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COURT

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE

SASKATOON

PROCEEDINGS

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CONTOUR REALTY INC.

AND

AND IN THE MATTER OF THE RECEIVERSHIP OF 101098762 SASKATCHEWAN LTD., MORRIS INDUSTRIES LTD., MORRIS SALES AND SERVICE LTD. AND MORRIS INDUSTRIES (USA) INC.

DOCUMENT

**FIRST REPORT OF ALVAREZ & MARSAL CANADA INC., IN ITS CAPACITY AS RECEIVER**

**June 15, 2021**

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CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**RECEIVER**

ALVAREZ & MARSAL CANADA INC.  
Bow Valley Square IV  
Suite 1110, 250 – 6<sup>th</sup> Avenue SW  
Calgary, Alberta T2P 3H7  
Orest Konowalchuk / Chad Artem  
Telephone: (403) 538-4736/(403) 538-7518  
Email: [okonowalchuk@alvarezandmarsal.com](mailto:okonowalchuk@alvarezandmarsal.com)  
[cartem@alvarezandmarsal.com](mailto:cartem@alvarezandmarsal.com)

**COUNSEL TO RECEIVER**

MLT Aikins LLP  
Suite 1201, 409 – 3<sup>rd</sup> Avenue South  
Saskatoon, Saskatchewan S7K 5R5  
Attention: Jeff M. Lee / Ryan Zahara  
Phone: (306) 975-7136 / (403) 693-5420  
Fax: (306) 975-7145  
Email: [jmlee@mltaikins.com](mailto:jmlee@mltaikins.com)  
[rzahara@mltaikins.com](mailto:rzahara@mltaikins.com)

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## INTRODUCTION

1. On March 26, 2021 (the “**Receivership Date**”), the Court of Queen’s Bench for Saskatchewan (the “**Court**”) granted an Order (the “**Receivership Order**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “**BIA**”), section 65(1) of *The Queen’s Bench Act, 1998*, SS 1998, c. Q-1.01 and section 64(8) of *The Personal Property Security Act, 1993*, SS 1993, c. P-6.2, whereby Alvarez and Marsal Canada Inc. (“**A&M**”) was appointed Receiver, without security, of all of the current and future assets, undertakings and properties of every nature and kind whatsoever and wherever situate, of Morris Industries Ltd. (“**MIL**”), 101098672 Saskatchewan Ltd. (“**672**”), Morris Sales & Service Ltd. (“**MSS**”), and Morris Industries (USA) Inc. (“**MUSA**”), (collectively, the “**Dormant Companies**”) including all proceeds thereof (the “**Property**”). The purpose appointment of the Receiver was largely to carry out the remaining duties of the court-appointed Monitor (as defined below) with respect to matters such as distribution of certain sale proceeds (subject to court oversight), evaluation of cost allocations and other matters (the “**Receivership Proceedings**”).
2. The Receivership Order empowers and authorizes, but does not obligate, the Receiver to, among other things, take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property.
3. From and after January 8, 2020 (the “**CCAA Initial Order Date**”), the Dormant Companies, together with Contour Realty Inc. (“**Contour**”) (collectively, the “**Morris Group**”) had been in creditor protection pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36, as amended (the “**CCAA**”). The proceedings commenced under the CCAA by MIL and related companies are referred to herein as the “**CCAA Proceedings**”. A&M had been appointed as the court-appointed Monitor of the Dormant Companies within the CCAA Proceedings (the “**Monitor**”). On March 5, 2021, the Court granted an Order approving the proposed transaction (the “**MEL Transaction**”) to sell certain of the assets of MIL and Contour to an arm’s length third-party corporation to be re-named Morris

Enterprises Ltd. (“**MEL**”). The MEL Transaction closed on March 18, 2021. A Monitor’s Certificate was filed with the Court confirming the closing.

4. The Dormant Companies no longer have any material assets remaining for the Receiver to realize upon, save and except for the collection of certain cash proceeds from certain accounts receivable. In addition, the Receiver is administering collection and distribution of certain accounts receivable related to the MEL Transaction which, subject to the Receiver’s Charge, are for the benefit of the primary secured creditor of the Dormant Companies, Bank of Montreal.
5. On March 26, 2021, the Court granted two Orders (the “**Distribution and Partial Termination Order**” and the “**Partial Extension Order**”) terminating the CCAA Proceedings in regards to the Dormant Companies and extending the stay of proceedings in regards to Contour until July 30, 2021. Contour is the sole remaining entity within the CCAA Proceedings. Pursuant to the Distribution and Partial Termination Order, the Monitor was to be fully discharged as Monitor in respect of the Dormant Companies once it has completed its remaining administrative duties, filed a Monitor’s Certificate with the Court and served same on the parties on the Service List.
6. On March 26, 2021, a further Order (the “**Bankruptcy Order**”) was granted by this Honourable Court adjudging the Dormant Companies bankrupt and appointing A&M as Licensed Insolvency Trustee (the “**Trustee**”) of each of the Dormant Companies within the bankruptcy proceedings regarding the Dormant Companies (the “**Bankruptcy Proceedings**”).
7. Further information regarding the CCAA Proceedings, the Receivership Proceedings, the Bankruptcy Proceedings and other orders, application materials and reports of the Monitor are available on the Monitor’s website at: [www.alvarezandmarsal.com/morris](http://www.alvarezandmarsal.com/morris) (the “**Case Website**”).

## PURPOSE OF THE REPORT

8. The purpose of this first report of the Receiver (the “**First Report**” or “**this Report**”) is to provide this Honourable Court with information in respect of the following matters:
  - a) the activities of the Receiver since the Receivership Date;
  - b) the proposed allocation of costs between secured creditors of the Dormant Companies, including a portion of costs proposed to be attributed to assets sold by the Monitor against which certain secured creditors (the “**PMSI Creditors**”) have registered purchase-money security interest (“**PMSI**”) registrations in the Personal Property Registries for Saskatchewan and Manitoba;
  - c) the actual cash flow results for the period from March 26, 2021 to June 11, 2021 (the “**Reporting Period**”);
  - d) approval of the Receiver’s actions, activities and conduct, and approval of the Receiver’s fees and disbursements and those of the Receiver’s independent counsel, MLT Aikins LLP (the “**Receiver’s Counsel**”);
  - e) the Receiver’s next steps; and
  - f) the Receiver’s observations and recommendations with respect to the above.
9. Unless otherwise set forth herein, capitalized words or terms not defined or ascribed a meaning in this Report are as defined or ascribed the meaning set out in the Receivership Order.
10. All references to dollars are in Canadian currency unless otherwise noted.

## TERMS OF REFERENCE AND DISCLAIMER

11. In preparing this Report, the Receiver has relied upon: (i) the representations of certain management and other key stakeholders of MIL; and (ii) financial and other

information contained in the Company's books and records, which were produced and maintained principally by the Company.

12. While the Receiver has reviewed certain financial information in respect of the Company for reasonableness, the Receiver has not performed an audit, review or otherwise attempted to verify the accuracy or completeness of the Company's financial information that would wholly or partially comply with Canadian Auditing Standards ("CASs") pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CASs in respect of the financial information. Future oriented financial information relied upon in this Report is based on the Receiver's assumptions regarding future events and actual results achieved will vary from this information and the variations may be material.

#### **ACTIVITIES OF THE RECEIVER**

13. Since the Receivership Date, the Receiver's activities with respect to the Dormant Companies have included, but are not limited to, the following:
  - a) taking possession and control of the net cash proceeds of approximately \$3.1 million derived from the MEL Transaction, held in trust by the Monitor's legal counsel, and depositing such funds into the Receiver's trust account;
  - b) taking possession and control of the remaining cash balances and incoming receipts of the Dormant Companies and depositing such funds into the Receiver's trust account;
  - c) addressing payment of the amounts required to be paid under the Receivership Order, including professional fees and costs of the Receiver and its legal counsel;
  - d) issuing Form 87 (Notice and Statement of the Receiver) to the Office of the Superintendent of Bankruptcy ("OSB") and posting same on the Receiver's Website. Shortly after the Receivership Order was granted,

the OSB provided the Receiver with the Filing of Receivership and Reporting Duties of Receiver assigning Estate No. 23-035237;

- e) retaining MLT Aikins LLP to act as independent legal counsel to the Receiver in the Receivership Proceedings;
- f) gathering, preparing, analyzing and implementing various financial elements of an escrow agreement prepared within the CCAA Proceedings (the “**Escrow Agreement**”) between the principal stakeholders of MIL;
- g) completing performance of certain Administrative Tasks described in the Monitor’s Sixteenth Report in the CCAA Proceedings;
- h) disbursing moneys owed to parties in respect of which the obligations were incurred within the CCAA Proceedings but not paid within the CCAA Proceedings;
- i) developing and presenting a proposed method to allocate a portion of the costs of the CCAA proceedings to the PMSI Creditors in an equitable manner;
- j) hosting numerous communications with creditors, claimants and/or their representative counsel respecting their filed claims; and
- k) cooperating with the LIT of related entities of MIL, as required in the Bankruptcy Proceedings.

## **PROPOSED DISTRIBUTION TO PMSI CREDITORS**

### **Overview**

14. Pursuant to previous Orders of this Court within the CCAA Proceedings, the Monitor sold through auction certain items of equipment owned by MIL. Included in such auction sales were six pieces of equipment financed by PMSI Creditors claiming certain purchase money security interests in such equipment, namely: (a)

Kubota Canada Ltd. (“**Kubota**”) and De Lage Landen Financial Services Canada Inc. (“**DLL**”) (collectively, the “**PMSI Creditors**”).

15. The total net proceeds received by the Monitor from the sale of these units (the “**PMSI Assets**”), that were delivered to the Receiver, pursuant to the Distribution and Partial Termination Order, was \$260,190 and is itemized as follows:

<i>CAD \$</i>					
<b>Lender</b>	<b>Unit</b>	<b>Gross Proceeds</b>	<b>Auction Costs</b>	<b>Net Proceeds*</b>	
DLL	2014 Kuhn 8310 34 Ft	\$ 37,000	\$ 6,011	\$ 30,989	
DLL	2012 John Deere 1910	\$ 24,500	\$ 3,980	\$ 20,520	
DLL	2013 Morris C2 61 Ft	\$ 37,000	\$ 6,011	\$ 30,989	
DLL	2017 Lemken Gigant	\$ 60,434	\$ -	\$ 60,434	
		<b>\$ 158,934</b>	<b>\$ 16,001</b>	<b>\$ 142,933</b>	
Kubota	Kubota 2017 MFWD	\$ 105,000	\$ 17,057	\$ 87,943	
Kubota	Kubota 2015 MFWD	\$ 35,000	\$ 5,686	\$ 29,314	
		<b>\$ 140,000</b>	<b>\$ 22,742</b>	<b>\$ 117,258</b>	
<b>Total</b>		<b>\$ 298,934</b>	<b>\$ 38,743</b>	<b>\$ 260,190</b>	

*\*Before PMSI Cost Allocation*

16. The Receiver’s independent legal counsel has evaluated the PMSI Creditors’ claims against the PMSI Assets and has confirmed that, subject to customary qualifications, the respective security interests of the PMSI Creditors against the PMSI Assets are valid and enforceable.
17. The Receiver was charged with the responsibility to propose an equitable allocation of costs of the CCAA Proceedings (as between all secured creditors of the Morris Group) for consideration by this Honourable Court and the stakeholders. Specifically, the Receiver has attempted to identify a fair and reasonable cost allocation to be attributed against the PMSI Assets.

### **Costs Incurred**

18. The Receiver evaluated the professional fees and costs incurred by the Monitor and its independent legal counsel from the CCAA Initial Order Date (January 8, 2020) to April 30, 2020 (the time period during which the Monitor and its legal counsel



expended time and incurred costs pertaining to the PMSI Assets) (the “**Subject Time Period**”).

19. The Receiver reviewed the respective invoices of the Receiver and its legal counsel for the Subject Time Period, with a view to identifying time spent by the Receiver and its legal counsel in regard to the administration and sale of the PMSI Assets. Based on this analysis, the Receiver has calculated the total professional fees and costs incurred in that regard at \$34,000 (the “**PMSI Costs**”), which represent 2.3% of the total combined fees and costs of \$1,456,897 paid during the Subject Period.

### **Allocation Analysis**

20. The Receiver considered four options that may be available to determine a fair and equitable allocation of the PMSI Costs with respect to the PMSI Assets. These options included:
  - a) Fixed Allocation: allocating the PMSI Costs evenly across each of the six units comprising the PMSI Assets;
  - b) Net Proceeds: allocating the PMSI Costs on a pro-rata basis based on the net proceeds derived from the sale of the PMSI Assets;
  - c) Debt: allocating the PMSI Costs on a pro-rata basis based on the total secured debt outstanding against the PMSI Assets; and
  - d) Average: allocating the PMSI Costs on a pro-rata basis based on the average of the three above-mentioned options: Fixed Allocation, Net Proceeds and Debt.
21. The Receiver notes that there was no specific or identifiable time spent on any one particular PMSI Asset. Rather, the professional time spent on the PMSI Assets was general in nature (and not specific to any one PMSI Asset). Further, when comparing “Option A” (the fixed allocation) to the other three options, the Receiver notes that the difference in cost allocations is not materially significant, as shown in the chart set out below:

CAD \$					
Unit	Lender	Cost Allocation Options			
		Fixed	Net Proceeds	Debt	Average
2014 Kuhn 8310 34 Ft	DLL	\$ 5,667	\$ 4,050	\$ 3,146	\$ 4,288
2012 John Deere 1910	DLL	\$ 5,667	\$ 2,681	\$ 3,892	\$ 4,080
2013 Morris C2 61 Ft	DLL	\$ 5,667	\$ 4,050	\$ 7,109	\$ 5,608
2017 Lemken Gigant	DLL	\$ 5,667	\$ 7,897	\$ 6,137	\$ 6,567
		<b>\$ 22,667</b>	<b>\$ 18,678</b>	<b>\$ 20,284</b>	<b>\$ 20,543</b>
Kubota 2017 MFWD	Kubota	\$ 5,667	\$ 11,492	\$ 10,158	\$ 9,106
Kubota 2015 MFWD	Kubota	\$ 5,667	\$ 3,831	\$ 3,557	\$ 4,352
		<b>\$ 11,333</b>	<b>\$ 15,322</b>	<b>\$ 13,716</b>	<b>\$ 13,457</b>
<b>Total</b>		<b>\$ 34,000</b>	<b>\$ 34,000</b>	<b>\$ 34,000</b>	<b>\$ 34,000</b>

22. Based on its review and analysis, the Receiver is of the respectful view that Option A (Fixed Allocation) is the most appropriate, fair and equitable option for allocation of the PMSI Costs against the PMSI Assets.
23. The chart below sets out the proposed payment to the PMSI creditors using the fixed allocation method:

CAD \$					
Lender	Unit	Net Proceeds	Less Fixed Allocation	Proposed Payment	
DLL	2014 Kuhn 8310 34 Ft	\$ 30,989	\$ 5,667	\$ 25,323	
DLL	2012 John Deere 1910	\$ 20,520	\$ 5,667	\$ 14,853	
DLL	2013 Morris C2 61 Ft	\$ 30,989	\$ 5,667	\$ 25,323	
DLL	2017 Lemken Gigant	\$ 60,434	\$ 5,667	\$ 54,767	
		<b>\$ 142,933</b>	<b>\$ 22,667</b>	<b>\$ 120,266</b>	
Kubota	Kubota 2017 MFWD	\$ 87,943	\$ 5,667	\$ 82,276	
Kubota	Kubota 2015 MFWD	\$ 29,314	\$ 5,667	\$ 23,648	
		<b>\$ 117,258</b>	<b>\$ 11,333</b>	<b>\$ 105,924</b>	
<b>Total</b>		<b>\$ 260,190</b>	<b>\$ 34,000</b>	<b>\$ 226,190</b>	

## RECEIPTS AND DISBURSEMENTS – MARCH 26, 2021 TO JUNE 11, 2021

24. The following is a statement of the Receiver's receipts and disbursements in respect of Morris Group during the Reporting Period:

<b>Morris Group - in Receivership</b> <b>Interim Statement of Receipts &amp; Disbursements and Forecast</b> <b>March 26, 2021 to June 11, 2021</b> <i>CAD\$, unaudited</i>	
<b>Opening cash balance</b>	3,245,844
<b>Receiver's Certificate (Borrowings)</b>	-
<b>Receipts</b>	
Other Collections	27,704
Interest	75
<b>Total Receipts</b>	<b>\$ 3,273,623</b>
<b>Disbursements</b>	
Transfers to Contour for CCAA Costs	297,867
Operating and Production Costs	217,938
MEL Transaction PST	194,868
Final Pension Payments	51,361
Net GST & PST Paid	87,257
Professional Fees and Costs - CCAA	1,306,899
Professional Fees and Costs - Receivership	53,154
<b>Total Disbursements</b>	<b>\$ 2,209,344</b>
<b>Ending Cash Balance</b>	<b>\$ 1,064,278</b>

25. There was approximately \$3.2 million of opening cash available at the start of the Reporting Period, which is comprised of:
- opening cash balance of approximately \$132,000 in the Morris Group bank accounts; and
  - \$3.1 million of MEL Transaction funds transferred to the Receiver by the Monitor.

26. The Receiver made disbursements of approximately \$2.2 million during the Reporting Period, relating primarily to:

- a) transfers to Contour totaling approximately \$297,000 to cover operating costs related to the CCAA Proceedings;
- b) operating and production costs of approximately \$218,000 relating to raw material purchases and other costs associated with production and operating activities incurred during the CCAA Proceedings;
- c) payment of approximately \$194,000 of applicable Saskatchewan and Manitoba transfer taxes related to the MEL Transaction;
- d) pension payments of approximately \$51,000 related to wages earned during the CCAA Proceedings;
- e) GST and PST paid on disbursements of approximately \$86,000
- f) professional fees and costs of the Monitor and the Monitor's Counsel of approximately \$1.3 million for the period of November 1, 2020 to March 26, 2021, incurred during the CCAA Proceedings and approved by this Honourable Court in the Distribution and Partial Termination Order granted on March 26, 2021; and
- g) professional fees and costs of approximately \$53,000, for the Receiver and its legal counsel, in the approximate amounts of \$43,000 and \$9,700, respectively, for the period from March 27, 2021 to May 31, 2021.

27. Total ending cash available as at June 11, 2021 is approximately \$1.1 million.

## **APPROVAL OF PROFESSIONAL FEES AND EXPENSES**

28. The Receiver seeks approval from this Honourable Court of the respective professional fees and disbursements of the Receiver and its legal counsel for the period of March 27, 2021 to May 31, 2021.
29. Professional fees and expenses rendered by the Receiver from March 27, 2021 to May 31, 2021, total \$43,452.04 (exclusive of GST) (the “**Receiver’s Fees and Costs**”). The accounts will be made available upon request and are summarized in Appendix A to this Report.
30. Professional fees and expenses rendered by the Receiver’s Counsel from March 27, 2021 to May 31, 2021, total \$9,702.25 (exclusive of GST and PST) (the “**Receiver’s Counsel’s Fees and Costs**”). The accounts will be made available upon request and are summarized in Appendix B to this Report.
31. The accounts of the Receiver’s and the Receiver’s Counsel outline the date of the work completed, the description of the work completed, the length of time taken to complete the work and the name of the individual who completed the work.
32. The professional fees and costs of the Receiver and the Receiver’s Counsel for March 27, 2021 to May 31, 2021 have been paid and are reflected in the actual cash flow receipts and disbursements discussed above.
33. The Receiver respectfully submits that its professional fees and disbursements and those of the Receiver’s Counsel are fair and reasonable in the circumstances and as outlined in this Report and in Prior Reports, and respectfully requests that this Court approve the Receiver’s Fees and Costs and the Receiver’s Counsel’s Fees and Costs.

## **RECEIVER’S RECOMMENDATION**

34. The Receiver respectfully recommends that this Honourable Court :

- a) approve the proposed cost allocation of the PMSI Costs against the PMSI Assets;
- b) approve the professional fees and disbursements of the Receiver and its independent legal counsel for the period of time from March 27, 2021 to May 31, 2021; and
- c) approve the actions, activities and conduct of the Receiver and its independent legal counsel to date as described in this Report.

All of which is respectfully submitted this 15<sup>th</sup> day of June, 2021.

**ALVAREZ & MARSAL CANADA INC.,  
in its capacity as Receiver of  
101098762 Saskatchewan Ltd., Morris Industries Ltd.,  
Morris Sales and Service Ltd. and  
Morris Industries (USA) Inc., and  
not in its personal or corporate capacity**



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Orest Konowalchuk, CPA, CA, CIRP, LIT  
Senior Vice President



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Chad Artem, CPA, CA, CBV  
Vice President

## **APPENDIX A**

### **Summary of Receiver's Fees and Costs**

**Morris Group - In Receivership**  
Summary of Receiver's Fees and Disbursements ("Interim Period Billings")  
March 27, 2021 to May 31, 2021

**Invoices subject to Court Approval**

Inv. No.	Period	Fees	Disbursements	Total Fees & Disbursements	GST	Total
#1	March 27, 2021 to April 30, 2021	28,787.00	-	28,787.00	1,439.35	30,226.35
#2	May 1, 2021 to May 31, 2021	14,477.00	188.04	14,665.04	733.25	15,398.29
TOTAL		\$ 43,264.00	\$ 188.04	\$ 43,452.04	\$ 2,172.60	\$ 45,624.64



## **APPENDIX B**

### **Summary of Receiver's Counsel's Fees and Costs**

**Morris Group - In Receivership**  
Summary of Receiver's Counsel's Fees and Disbursements ("Interim Period Billings")  
March 27, 2021 to May 31, 2021

Invoices subject to Court Approval

Inv. No.	Period	Fees	Disbursements	Total Fees & Disbursements	GST	PST	Total
6207047	March 27, 2021 to April 30, 2021	5,929.50	-	5,929.50	296.48	355.77	6,581.75
6212601	May 1, 2021 to May 31, 2021	3,725.00	47.75	3,772.75	188.64	223.50	4,184.89
TOTAL		\$ 9,654.50	\$ 47.75	\$ 9,702.25	\$ 485.12	\$ 579.27	\$ 10,766.64