcy order in respect of the Debtors now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
  - (c) any assignment in bankruptcy made by or in respect of the Debtors,

the vesting of the Purchased Assets in Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* 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.

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, 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.
11. The Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

**THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:**

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Signature of James W. Reid  
Lawyer for the Receiver

**BY THE COURT**

---

Registrar

**SCHEDULE A  
TO APPROVAL OF ASSET PURCHASE AGREEMENT**

**COUNSEL LIST**

<b>Counsel Name</b>	<b>Party Represented</b>

**SCHEDULE B  
TO APPROVAL OF ASSET PURCHASE AGREEMENT**



**SCHEDULE C  
TO APPROVAL OF ASSET PURCHASE AGREEMENT**

**RECEIVER'S CERTIFICATE**

No. S-229607  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
VIC VAN ISLE CONSTRUCTION LTD., VVI CONSTRUCTION LTD., AND  
LORTAP ENTERPRISES LTD.

**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Supreme Court of British Columbia (the "**Court**") dated April 11, 2023, BDO Canada Limited was appointed as the receiver (in such capacity, the "**Receiver**") of the assets, undertakings, properties of Vic Van Isle Construction Ltd., VVI Construction Ltd., and Lortap Enterprises Ltd.

B. Pursuant to an Order of the Court dated \_\_\_\_\_, 2023, the Court approved the asset purchase agreement made effective as of May 12, 2023 (the "**Asset Purchase Agreement**") between the Receiver and Woody's Projects pursuant to which one or more transactions were authorized to be completed in accordance with the terms of the Asset Purchase Agreement (the "**Asset Purchase Transaction**").

**THE RECEIVER CERTIFIES** the following:

1. The Asset Purchase Transaction has been completed to the satisfaction of the Receiver.
2. The Certificate was delivered by the Receiver at \_\_\_\_\_ on \_\_\_\_\_.

**BDO CANADA LIMITED, in its capacity as receiver and manager of all the assets, undertakings, and properties of Vic Van Isle Construction Ltd., VVI Construction Ltd., and Lortap Enterprises Ltd. and not in its personal capacity.**

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

Name: Chris Bowra

Title: Vice President

I have the authority to bind the corporation

No. S-229607

Vancouver Registry

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IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

---

IN THE MATTER OF THE RECEIVERSHIP OF  
VIC VAN ISLE CONSTRUCTION LTD., VVI  
CONSTRUCTION LTD., AND LORTAP  
ENTERPRISES LTD.

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**ORDER MADE AFTER APPLICATION**

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MILLER THOMSON LLP  
Barristers and Solicitors  
700 – 9<sup>th</sup> Avenue S.W.  
Suite 3000  
Calgary, Alberta T2P 3V4

James W. Reid  
Phone: (403) 298-2479  
Fax: (403) 262-0007

File No.: 0267850.0001

Schedule "C"

No. S-229607

VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MITSUBISHI HC CAPITAL CANADA INC.

PETITIONER

AND:

VIC VAN ISLE CONSTRUCTION LTD., VVI CONSTRUCTION LTD., AND LORTAP ENTERPRISES LTD.

RESPONDENT

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
VIC VAN ISLE CONSTRUCTION LTD., VVI CONSTRUCTION LTD., AND LORTAP ENTERPRISES LTD.

ORDER MADE AFTER APPLICATION

SEALING ORDER

BEFORE THE HONOURABLE

\_\_\_\_\_  
\_\_\_\_\_

)  
)  
)  
)  
)

\_\_\_\_\_, 2023

**ON THE APPLICATION** of BDO Canada Limited, in its capacity as Court-appointed receiver (the "**Receiver**") of the assets, undertakings and properties of Vic Van Isle Construction Ltd., VVI Construction Ltd., and Lortap Enterprises Ltd. (collectively, the "**Debtors**") coming on for

hearing at the Courthouse at 800 Smithe Street, Vancouver, British Columbia, on the 6<sup>th</sup> day of June, 2023;

**AND ON HEARING** James W. Reid, counsel for the Receiver, and those other counsel listed on **Schedule "A"** hereto;

**AND UPON READING** the material filed, including the First Report of the Receiver dated May 24, 2023;

**THIS COURT ORDERS THAT:**

1. **Access to Sealed Items permitted by:**

Counsel of Record

Parties on Record

Further Court Order

Others \_\_\_\_\_

2. **Items to be sealed**

Document Name	Date filed: (Date on Court Stamp)	Number of copies filed, including any extra copies for the judge	Duration of sealing order: (to specific date or until further order)	Sought	Granted	
					Yes	No
1) Confidential Appendix 1 to the First Report of the Receiver dated May 24, 2023	May 24, 2023	1	As ordered by this Court herein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Specific Documents				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clerk's Notes				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Order				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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3. THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

\_\_\_\_\_  
Signature of James W. Reid  
Lawyer for the Receiver

By the Court.

\_\_\_\_\_  
Registrar

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IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

---

IN THE MATTER OF THE RECEIVERSHIP OF VIC VAN ISLE CONSTRUCTION LTD., VVI  
CONSTRUCTION LTD., AND LORTAP ENTERPRISES LTD.

---

**ORDER MADE AFTER APPLICATION**

---

MILLER THOMSON LLP  
Barristers and Solicitors  
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Suite 3000  
Calgary, Alberta T2P 3V4

James W. Reid  
Phone: (403) 298-2479  
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File No.: 0267850.0001