

PP

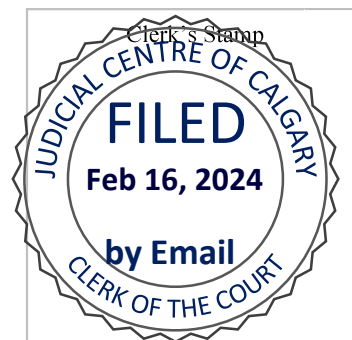
COURT FILE NUMBER 2401 02438

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT BANK OF MONTREAL

RESPONDENTS AMC&F PROPERTIES LTD.  
LYNCORP MANUFACTURING LTD.



DOCUMENT **ORIGINATING APPLICATION  
APPOINTMENT OF RECEIVER & SEALING ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT BLAKE, CASSELS & GRAYDON LLP  
3500, 855 – 2nd Street S.W.  
Calgary, Alberta T2P 4J8

Attention: Christopher Keliher  
Telephone: 403-260-9760  
Email: [christopher.keliher@blakes.com](mailto:christopher.keliher@blakes.com)

## NOTICE TO THE RESPONDENTS

This application is made against you. You are a Respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

**DATE:** February 26, 2024  
**TIME:** 3:00 PM MT  
**WHERE:** The Calgary Courts Centre (via Webex, details attached at Appendix "A")  
**BEFORE:** The Honourable Justice M. H. Hollins

## REMEDY SOUGHT:

1. The Applicant, Bank of Montreal ("**BMO**"), in its capacity as the senior secured lender of AMC&F Properties Ltd. (the "**Borrower**") and Lyncorp Manufacturing Ltd. (the "**Guarantor**", and together with the Borrower, the "**Debtors**"), seeks Orders substantially in the form attached hereto as **Schedule "A"** and **Schedule "B"** granting, among other things, the following relief:

## General

- a. abridging the time for service of this application and declaring that it is properly returnable on the day heard, if necessary, and further service of this application, other than those listed on the Service List attached hereto as **Schedule "C"** is hereby dispensed with;
- b. granting costs of this application to BMO;

## The Receivership Order

- c. appointing Alvarez & Marsal Canada Inc. ("**A&M**") as receiver (the "**Receiver**") pursuant to section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**") over the current and future assets, undertakings and properties of the Debtors; and

## The Sealing Order

- d. sealing the confidential exhibits to the Affidavit of Trevor Bauer affirmed on February 15, 2024 (the "**Confidential Exhibits**").
2. Such further and other relief as counsel may advise and this Honourable Court may permit.

## BASIS FOR THIS CLAIM:

### A. The Receivership Order

- 3. Pursuant to:
  - a. a commitment letter dated December 5, 2016 and accepted December 13, 2016, between, among others, the Borrower, as borrower, and BMO, as lender, authorizing two facilities in the maximum principal amount of \$10,000,000 and \$3,000,000, respectively (the "**Original Commitment Letter**") as amended by a first amending agreement made as of May 23, 2019, a second amending agreement made as of April 9, 2020, a third amending agreement made as of December 6, 2021, and a fourth amending agreement dated as of June 1, 2022 (the Original Commitment Letter, together with all amendments thereto, collectively, the "**Commitment Letter**");

- b. a fixed rate term loan agreement between BMO, as lender, and the Borrower, as borrower, made as of December 13, 2016, in the maximum principal amount of \$10,000,000 ("**Term Loan #1**"); and
- c. a fixed rate term loan agreement between BMO, as lender, and the Borrower, as borrower, made as of December 13, 2016, in the maximum principal amount of \$3,000,000 ("**Term Loan #2**" and together with Term Loan #1 and the Commitment Letter, the "**Loan Documents**"),

BMO made certain loan facilities available to the Borrower in December 2016. The maximum principal amount authorized under the loan facilities was \$13,000,000 (the "**Credit Facility**").

- 4. Amounts advanced by BMO pursuant to the Loan Documents are secured and guaranteed by, among other things:
  - a. a security agreement executed by the Borrower on December 13, 2016, which granted BMO security over, among other things, the Borrower's undertakings and all its property and assets, real and personal, moveable or immovable, of whatsoever nature and kind (the "**AMC&F Security Agreement**");
  - b. a mortgage of land dated December 13, 2016, between the Borrower, as mortgagor, and BMO, as mortgagee, with a principal amount secured equal to \$13,000,000 (the "**BMO Mortgage**"). The BMO Mortgage mortgaged and charged certain real property held by the Borrower (the "**Property**") to and in favour of BMO as security for payment to BMO of all present and future indebtedness and liability owing by the Borrower to BMO, whether direct or indirect, absolute or contingent, or revolving or non-revolving, whether incurred by the Borrower alone or together with any other debtor or debtors and whether incurred pursuant to the provisions of the BMO Mortgage or otherwise;
  - c. a general assignment of rents and leases dated December 13, 2016, from the Borrower to BMO (the "**General Assignment of Rents**");
  - d. a guarantee, dated May 23, 2019, from the Guarantor to BMO, limited to the aggregate amount of \$11,300,000, guaranteeing, among other things, payment to BMO of all present and future debts and liabilities in any currency, direct, indirect, contingent or otherwise, matured or not, including interest thereon, then or at any time, due or owing to BMO from or by the Borrower (the "**Lyncorp Guarantee**"); and

- e. a security agreement executed by the Guarantor on May 23, 2019, granting BMO security over, among other things, the Guarantor's undertakings and all its property and assets, real and personal, moveable or immovable, of whatsoever nature and kind (the "**Lyncorp Security Agreement**", and together with the AMC&F Security Agreement, the BMO Mortgage, and the General Assignment of Rents, the "**Security**").
- 5. The AMC&F Security Agreement, the Lyncorp Security Agreement, and the BMO Mortgage each provide for the appointment of a receiver in the event of default under the Loan Documents.
- 6. In early 2019, the Borrower failed to maintain a debt service coverage ratio specified under the Loan Documents. On April 16, 2019, the Borrower's accounts were transferred internally by BMO to its Special Accounts Management Unit group.
- 7. On April 24, 2023, following several year of the Debtors attempting to: (a) sell their assets or business as a going concern, or, (b) obtain refinancing sufficient to address amounts owing under the Credit Facility, BMO advised the Debtors that it intended to exit its banking relationship with the Debtors on or before June 30, 2023 (the "**Sunset Date**").
- 8. The Sunset Date was subsequently extended by BMO to provide additional time for the Debtors to conclude a transaction sufficient to repay amounts owing under the Credit Facility.
- 9. No transaction materialized and, on October 31, 2023, the Debtors did not pay the regularly scheduled principal or interest payments required under the Loan Documents.
- 10. On November 3, 2023, BMO sent letters and notices of intention to enforce security in accordance with section 244 of the BIA (the "**Demands**") to the Debtors demanding full payment of amounts owing under the Credit Facility. The Demands identified various events of default under the Loan Documents.
- 11. The Debtors and BMO subsequently entered into a forbearance agreement on December 18, 2023 (the "**Forbearance Agreement**"). Among other things, and as set out in the Forbearance Agreement:
  - a. The Debtors acknowledged that:
    - i. various events of default had occurred under the Loan Documents;

- ii. amounts owing under the Credit Facility were owing and payable and that BMO was entitled to repayment on demand;
    - iii. the Debtors were insolvent within the meaning of the BIA; and
    - iv. the Security had not been discharged, waived, or varied, was binding on the Debtors, and was enforceable against the Debtors according to its terms;
  - b. BMO agreed to forbear from taking steps to enforce under the Loan Documents or the Security until the earlier of (a) the occurrence of a Forbearance Terminating Event (as defined therein), or (b) January 26<sup>th</sup>, 2024 (the "**Forbearance Term**"); and
  - c. A&M would be engaged as a financial advisor and, in that capacity, would work with and obtain financial and operating records from the Debtors.
12. On January 24, 2024, two days' prior to the expiration of the Forbearance Term, the Debtors advised BMO that the Debtors efforts to obtain refinancing had stalled, and that the Borrower would not be in a position to pay amounts owing under the Loan Documents until certain real property held and marketed for sale by the Debtors sold.
  13. As of January 29, 2024, the total debt owing by the Debtors to BMO under the Credit Facility was \$7,575,626, exclusive of accrued interest and other fees owing under the Loan Documents (the "**Outstanding Indebtedness**").
  14. Defaults under the Loan Documents are continuing, the Credit Facility has matured, the Debtors are insolvent, and the Forbearance Term has expired.
  15. It is just and convenient that a receiver be appointed over the assets, undertakings and properties of the Debtors.
  16. A&M is qualified and has consented to act as Receiver.

## **B. The Sealing Order**

17. The Confidential Exhibits contain confidential and commercially sensitive information regarding the ongoing financial and operating affairs of the Debtors.
18. An order temporarily sealing the Confidential Exhibits is appropriate given the commercially sensitive information contained therein and the potential negative impact disclosure of such

information may have on the Debtors, the receivership proceedings, or any sales process undertaken therein.

**AFFIDAVIT OR OTHER EVIDENCE TO BE USED IN SUPPORT OF THIS APPLICATION:**

19. BMO intends to rely upon the following materials:
- a. the Affidavit of Trevor Bauer, affirmed on February 15, 2024, to be filed; and
  - b. such further and other evidence as counsel may advise and this Honourable Court may permit.

**APPLICABLE ACTS AND REGULATIONS:**

20. BMO will rely upon and refer to:
- a. the *BIA*, including section 243 thereof;
  - b. the *Alberta Rules of Court*; and
  - c. such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

**WARNING**

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

**Schedule "A"**  
**Form of Receivership Order**

COURT FILE NUMBER

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANT

BANK OF MONTREAL

RESPONDENTS

AMC&F PROPERTIES LTD.  
LYNCORP MANUFACTURING LTD.

DOCUMENT

**RECEIVERSHIP ORDER**ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENTBLAKE, CASSELS & GRAYDON LLP  
3500, 855 – 2nd Street S.W.  
Calgary, Alberta T2P 4J8Attention: Christopher Keliher  
Telephone: 403-260-9760  
Email: [christopher.keliher@blakes.com](mailto:christopher.keliher@blakes.com)

---

**DATE ON WHICH ORDER WAS PRONOUNCED:****LOCATION WHERE ORDER WAS PRONOUNCED:** Calgary Courts Centre**NAME OF JUSTICE WHO GRANTED THIS ORDER:**

---

**UPON THE ORIGINATING APPLICATION** of Bank of Montreal ("**BMO**") in its capacity as the senior secured lender of the Respondents, AMC&F Properties Ltd. ("**AMC&F**") and Lyncorp Manufacturing Ltd. ("**Lyncorp**", and together with AMC&F, the "**Debtors**") seeking the appointment of Alvarez & Marsal Canada Inc. ("**A&M**") as receiver (in such capacity, the "**Receiver**") pursuant to section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, over the current and future assets, undertakings and properties of the Debtors;

**AND UPON** having read the Originating Application, the Affidavit of Trevor Bauer affirmed February 15, 2024, and the Affidavit of Service of [redacted], affirmed [redacted], filed;



**AND UPON** reading the consent of A&M to act as receiver (the “**Receiver**”) of the Debtors;

**AND UPON** hearing counsel for BMO and any other counsel or other interested parties present;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**Service**

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

**Appointment**

2. Pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “**BIA**”), A&M is hereby appointed Receiver, without security, of all of the Debtors’ current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”).

**Receiver’s Powers**

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, which shall include the Receiver’s ability to abandon, dispose of, or otherwise release any interest in any of the Debtors’ real or personal property, or any right in any immoveable;
  - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
  - (c) to manage, operate and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of

business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to or by the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;
- (k) to market any or all 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 in its discretion may deem appropriate;

(l) to 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 any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
- ii. with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 60(8) of the *Personal Property Security Act*, RSA 2000, c. P-7 or any other similar legislation in any other province or territory shall not be required.

- (m) to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing orders) necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other orders in respect of the Property against title to any of the Property, and when submitted by the Receiver for registration this Order shall be immediately registered by the Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding Section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles shall accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtors and not in its personal capacity;

- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtors, and without interference from any other Person (as defined below).

#### **Duty to Provide Access and Co-operations to the Receiver**

4. (i) The Debtors, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto,

provided however that nothing in this paragraph or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.

6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names, and account numbers that may be required to gain access to the information.

#### **No Proceedings Against the Receiver**

7. No proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **No Proceedings Against the Debtors or the Property**

8. No Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph; and (ii) affect a Regulatory Body’s

investigation in respect of the Debtors or an action, suit or proceeding that is taken in respect of the Debtors by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. “**Regulatory Body**” means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a Province.

### **No Exercise of Rights of Remedies**

9. All rights and remedies of any Person, whether judicial or extra-judicial, statutory or non-statutory (including, without limitation, set-off rights) against or in respect of the Debtor or the Receiver or affecting the Property are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided, however, that this stay and suspension does not apply in respect of any “eligible financial contract” (as defined in the BIA), and further provided that nothing in this Order shall:
  - (a) empower the Debtors to carry on any business that the Debtors are not lawfully entitled to carry on;
  - (b) prevent the filing of any registration to preserve or perfect a security interest;
  - (c) prevent the registration of a claim for lien; or
  - (d) exempt the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment.
10. Nothing in this Order shall prevent any party from taking an action against the Debtors where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Receiver at the first available opportunity.

### **No Interference with the Receiver**

11. No Person shall accelerate, suspend, 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 Debtors, except with the written consent of the Debtors and the Receiver, or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract (as defined in the BIA) from closing out and terminating such contract in accordance with its terms.

### Continuation of Services

12. All persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Debtors, 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 Debtors,

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Debtors or exercising any other remedy provided under such agreements or arrangements. The Debtors shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Debtors in accordance with the payment practices of the Debtors, or such other practices as may be agreed upon by the supplier or service provider and each of the Debtors and the Receiver, or as may be ordered by this Court.

### Receiver to Hold Funds

13. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

### Employees

14. Subject to employees' rights to terminate their employment, all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable

for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, SC 2005, c.47 (“**WEPPA**”).

15. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **Limitations on Environmental Liabilities**

16. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
  - i. before the Receiver's appointment; or
  - ii. after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage



affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,

- i. if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause ii below, the Receiver:
  - A. complies with the order, or
  - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
- ii. during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by:
  - A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
  - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- iii. if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

#### **Limitation on the Receiver's Liability**

17. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

### Receiver's Accounts

18. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Property, which charge shall not exceed an aggregate amount of \$200,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) and 88 of the BIA.
19. The Receiver and its legal counsel shall pass their accounts from time to time.
20. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### Funding of the Receivership

21. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$300,000 (or such greater amount as this Court may by further order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) and 88 of the BIA.

22. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
23. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.
24. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.
25. The Receiver shall be authorized to repay any amounts borrowed by way of Receiver's Certificates out of the Property or any proceeds, including any proceeds from the sale of any assets without further approval of this Court.

#### **Allocation**

26. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various assets comprising the Property.

#### **General**

27. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
28. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Receiver's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
29. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.
30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction 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, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

31. The Receiver 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 Receiver 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.
32. The Plaintiff shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis, including legal costs on a solicitor-client full indemnity basis, to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.
33. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

### **Filing**

34. This Order is issued and shall be filed in Court of King's Bench Action No. \_\_\_\_\_.
35. The Receiver shall establish and maintain a website in respect of these proceedings at [www.alvarezandmarsal.com/lyncorp](http://www.alvarezandmarsal.com/lyncorp) (the "**Receiver's Website**") and shall post there as soon as practicable:
  - (a) all materials prescribed by statute or regulation to be made publicly available; and
  - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
36. Service of this Order shall be deemed good and sufficient by:

(a) serving the same on:

- i. the persons listed on the service list created in these proceedings or otherwise served with notice of these proceedings;
- ii. any other person served with notice of the application for this Order;
- iii. any other parties attending or represented at the application for this Order; and

(b) posting a copy of this Order on the Receiver's Website

and service on any other person is hereby dispensed with.

37. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

---

Justice of the Court of King's Bench of Alberta

## SCHEDULE "A"

## RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that Alvarez & Marsal Canada Inc, the receiver (the "**Receiver**") of all of the assets, undertakings and properties of AMC&F Properties Ltd. and Lyncorp Manufacturing Ltd., appointed by Order of the Court of King's Bench of Alberta (the "**Court**"), dated the [ ] day of [ ] 2024 (the "**Order**") made in action number \_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of [ ], being part of the total principal sum of \_\_\_\_\_ that the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded daily after the date hereof at a notional rate per annum equal to the rate of [ ] per cent above the prime commercial lending rate of [ ] from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at [ ].
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, [.]

Alvarez & Marsal Canada Inc., Licensed  
Insolvency Trustee, solely in its capacity as  
Receiver of the Property (as defined in the  
Order), and not in its personal or corporate  
capacity

Per: \_\_\_\_\_  
Name:  
Title:

**Schedule "B"**  
**Form of Sealing Order**



Clerk's stamp:

COURT FILE NUMBER

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANT

BANK OF MONTREAL

RESPONDENTS

AMC&F PROPERTIES LTD. AND  
LYNCORP MANUFACTURING LTD.

DOCUMENT

**SEALING ORDER**

PARTY FILING THIS DOCUMENT

BANK OF MONTREAL

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF PARTY  
FILING THIS DOCUMENT

BLAKE, CASSELS & GRAYDON LLP  
3500, 855 – 2nd Street S.W.  
Calgary, Alberta T2P 4J8

Attention: Christopher Keliher

Telephone: 403-260-9760

Email: [christopher.keliher@blakes.com](mailto:christopher.keliher@blakes.com)

**DATE ON WHICH ORDER WAS PRONOUNCED:**

**LOCATION WHERE ORDER WAS PRONOUNCED:** Calgary Courts Centre

**NAME OF JUSTICE WHO MADE THIS ORDER:**

**UPON THE ORIGINATING APPLICATION** of Bank of Montreal ("**BMO**") in its capacity as the senior secured lender of the Respondents, AMC&F Properties Ltd. and Lyncorp Manufacturing Ltd. (together, the "**Debtors**") seeking the appointment of Alvarez & Marsal Canada Inc. ("**A&M**") as receiver and manager (in such capacity, the "**Receiver**") pursuant to section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, over the current and future assets, undertakings and properties of the Debtors;

**AND UPON** having read the Originating Application, the Affidavit of Trevor Bauer affirmed February 15, 2024 (the "**Bauer Affidavit**"), and the Confidential Exhibits thereto (the "**Confidential Exhibits**");

**AND UPON** hearing counsel for BMO and any other interested parties in attendance at the Application;

**IT IS HEREBY ORDERED THAT:**

**SERVICE**

1. The time for service of the notice of application for this Sealing Order (the "**Order**") is hereby abridged and deemed good and sufficient and this application is properly returnable today.

**SEALING**

2. Notwithstanding Division 4 of Part 6 of the *Alberta Rules of Court*, Alta Reg 124/2010, the Confidential Exhibits shall be sealed on the Court file, not form part of the public record, and not be available for public inspection until the closing of a sale of all or substantially all of the assets of the Debtors, until the receivership proceedings conclude, or further order by this Court, upon seven days' notice to all interested parties, whichever is earlier.
3. The Clerk of the Court shall file the Confidential Exhibits in a sealed envelope attached to a notice that sets out the style of cause of these proceedings and states:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS FILED BY BANK OF MONTREAL. THESE CONFIDENTIAL MATERIALS ARE SEALED UNTIL A CLOSING OF A SALE OF ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF THE DEBTORS, UNTIL THE RECEIVERSHIP PROCEEDINGS CONCLUDE, OR FURTHER ORDER BY THIS COURT, WHICHEVER IS EARLIER.

**GENERAL**

4. The Receiver is empowered and authorized to, but not directed to, provide the Confidential Exhibits (or any portion thereof, or information contained therein) to any interested party that the Receiver considers reasonable in the circumstances, subject to confidentiality arrangements satisfactory to the Receiver.
5. Leave is hereby granted to any person, entity or party affected by this Order to apply to this Court for a further Order vacating, substituting, modifying or varying the terms of this Order, with such application to be brought on seven (7) days' notice to the Receiver and any other affected party in accordance with the *Alberta Rules of Court*, Alta Reg 124/2010 and this Order.

6. This Order must be served only upon those interested parties attending or represented at the within application and service may be affected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be affected the next business day following the transmission of such documents.
7. Service of this Order on any party not attending this application is hereby dispensed with.

---

Justice of the Court of King's Bench of Alberta

**Schedule "C"**  
**Service List**

Clerk's Stamp:

COURT FILE NUMBER

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANT

BANK OF MONTREAL

RESPONDENTS

AMC&F PROPERTIES LTD. and  
LYNCORP MANUFACTURING LTD.

DOCUMENT

**SERVICE LIST**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

BLAKE, CASSELS & GRAYDON LLP  
3500, 855 – 2nd Street S.W.  
Calgary, Alberta T2P 4J8

Attention: Christopher Keliher

Telephone: 403-260-9760

Email: [christopher.keliher@blakes.com](mailto:christopher.keliher@blakes.com)

**SERVICE LIST**  
(as at February 16, 2024)

<p><b>CARSCALLLEN LLP</b> Centrium Place 900, 331 – 6 Avenue SW Calgary, Alberta T2P 0B2</p> <p>Attention: Grant Cameron E-mail: <a href="mailto:cameron@carscallen.com">cameron@carscallen.com</a></p> <p><i>Counsel to the Respondents, Advanced Metal Concepts and Fabrication Ltd., and David Mullen</i></p>	<p><b>BLAKE, CASSELS &amp; GRAYDON LLP</b> 855 – 2nd Street SW Suite 3500, Bankers Hall East Tower Calgary, Alberta T2P 4J8</p> <p>Attention: Christopher Keliher E-mail: <a href="mailto:christopher.keliher@blakes.com">christopher.keliher@blakes.com</a></p> <p><i>Counsel to Bank of Montreal</i></p>
<p><b>DAVID MULLEN</b> 75 Suncanyon Park SE Calgary, Alberta T2X 1P4</p> <p>E-mail: <a href="mailto:dmullen@lyncorp.ca">dmullen@lyncorp.ca</a></p> <p><i>Guarantor</i></p>	<p><b>JASON JOHANSEN</b> 4075-25054 Pine Lake Rd S Red Deer County, Alberta T0M 1R0</p> <p><i>Guarantor</i></p>
<p><b>FASKEN MARTINEAU DuMOULIN LLP</b> First Canadian Centre 350 7th Avenue SW Suite 3400 Calgary, Alberta T2P 3N9</p> <p>Attention: Robyn Gurofsky E-mail: <a href="mailto:rgurofsky@fasken.com">rgurofsky@fasken.com</a></p> <p><i>Counsel to PROVIDA Financial Corporation</i></p>	<p><b>ESSEX LEASE FINANCIAL CORPORATION</b> 10768 74th Street SE Calgary, Alberta T2C 5N6</p> <p>E-mail: <a href="mailto:info@elfc.ca">info@elfc.ca</a> Phone: 403-693-4060 Fax: 403-236-9076</p>
<p><b>CANADA REVENUE AGENCY</b> Surrey National Verification and Collections Centre 9755 King George Boulevard Surrey, British Columbia V3T 5E1</p> <p>Telephone (general inquiries): 1-800-959-8281 Insolvency (toll-free): 1-866-891-7403 Fax (toll-free): 1-833-697-2390</p>	<p><b>ALVAREZ &amp; MARSAL</b> Bow Valley Square 4 Suite 1110, 250 6th Avenue SW Calgary, Alberta T2P 3H7</p> <p>Attention: Orest Konowalchuk E-mail: <a href="mailto:okonowalchuk@alvarezandmarsal.com">okonowalchuk@alvarezandmarsal.com</a></p> <p><i>Proposed Receiver</i></p>

**E-MAIL DISTRIBUTION LIST:**

[cameron@carscallen.com](mailto:cameron@carscallen.com) ; [christopher.keliher@blakes.com](mailto:christopher.keliher@blakes.com) ; [dmullen@lyncorp.ca](mailto:dmullen@lyncorp.ca) ;  
[rgurofsky@fasken.com](mailto:rgurofsky@fasken.com) ; [info@elfc.ca](mailto:info@elfc.ca) ; [okonowalchuk@alvarezandmarsal.com](mailto:okonowalchuk@alvarezandmarsal.com)

## Appendix "A"

### Webex Details

**Virtual Courtroom 60** has been assigned for the above noted matter:

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom60>

Instructions for Connecting to the Meeting:

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes** prior to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
4. Note: Recording or rebroadcasting of the video is prohibited.
5. **Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

For more information relating to Webex protocols and procedures, please visit:

<https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

You can also join the meeting via the "Cisco Webex Meetings" App on your smartphone/tablet or other smart device. You can download this via the App marketplace and join via the link provided above.