

SUPREME COURT OF PRINCE EDWARD ISLAND
(GENERAL SECTION)

BETWEEN:

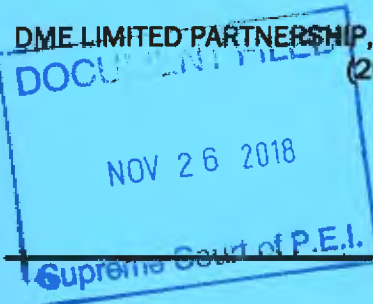
ROYAL BANK OF CANADA

Applicant

and

DME LIMITED PARTNERSHIP, DME GENERAL PARTNERS INC., ATLANTIC SYSTEMS MANUFACTURING
(2016) LTD., DME CANADA ACQUISITIONS INC.
and DME US HOLDCO INC.

Respondents



AFFIDAVIT OF GARY IVANY
Volume 1 of 2

DME LIMITED PARTNERSHIP,
54 Hillstrom Avenue
Charlottetown, PE C1E 2C6
Respondent

DME GENERAL PARTNER INC.,
333 Bay Street, Suite 640
Toronto, Ontario M5H 2R2
Respondent

ATLANTIC SYSTEMS MANUFACTURING (2016) LTD.,
54 Hillstrom Avenue
Charlottetown, PE C1A 7L1
Respondent

DME CANADA ACQUISITIONS INC.
510 West Georgia Street, Suite 1800
Vancouver, British Columbia V6C 3L2
Respondent

DME US HOLDCO INC.
333 Bay Street, Suite 640
Toronto, Ontario M5H 2R2
Respondent

Pamela J. Williams, Q.C. &
George Cooper, Q.C.
COX & PALMER
97 Queen Street, Suite 600
Charlottetown, PE C1A 4A9
(902) 628-1033
Lawyers for the Applicant,
Royal Bank of Canada

**SUPREME COURT OF PRINCE EDWARD ISLAND
(GENERAL SECTION)**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

**DME LIMITED PARTNERSHIP, DME GENERAL PARTNER INC., ATLANTIC
SYSTEMS MANUFACTURING (2016) LTD., DME CANADA ACQUISITIONS INC.
and DME US HOLDCO INC.**

Respondents

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, SECTION 44 OF THE
JUDICATURE ACT, R.S.P.E.I. 1988, CAP. J-2-1, AS AMENDED, AND RULE 41 OF THE
*RULES OF COURT OF PRINCE EDWARD ISLAND***

**AFFIDAVIT OF GARY IVANY
(sworn November 23, 2018)**

I, **GARY IVANY**, of the City of Pickering, in the Province of Ontario, **MAKE OATH
AND SAY AS FOLLOWS:**

1. I am a Senior Director in the Special Loans & Advisory Services Department (the "**Special Loans Group**") of Royal Bank of Canada ("**RBC**"). RBC, as administrative agent and lender, is a secured creditor of DME Limited Partnership (the "**Borrower**"), DME General Partner Inc. ("**DME GP**"), Atlantic Systems Manufacturing (2016) Ltd. ("**Atlantic**"), DME Canada Acquisitions Inc. ("**DME Canada**") and DME US Holdco Inc. ("**DME US**" and collectively with

DME GP, Atlantic and DME Canada, the “**Corporate Guarantors**”, and together with the Borrower, the “**Debtors**”), the respondents herein, and I am responsible for management of the Borrower’s accounts and credit facilities with RBC. As such, I have personal knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge of the matters set out herein, I have stated the source of my information and, in all such cases, believe it to be true.

PURPOSE OF APPLICATION

2. I am swearing this Affidavit in support of an application by RBC for:
 - (a) an order, amongst other things, appointing Alvarez & Marsal Canada Inc. (“**A&M**”) as receiver of all the assets, undertakings and properties of the Debtors (in such capacity, the “**Receiver**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), section 44 of the *Judicature Act*, R.S.P.E.I. 1988, Cap. J-2-1, as amended (the “**Judicature Act**”), and Rule 41 of the *Rules of Court of Prince Edward Island* (the “**Rules**”); and
 - (b) an order pursuant to section 243(1) of the BIA, section 44 of the Judicature Act and Rule 41 of the Rules appointing A&M as receiver, without security, of the real properties owned by DME GP known municipally as (i) 54 Hillstrom Avenue, Charlottetown, Prince Edward Island and described legally in PID No. 565945 (the “**Hillstrom Property**”), and all other property, assets and undertakings relating to the Hillstrom Property, and (ii) 38 McCarville St., Charlottetown, Prince Edward Island and described legally in PID No. 518118 (the “**McCarville Property**” and together with the Hillstrom Property, the “**Real**

Properties”) and all other property, assets and undertakings relating to the McCarville Property.

3. RBC is seeking the appointment of the Receiver for, *inter alia*, the following reasons:
- (a) the Borrower is in default of its obligations to RBC under the Credit Agreement (as defined below);
 - (b) RBC has demanded repayment of the indebtedness of the Debtors, and issued the BIA Notices (as defined below), which demand remains unsatisfied and the ten (10) day notice period will have expired by the return date of this application;
 - (c) the Borrower has suffered a material adverse change in its financial condition and operations, and is facing significant and immediate liquidity issues;
 - (d) the Borrower has significant liquidity constraints, with a large portion of its accounts payable 90 days overdue, and limited supplies to complete purchase orders, and with most major suppliers providing supply on a C.O.D. basis, if at all;
 - (e) all of the directors of the Borrower have resigned (or will have resigned by the return date of this application) and the Borrower does not oppose the appointment of a receiver, and the primary investor, Clearspring Capital Partners III LP (“**Clearspring**”), has expressed an unwillingness to support their investment any longer on terms acceptable RBC;
 - (f) based on projections prepared by the Borrower, at least \$5.0 million in new capital is required to be injected to allow the Borrower to operate and effect a long term turnaround, and Borrower has no current commitment from any party to provide this capital injection; and
 - (g) the Borrower’s recent and current financial circumstances, including significant losses over the past 12 months.

4. For the foregoing reasons, as more particularly described below, RBC, as agent and lender, is of the view that the Borrower cannot continue to operate in the ordinary course and sustain its obligations to RBC in the circumstances.

5. As of November 22, 2018, the Debtors are indebted to the Lenders (as defined in the Credit Agreement) in the amounts of \$18,100,924.38, plus accruing interest and costs, to which RBC is entitled under the Credit Agreement (including legal and advisor fees and disbursements).

DESCRIPTION OF THE RESPONDENTS AND THEIR BUSINESS

Borrower

6. The Borrower is a Prince Edward Island (“**PEI**”) limited partnership formed under the *Limited Partnerships Act* (Prince Edward Island), and is extra-provincially registered to do business in British Columbia (“**BC**”). The partnership is comprised of DME GP, as general partner, and each of DME Acquisition Holdings Inc. (“**DME Holdco**”), 101954 PEI Inc. (“**101 PEI**”) and Clearspring (collectively with DME Holdco and 101 PEI, the “**Limited Recourse Guarantors**”), as limited partners. Copies of the reports produced by each of the Prince Edward Island Department of Environment, Labour and Justice Corporation and the British Columbia BC Registry Services for the Borrower are attached hereto and marked as **Exhibits “A” and “B”** to this Affidavit.

7. The Borrower has also registered the trade name “Diversified Metal Engineering” in PEI.

8. For ease of reference, a copy of the current corporate organizational chart for the Debtors is attached hereto and marked as **Exhibit “C”** to this Affidavit.

Corporate Guarantors

9. DME GP is a privately-owned Ontario corporation with a registered head office located in Toronto, Ontario, and is extra-provincially registered to do business in BC. It is also the owner of the Real Properties. DME GP is a guarantor of the Borrower under the Credit Agreement. DME GP's corporate profile reports issued by the Province of Ontario Ministry of Government Services Corporation and the British Columbia BC Registry Services are attached hereto and marked as **Exhibit "D"** to this Affidavit.

10. Atlantic is a privately-owned PEI corporation formed by amalgamation under the *Companies Act* (Prince Edward Island), and is a guarantor of the Borrower under the Credit Agreement. Atlantic's corporate profile report issued by the Prince Edward Island Department of Environment, Labour and Justice Corporation is attached hereto and marked as **Exhibit "E"** to this Affidavit.

11. DME Canada is a privately-owned BC corporation incorporated under the *Business Corporations Act* (British Columbia), and is a guarantor of the Borrower under the Credit Agreement. DME Canada's corporate profile report issued by the British Columbia BC Registry Services is attached hereto and marked as **Exhibit "F"** to this Affidavit.

12. DME US is a privately-owned Delaware corporation incorporated under the General Corporation Law of the State of Delaware, and is a guarantor of the Borrower under the Credit Agreement. DME US's corporate profile report issued by the State of Delaware Division of Corporation Information is attached hereto and marked as **Exhibit "G"** to this Affidavit.

13. The Borrower builds brewing systems primarily for the craft beer industry, and a wide range of stainless steel based manufacturing products such as seafood processing equipment, bio extractors, and marine exhaust scrubbers, and has built more than 1,600 brewery systems for breweries in 70 countries.

14. To the best of my knowledge, the Borrower has approximately 250 employees and operates from two manufacturing facilities through two divisions:

- (a) Newlands Systems (now DME) from leased premises in Abbotsford, BC, with approximately 100 non-unionized employees; and
- (b) DME Brewing Solutions from owned premises in Charlottetown, PEI, with approximately 150 employees, the hourly wage earners of whom are unionized.

15. The Borrower sources its materials from around the world to permit it to offer its customers customized and highly engineered solutions tailored to address customer demands in this fast paced industry.

16. The Borrower also has related operations in the United States of America (“U.S.”) through its indirectly owned U.S. subsidiaries, Accent USA Assets, LLC (“**Accent Assets**”) and Accent USA Manufacturing, LP (“**Accent USA LP**” and with Accent Assets, the “**U.S. Opcos**”) based in South Carolina. To the best of my knowledge, Accent USA LP is the owner of the real property municipally known as 3683 Ralph Ellis Boulevard, Loris, Horry County, South Carolina (the “**SC Property**”), from which premises the U.S. Opcos carry on business.

17. RBC does not have any security interest in any of the assets of the U.S. Opcos, including the SC Property. To the best of my knowledge, TD Bank, N.A. is the U.S. Opcos’ senior secured creditor.

18. To the best of my knowledge, and based upon a review of the title searches conducted by RBC's legal counsel, Aird & Berlis LLP ("**A&B**"), copies of which were provided to me, DME GP owns the Real Properties and RBC is the only creditor with registered security in relation to the Real Properties.

19. To the best of my knowledge, certain of the Borrower's PEI employees are unionized and are members of The Association of DME Tradesmen Employees (the "**Union**"). The Borrower (by its predecessor) and the Union are parties to a Collective Agreement and Statement of Expectations dated March 30, 2017, for the period which began on January 1, 2017 and ends on December 31, 2019 (the "**Collective Agreement**"). A copy of the Collective Agreement is attached hereto and marked as **Exhibit "H"**.

20. As of the date hereof, the Borrower's management has advised RBC that the Borrower is current on all sales taxes and is current on governmental remittances.

RBC'S LOANS TO THE BORROWER AND RELATED GUARANTEES AND SECURITY

21. The Borrower is indebted to RBC pursuant to a credit agreement between, *inter alios*, RBC, as agent and lender, and the Borrower, as borrower, dated November 17, 2015, as amended or otherwise modified by (i) a consent agreement dated September 20, 2016, (ii) a first amending agreement dated July 14, 2017, (iii) a second amending agreement dated February 14, 2018 (the "**Second Amending Agreement**"), (iv) an accommodation agreement dated July 26, 2018, and as extended pursuant to various extension agreements each dated August 31, 2018, September 7, 2018, September 14, 2018, October 2, 2018, October 15, 2018, October 22, 2018, October 29, 2018 and November 5, 2018 (as the same may be further amended, the "**Credit**

Agreement”). A copy of the Credit Agreement (including the amendments thereto) is attached hereto and marked as **Exhibit “I”**.

22. Pursuant to the Credit Agreement, the Lenders (as defined in the Credit Agreement) extended certain credit facilities to the Borrower, as guaranteed by each of the Corporate Guarantors and the Limited Recourse Guarantors, including (i) a revolving facility, in the maximum principal amount of \$6,000,000 (\$1,000,000 of which is provided by way of swingline facility), subject to prescribed margin requirements and which is payable on demand (the **“Operating Facility”**); and (ii) a non-revolving term facility, in the maximum principal amount of \$12,000,000 (the **“Term Facility”** and together with the Operating Facility, the **“Credit Facilities”**). RBC also provided the Borrower with an additional temporary bulge to the Operating Facility in the amount of \$2.0 million, which expired and is no longer in place.

23. The obligations of the Borrower to the Lenders (in this instance, RBC), including, without limitation, its obligations under the Credit Facilities, were guaranteed by each of the Corporate Guarantors and the Limited Recourse Guarantors, as follows:

- (a) DME GP guaranteed the obligations of the Borrower to the Lenders pursuant to an unlimited guarantee dated November 17, 2015 executed by DME GP in favour of RBC, as agent (the **“DME GP Guarantee”**);
- (b) Atlantic guaranteed the obligations of the Borrower to the Lenders pursuant to an unlimited guarantee dated April 21, 2016 executed by Atlantic in favour of RBC, as agent (the **“Atlantic Guarantee”**);

- (c) DME Canada guaranteed the obligations of the Borrower to the Lenders pursuant to an unlimited guarantee dated October 24, 2016 executed by DME Canada in favour of RBC, as agent (the “**DME Canada Guarantee**”);
- (d) DME US guaranteed the obligations of the Borrower to the Lenders pursuant to an unlimited guarantee dated October 24, 2016 executed by DME US in favour of RBC, as agent (the “**DME US Guarantee**”, and collectively with the DME GP Guarantee, the Atlantic Guarantee and the DME Canada Guarantee, the “**Unlimited Guarantees**”);
- (e) Each of the Limited Recourse Guarantors agreed to guarantee the obligations of the Borrower to the Lenders pursuant to the following limited recourse guarantees:
 - (i) a limited recourse guarantee dated November 17, 2015 executed by Clearspring in favour of RBC, and secured by a Pledge Agreement dated November 17, 2015 pursuant to which Clearspring pledged all of its limited partnership interests in the Borrower in favour of RBC;
 - (ii) a limited recourse guarantee dated December 21, 2016 executed by 101 PEI in favour of RBC, and secured by a Pledge Agreement dated December 21, 2016 pursuant to the which 101 PEI pledged all of its limited partnership interests in the Borrower in favour of RBC; and
 - (iii) a limited recourse guarantee dated November 17, 2015 executed by DME Holdco in favour of RBC, and secured by a Pledge Agreement dated

November 17, 2015 pursuant to the which 101 PEI pledged all of its limited partnership interests in the Borrower in favour of RBC.

24. As security for their respective obligations to RBC, including, without limitation, their obligations under the Credit Agreement and the Unlimited Guarantees, as applicable, each of the Borrower and the Corporate Guarantors provided security in favour of RBC, as agent (collectively, the “**Security**” and collectively with the Credit Agreement and the Unlimited Guarantees, the “**Loan Agreements**”), including, without limitation:

- (a) a General Security Agreement by the Borrower in favour of RBC, as agent, dated November 17, 2015, registration in respect of which was duly made pursuant to the *Personal Property Security Act* (Ontario) (the “**ON PPSA**”), the *Personal Property Security Act* (Prince Edward Island) (the “**PEI PPSA**”), *Personal Property Security Act* (British Columbia) (the “**BC PPSA**”), a copy of which General Security Agreement is attached hereto and marked as **Exhibit “J”** to this Affidavit;
- (b) a Collateral Assignment of Agreements dated November 17, 2015 granted by the Borrower in favour of RBC, a copy of which is attached hereto and marked as **Exhibit “K”** to this Affidavit;
- (c) a Pledge Agreement dated October 24, 2016, granted by the Borrower in favour of RBC, pursuant to which the Borrower pledged its equity interests in each of DME Canada and Atlantic, a copy of which Pledge Agreement is attached hereto and marked as **Exhibit “L”** to this Affidavit;

- (d) a General Security Agreement dated November 17, 2015, granted by DME GP in favour of RBC, registration in respect of which was duly made pursuant to the ON PPSA and the PEI PPSA, a copy of which General Security Agreement is attached hereto and marked as **Exhibit “M”** to this Affidavit;
- (e) a Debenture dated November 17, 2015 in the amount of \$100,000,000 executed by DME GP in favour of RBC, as agent, in respect of the Hillstrom Property, a copy which attached hereto and marked as **Exhibit “N”** to this Affidavit;
- (f) a Debenture dated June 30, 2017 in the amount of \$100,000,000 executed by DME GP in favour of RBC, as agent, in respect of the McCarville Property, a copy of which is attached hereto and marked as **Exhibit “O”** to this Affidavit;
- (g) a Pledge Agreement dated November 17, 2015 (as amended), granted by DME GP in favour of RBC, pursuant to which DME GP pledged all of its partnership interest in the Borrower, a copy of which Pledge Agreement is attached hereto and marked as **Exhibit “P”** to this Affidavit;
- (h) a General Security Agreement dated October 24, 2016, granted by DME Canada in favour of RBC, registration in respect of which was duly made pursuant to the BC PPSA and the ON PPSA, a copy of which General Security Agreement is attached hereto and marked as **Exhibit “Q”** to this Affidavit;
- (i) a Pledge Agreement dated October 24, 2016, granted by DME Canada in favour of RBC, pursuant to which DME Canada pledged all of its equity interest in DME US, a copy of which Pledge Agreement is attached hereto and marked as **Exhibit “R”** to this Affidavit; and

- (j) a U.S. Security Agreement dated October 24, 2016, granted by DME US in favour of RBC, registration in respect of which was duly made pursuant to the *Uniform Commercial Code* in the State of Delaware, a copy of which Security Agreement is attached hereto and marked as **Exhibit "S"** to this Affidavit.

25. In connection with the most recent amendments to the Credit Agreement, the Corporate Guarantors and Limited Recourse Guarantors delivered an Acknowledgment and Confirmation Agreement dated July 26, 2018, pursuant to which each of them acknowledged, confirmed and agreed, that the Guarantees and the Security, as applicable, had not been discharged, waived or varied, that each agreement to which it is party is a legal, valid and binding obligation, as applicable, and that the Security is enforceable in accordance with its written terms until the obligations of the Borrower to RBC are indefeasibly paid and satisfied in full.

THE DEBTORS' OTHER REGISTERED SECURED CREDITORS

26. A copy of a search summary for the Debtors prepared by A&B is attached hereto and marked as **Exhibit "T"** to this Affidavit, which summarizes the registrations against the Debtors under each of the UCC, ON PPSA, the PEI PPSA and the BC PPSA, as the case may be, as of dates set out therein. These PPSA search results show that, in addition to RBC's registrations against the Borrower, each of the following has made one or more registrations under the ON PPSA, the BC PPSA and/or the PEI PPSA against Borrower, all of which registrations were made subsequent to RBC's general blanket registration: Praxair Canada Inc., CWB National Leasing Inc., Atlantic Auto Sales Ltd., and De Lage Landen Financial Services Canada Inc. (collectively, the "**Additional Secured Creditors**"). I understand from A&B that each of the

Additional Secured Creditors Additional Secured Creditors will be provided with a copy of the within application.

27. The Title Searches reflects that RBC is the only registered mortgagee in respect of each of the Real Properties.

FINANCIAL DIFFICULTIES, DEFAULT AND DEMAND

28. The Borrower has been experiencing financial difficulties for some time, including, without limitation, in part due to a significant decrease in the Borrower's revenue recorded in the past fiscal year, fiscal quarter by fiscal quarter, including a material drop in its normalized EBITDA, and has experienced an inability to stay within the required borrowing base set out in the Credit Agreement.

29. Ultimately, these issues resulted in the Borrower engaging Richter Advisory Group Inc. ("**Richter**").

30. On or about September 28, 2018, the Borrower advised RBC that it was facing a liquidity crisis and that it would not be in position to make its scheduled principal payment under the Term Facility.

31. In addition, the Borrower requested as part of any go forward restructuring plan that it be permitted to defer principal payments under the Credit Facilities until early 2020.

32. The Borrower and Richter presented a report to RBC wherein it attributes the decline in the Borrower's financial position to significant challenges related to the acquisition of the assets of Newlands Systems Inc., the Borrower's current business division in Abbotsford, BC

(including litigation relating to the closing of the transaction), a drop in revenue due to increased competition (including foreign players who have improved the quality of their products and price), dealing with certain unfavourable customer agreements (resulting in production capacity constraints) and significant infrastructure costs.

33. The Borrower and its active investor group, Clearspring, advised RBC that the Borrower had engaged Mr. Harry Yanowitz, a turnaround specialist, in September of this year to assist the Borrower in restructuring its affairs with the goal of making the business profitable again.

34. RBC engaged A&M as its financial advisor to assist RBC with reviewing the information delivered by the Borrower and its advisors, as well as to consider the available options to RBC in light of the liquidity constraints facing the Debtors and the value of RBC's collateral.

35. Despite numerous discussions and attempts to reach a consensus amongst the Borrower, RBC and the Borrower's primary investor group, Clearspring, no agreement has been reached.

36. As of the date hereof, the Borrower's performance has continued to decline, and together with limited availability under the Operating Facility and pending obligations owed to RBC, and despite significant cost cutting over the past fiscal quarter, the Borrower is faced with an immediate liquidity constraint.

37. In the past four months, the Borrower has been supported by Clearspring by equity injections made when cash flow was impaired.

38. Many vendors have now stopped providing credit to the Borrower and require C.O.D., including key materials and logistics suppliers, some of whom are requiring pre-payments.

39. Following the occurrence of certain Events of Default (as defined in the Credit Agreement), including, without limitation, the Borrower breaching certain financial covenants and repayment terms set out in the Credit Agreement, RBC made formal written demand on the Debtors for payment of the indebtedness to RBC by letters to the Borrower and each of the Corporate Guarantors dated November 13, 2018 (collectively, the “**Demand Letters**”). Notices of Intention to Enforce Security (the “**BIA Notices**”) pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), accompanied the Demand Letters. Copies of the Demand Letters and the BIA Notices are attached collectively hereto and marked as **Exhibit “U”** to this Affidavit.

40. As at November 13, 2018, the following amounts were owing for principal and interest pursuant to the Credit Agreement, exclusive of amounts which are owing and which may become owing for RBC’s fees, agent costs, professional fees and accruing interest at the rates set out in the Credit Agreement:

- (a) \$5,508,555.32 in respect of amounts owing under the Operating Facility;
- (b) \$2,844.24 in respect of amounts owing on account of the standby fee;
- (c) \$12,026,432.87 in respect of amounts owing under the Term Facility, as a result of the acceleration of the amounts due to the defaults under the Credit Agreement;
- (d) \$196,131.65 in respect of amounts owing under Business VISA credit cards issued to the Borrower; and
- (e) \$2,459.37 in respect of amounts owing under Business VISA credit cards issued to Atlantic.

41. As of the date hereof, the Borrower is no longer able to operate on its own cash flow and has advised that it will not be able to fund its scheduled payroll in the first week of December, 2018. A cash flow model prepared and delivered by the Borrower’s management, in

consultation with its financial advisor, Richter, to RBC and A&M indicates in excess of \$5.0 million in new capital will be required to be injected into the Borrower to allow it to operate and effect a long term turnaround through to early 2020, subject to, among other initiatives, several additional cost cutting and operational improvement measures being implemented by management. The Borrower's management has no current commitment from any party to provide this capital injection.

42. Absent an injection, the aforementioned cash flow model also indicates that the Borrower is facing an imminent liquidity crunch which will see the Borrower run out of liquidity by the end of November 2018.

43. I understand from the information provided to me by the Borrower that as of the date hereof there is also accrued vacation pay owing in excess of \$170,000 with respect to its hourly employees, and in excess of \$330,000 with respect to its salaried employees.

44. On November 15, 2018, RBC delivered a default notice to the Borrower advising that it was also in default under the Credit Agreement for failure to make payment of the scheduled principal payment for the Third fiscal quarter due and owing under the Term Facility.

45. As of the time of swearing this Affidavit, the Debtors have failed to make payments in accordance with the Demand Letters or make alternative arrangements acceptable to RBC.

46. RBC has been patient and accommodating in all respects and, despite the Borrower's agreement to operate within the agreed terms set out in the Loan Agreements, the Borrower has failed to perform its obligations thereunder.

47. Over the past few weeks, A&B have been in constant contact with the Borrowers' counsel, Goodmans LLP, and, as such, the Debtors and their counsel are fully informed of the information and facts as set out herein as of the date of this Affidavit.

APPOINTMENT OF A RECEIVER

48. At this stage, RBC wishes to take any and all steps necessary to preserve the asset base and to enforce its Security and realize on same.

49. The Borrower is in default under the provisions of the Credit Agreement and a material adverse change in the Borrower's business has occurred. The Borrower appears to be insolvent and unable to meet its obligations as they generally become due, as evidenced by operation of the Borrower's business and the Debtors' failure to repay the indebtedness pursuant to the Demand Letters.

50. All of the Borrower's directors have resigned, or have advised RBC of their intention to resign imminently.

51. RBC is concerned that immediate steps must be taken in order to preserve the value of RBC's collateral.

52. If the Receiver is appointed, RBC supports A&M carrying out a truncated sale process under the supervision of the Court in order for A&M to solicit offers of purchase for the assets and business of the Borrower as a going concern or otherwise.

53. RBC considers it reasonable and prudent to begin the enforcement of its Security in an effort to recover the indebtedness owed by the Borrower to RBC, and it is within RBC's rights under the Loan Agreements to do so.

54. I am of the view that failure to appoint the Receiver could result in a further significant decrease in the value of the Borrower's business and assets and a reduction in recoveries for RBC, whose collateral position continues to erode day by day.

55. Despite numerous discussions with the Borrower and Clearspring, the parties were unable to reach a consensus on a path forward that is satisfactory to both RBC and the Borrower. RBC has provided the Debtors with opportunities and time to meet their obligations. However, given the Borrower's existing financial wherewithal and status of the Borrower's businesses and liquidity issues, the Borrower does not appear to have a viable strategy or resources to make good on its obligations to RBC, and RBC is not prepared to continue to expose itself to further losses.

56. RBC proposes that A&M be appointed as the Receiver over the assets, properties and undertakings of the Debtors.

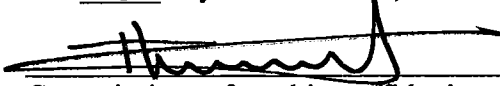
57. A&M is a licensed trustee in bankruptcy and is familiar with the circumstances of the Debtors and their arrangements with RBC.

58. A&M has consented to act as receiver should the Court so appoint it. A copy of A&M's consent will be provided to the Court on the return of this application.

59. For the reasons set out herein, I verily believe that it is just and equitable and in the interests of RBC and the Borrower's other stakeholders that A&M is appointed as Receiver.

60. This Affidavit is made in support of the within application, and for no other or improper purpose whatsoever.

SWORN before me at the City of Toronto, in the Province of Ontario, this 23rd day of November, 2018



Commissioner for taking affidavits, etc.
Kyle B. Plunkett

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GARY IVANY

ROYAL BANK OF CANADA

- and -

DME LIMITED PARTNERSHIP, DME GENERAL PARTNER INC., ATLANTIC SYSTEMS MANUFACTURING (2016) LTD., DME CANADA ACQUISITIONS INC. and DME US HOLDCO INC.

Applicant

Respondents

**SUPREME COURT OF PRINCE EDWARD ISLAND
(GENERAL SECTION)**

Proceedings commenced at Charlottetown

**AFFIDAVIT OF GARY IVANY
(sworn November 23, 2018)**

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
Suite 1800, Box 754, 181 Bay Street
Toronto, Ontario M5J 2T9

Tel: 416.863.1500
Fax: 416.863.1515
Email: sgraff@airdberlis.com
Email: kplunkett@airdberlis.com

Steven L. Graff - LSUC #31871V
Kyle B. Plunkett - LSUC No. 61044N

Lawyers for the Applicant, Royal Bank of Canada