

2025 01G
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF the *Companies' Creditors Arrangement Act* R.S.C., 1985, c. C-36, as amended (the "CCAA")

AND IN THE MATTER OF an application of Karwood Contracting Ltd., Karwood Engineering Inc., Karwood Ontario Ltd., and Karwood Design Group Ltd. (the "Applicants")

INITIAL ORDER

THIS APPLICATION, made by the Companies pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an Order substantially in the form filed with the Application was heard on February 3, 2025,

ON READING the affidavit of Greg Hussey and the Exhibits attached thereto, the consent of BDO Canada Ltd. ("BDO") to act as Court-appointed monitor of the Companies (in such capacity, the "Monitor"), and the Pre-Filing Report of BDO dated 31 January, 2025,

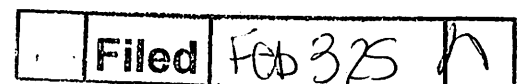
ON HEARING the submissions of counsel for the Companies and such other counsel as were present, no one else appearing for any party although duly served as outlined in the affidavit of service.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the materials filed, as set out in the affidavit of service is hereby deemed adequate notice so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Companies are each a company to which the CCAA applies.



POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that the Companies shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof save and except for the Exempt Property, as defined and dealt with below (the "**Property**"). Subject to further Order of this Honourable Court, the Companies shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Companies are authorized and empowered to continue to retain and employ the employees, consultants, independent contractors, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of their Business or for the carrying out of the terms of this Order.

4. **THIS COURT ORDERS** that the Companies, shall be entitled to continue to utilize their cash management system currently in place, or replace it with another substantially similar cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Companies of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Companies, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any plan of compromise or arrangement with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. **THIS COURT ORDERS** that the Companies shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;



(b) the fees and disbursements of any Assistants retained or employed by the Companies in respect of these proceedings, at their standard rates and charges;

(c) amounts owing for goods and services supplied to the Companies, if in the opinion of the Monitor, the supplier or vendor of such goods or services is necessary for the operation and preservation of the Business or Property.

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein the Companies shall be entitled but not required to pay all reasonable expenses incurred by the Companies in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance, maintenance and security services and lease payments for mining equipment used in the operation of the Business; and

(b) payment for goods or services supplied to the Companies following the date of this Order.

7. **THIS COURT ORDERS** that the Companies shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Companies in connection with the sale of goods and services by the Companies, but only where such Sales Taxes are accrued or collected after the date of this Order, and

(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or



kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Companies.

8. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Companies shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Companies and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order. The Monitor, on behalf of the Companies, may pay such Rent twice monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

9. **THIS COURT ORDERS** that, except as specifically permitted herein the Companies are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Companies to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

EXEMPT PROPERTY

10. **THIS COURT ORDERS** that the Property, as defined above, shall not include the following parcels of real property:

i. The property municipally known as 236 West Street, Belmont, Ontario and legally described as Lot 31, Plan 33M778 Municipality of Central Elgin; subject to an easement in gross over Part 11, Plan 33R-20685 as in ER 1300729, being the whole of PIN 08195-0655; and

ii. The property municipally known as 35 Honey Bend, St. Thomas, Ontario and legally described as Lot 8, Plan 11M232; City of St. Thomas, being the whole of PIN 35244-2202.

(collectively hereinafter referred to as the "**Exempt Property**").

11. **THIS COURT ORDERS AND DECLARES** that, notwithstanding the other terms of the



within Order, the Exempt Property is not subject to the terms of the within Order

NO PROCEEDINGS AGAINST THE COMPANIES OR THE PROPERTY

12. **THIS COURT ORDERS** that until and including 13 February 2025, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Companies or the Monitor, or affecting the Business or the Property except with the written consent of the Monitor and the Companies, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Companies or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

13. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Companies or the Monitor, or affecting the Business or the Property are hereby stayed and suspended except with the written consent of the Monitor and the Companies, or leave of this Court, provided that nothing in this Order shall (i) empower the Companies to carry on any business which the Companies is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

14. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Companies, except with the written consent of the Monitor and the Companies, or leave of this Court.

CONTINUATION OF SERVICES

15. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Companies or statutory or regulatory mandates for the supply of



goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Companies, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Companies, and the Companies shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Companies in accordance with normal payment practices of the Companies or such other practices as may be agreed upon by the supplier or service provider and the Companies or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

16. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Companies. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

17. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Companies with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Companies whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Companies, if one is filed, is sanctioned by this Court or is refused by the creditors of the Companies or this Court.

APPOINTMENT OF MONITOR

18. **THIS COURT ORDERS** that BDO is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Companies



with the powers and obligations set out in the CCAA or set forth herein and that the Companies and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Companies pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

19. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- a. monitor the Companies' receipts and disbursements;
- b. report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- c. advise, in consultation with the Companies, in its preparation of the Companies' cash flow statements and reporting;
- d. have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Companies, to the extent that is necessary to adequately assess the Companies business, cashflow, and financial affairs or to perform its duties arising under this Order;
- e. be at liberty to engage with Companies' legal counsel or retain independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- f. perform such other duties as are required by this Order or by this Court from time to time.

20. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property but as Monitor shall take part in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business, or any part thereof.

21. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to



occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

22. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Companies with information provided by the Companies in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Companies is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Companies may agree.

23. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or willful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

24. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and counsel to the Companies shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Companies as part of the costs of these proceedings. The Companies are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, and counsel for the Companies on a weekly basis and, in addition, the Companies are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel



to the Companies reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

25. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose, the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Supreme Court of Newfoundland and Labrador in Bankruptcy and Insolvency.

26. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Companies' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Initial Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$100,000.00, as security for their professional fees and disbursements incurred at their respective standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Initial Administration Charge shall have the priority set out herein.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

27. **THIS COURT ORDERS** that the Initial Administration Charge shall have a first charge over all the Applicants assets and undertakings.

28. **THIS COURT ORDERS** that the filing, registration or perfection of the Initial Administration Charge shall not be required, and that Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

29. **THIS COURT ORDERS** that the Initial Administration Charge shall constitute a charge on the Property and shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, except for any secured creditor of the Companies who did not receive notice of the application for this Order. The Companies shall be entitled, on a subsequent motion on notice to those Persons likely to be affected thereby, to seek priority of the Initial Administration Charge ahead of any Encumbrances over which the Initial Administration Charge has not obtained priority pursuant to this Order.

30. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or



as may be approved by this Court, the Companies shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with the Initial Administration Charge, unless the Companies also obtain the prior written consent of the Monitor and of the applicable chargee(s) entitled to the benefit of the Initial Administration Charge (collectively, the "Chargees"), or further Order of this Court.

31. **THIS COURT ORDERS** that the Initial Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Companies.

32. **THIS COURT ORDERS** that the Initial Administration Charge created by this Order over leases of real property in Canada shall only be a charge in the Companies' interest in such real property leases.

SERVICE AND NOTICE

33. **THIS COURT ORDERS** that the Monitor shall (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner by electronic means, a notice to every known creditor who has a claim against the Company of more than \$1,000.00, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

GENERAL

34. **THIS COURT ORDERS** that the Monitor and the Companies may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

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35. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from subsequently acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Company, the Business or the Property.

36. **THIS COURT ORDERS** that each of the Company and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

37. **THIS COURT ORDERS** that a hearing for the balance of the relief sought by the Company in the Notice of Application is hereby scheduled before this Court on _____ 2025.

Issued by Justice McDermid on the 3rd day of FEB, 2025.



COURT
OFFICER

