

COURT FILE NUMBER

QB No. 1884 of 2019

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE

SASKATOON

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 101098672
SASKATCHEWAN LTD., MORRIS INDUSTRIES LTD., MORRIS SALES AND SERVICE LTD.,
CONTOUR REALTY INC., and MORRIS INDUSTRIES (USA) INC.

Before the Honourable Mr. Justice R.S. Smith in Chambers the 18th day of December, 2020.

Upon the application of Alvarez & Marsal Canada Inc., in its capacity as the Court-appointed monitor (the "**Monitor**") within these proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act*, RSC 1985, c c-36 (the "**CCAA**") by 101098672 Saskatchewan Ltd., Morris Industries Ltd., Morris Sales and Service Ltd., Contour Realty Inc. and Morris Industries (USA) Inc. (collectively, "**Morris Group**") pursuant to the Initial Order of the Honourable Mr. Justice R.S. Smith granted in the CCAA Proceedings on January 8, 2020 (the "**Initial Order**"), the Amended and Restated Initial Order of the Honourable Mr. Justice R.S. Smith granted in the CCAA Proceedings on January 16, 2020 (the "**ARI Order**") and pursuant to the Order (Enhancement of Monitor's Powers) of the Honourable Mr. Justice R.W. Elson granted in the CCAA Proceedings on February 18, 2020 (the "**EMP Order**"), and upon hearing from counsel for other interested parties, and upon reading the Notice of Application of the Monitor dated December 11, 2020 (the "**Notice of Application**"), the Twelfth Report of the Monitor dated December 11, 2020 (the "**Twelfth Report**"), the Confidential Appendices to the Twelfth Report of the Monitor (the "**Confidential Twelfth Report**"), the Brief of Law on behalf of the Monitor dated December 11, 2020, and a proposed Draft Order, all filed, and the pleadings and proceedings had and taken herein:

The Court Orders:

SERVICE

1. Service of the Notice of Application on behalf of the Monitor and the materials filed in support thereof (collectively, the "**Application Materials**") shall be and is hereby deemed to be good and valid and, further, shall be and is hereby abridged, such that service of such Application Materials is deemed to be timely and sufficient.

APPROVAL OF TRANSACTION

2. The sale Transaction (the "**Transaction**") contemplated by an Asset Purchase Agreement dated as of December 3, 2020 (the "**APA**") between Morris Industries Ltd., by and through the Monitor ("**MIL**") and Contour Realty Inc., by and through the Monitor ("**Contour**"), on the one hand, and 102114983 Saskatchewan Ltd. (the "**Purchaser**"), on the other hand, which is appended to the Confidential Twelfth Report, for the sale to the Purchaser of the right, title and interest of MIL and/or Contour to the assets described in the APA (the "**Purchased Assets**") is declared to be commercially reasonable and in the best interests of Morris Group and its creditors and other stakeholders and is hereby authorized and approved, with such minor amendments as the Monitor may deem necessary.
3. The Monitor, on behalf of MIL and/or Contour, is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable

(including any steps necessary or desirable to satisfy and/or comply with any applicable laws, regulations or orders of any courts, tribunals, regulatory bodies or administrative bodies in any jurisdiction in which the Purchased Assets may be located) for the completion of the Transaction or for the conveyance of the Purchased Assets to the Purchaser, subject to such amendments as the Monitor, on behalf of MIL and/or Contour and the Purchaser in question may agree upon, provided that any such amendments do not materially affect the purchase price set out in each respective APA (the "**Purchase Price**").

VESTING OF PROPERTY

4. Upon the Monitor determining that the Transaction has closed to its satisfaction and on terms substantially as approved by this Honourable Court pursuant to this Order, the Monitor shall deliver to the Purchaser a Monitor's certificate substantially in the form set out in **Schedule "A"** hereto (the "**Monitor's Certificate**").
5. The Monitor may rely on written notices from the Purchaser regarding fulfillment or, if applicable, waiver of conditions to closing of the Transaction under the APA, and shall have no liability with respect to the delivery of the Monitor's Certificate.
6. Upon delivery of the Monitor's Certificate, all right, title and interest of Morris Group in and to the Purchased Assets described in the APA and listed on **Schedule "B"** hereto shall, save and except for the encumbrances listed in **Schedule "C"** hereto (the "**Permitted Encumbrances**"), vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, interests, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, judgments, enforcement charges, levies, charges, or other financial or monetary claims (collectively, "**Encumbrances**") and all rights of others, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing:
 - (a) any encumbrances or charges created by the ARI Order;
 - (b) all charges, security interests or claims evidenced by registrations pursuant to *The Personal Property Security Act, 1993* SS 1993, c P-6.2, *The Personal Property Security Act*, CCSM c P35 or any other personal property registry system; and
 - (c) those Encumbrances listed in **Schedule "D"** hereto;

and, for greater certainty, this Court orders that all of the Encumbrances (save and except for the Permitted Encumbrances) affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

7. Upon delivery of the Monitor's Certificate to the Purchaser, the Monitor shall be and is hereby authorized to effect such discharges or revisions in the Saskatchewan Personal Property Registry and/or the Manitoba Personal Property Registry as may be reasonably required to conclude the Transaction.
8. Upon registration in the Neepawa Land Titles Office (the "**LTO**") of a certified copy of this Order, a copy of the Monitor's Certificate, and a Request/Transmission in the form prescribed by the *Real Property Act*, CCSM c R30 duly executed by the Monitor or its solicitor, the District Registrar of the LTO (the "**Registrar**") is hereby directed to cancel titles 2068794/5, 2068804/5, 2068790/5, and 2068803/5, and to issue new titles in the name of 102114983 Saskatchewan Ltd. as identified in the Monitor's Certificate as the owner of the subject real property in fee simple, namely:

- (a) AT MINNEDOSA AND BEING:
ALL THAT PORTION OF NW 1/4 2-15-18 WPM LYING NELY OF A LINE
DRAWN PARALLEL TO AND PERP DISTANT 120 FEET NELY FROM THE CENTRE
LINE OF RAILWAY PLAN 301 NLTO
EXC: RAILWAY PLAN 302 NLTO
- (b) AT MINNEDOSA AND BEING:
PARCEL A PLAN 5293 NTLO
EXC: ROAD PLAN 5301 NLTO
SUBJECT TO SPECIAL RESERVATIONS AS TO MINES MINERALS AND OTHER
MATTERS AS PARTICULARLY DEFINED IN THE ORIGINAL GRANT FROM THE
CROWN
IN SW 1/4 11-15-18 WPM
- (c) AT MINNEDOSA AND BEING:
LOTS 3 TO 5 BLOCK 23 PLAN G NLTO
EXC: RAILWAY PLAN 302 NLTO
EXCEPTING THEREOUT ALL MINES AND MINERALS VESTED IN THE CROWN
(MANITOBA) BY THE REAL PROPERTY ACT
IN NE 1/4 2-15-18 WPM
- (d) AT MINNEDOSA AND BEING:
PARCEL 1: LOTS 1 TO 8 BLOCK 24 PLAN G NLTO
EXC: OUT OF LOT 6, RAILWAY PLAN 302 NLTO
IN NE 1/4 2-15-18 WPM

PARCEL 3: LOTS 2 TO 4 BLOCK 25 PLAN G NLTO
EXC: RAILWAY PLAN 302 NLTO
IN NE 1/4 2-15-18 WPM

(collectively, the “**Real Property**”), in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Encumbrances listed in Schedule “D” hereto.

- 8A. This Order shall be entered by the Registrar notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period is expressly waived.
- 9. Any and all registration charges and fees payable in regard to the LTO shall be to the account of the Purchaser.
- 10. For the purposes of determining the nature and priority of the Encumbrances:
 - (a) the net proceeds from the sale of the Purchased Assets (the “**Net Sale Proceeds**”) shall stand in the place and stead of the Purchased Assets; and
 - (b) from and after the delivery of the Monitor's Certificate to the Purchaser, all Encumbrances and all rights of others shall attach to the Net Sale Proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to closing of the Transaction.
- 11. The Purchaser shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against Morris Group.

12. Morris Group and all persons who claim by, through or under Morris Group in respect of the Purchased Assets, save and except for the persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Purchased Assets and, to the extent that any such person remains in possession or control of any of the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser.
13. The Purchaser shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by Morris Group, or any person claiming by or through or against Morris Group.
14. Immediately after the closing of the Transaction, the holders of the Permitted Encumbrances shall have no claim whatsoever against the Monitor or Morris Group.
15. Forthwith after the delivery of the Monitor's Certificate to the Purchaser, the Monitor shall file a copy of the Monitor's Certificate with the Court, and shall serve a copy of the Monitor's Certificate on the recipients listed in the Service List maintained with respect to these proceedings.
16. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5, Morris Group and the Monitor are hereby authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in Morris Group's records pertaining to Morris Group's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Morris Group.
17. Notwithstanding:
 - (a) the pendency of these proceedings;
 - (b) any applications for a bankruptcy order pending or now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act (Canada)* in respect of any member of Morris Group and any bankruptcy order issued pursuant to such applications;
 - (c) any assignment in bankruptcy made in respect of any member of Morris Group; and
 - (d) the provisions of any federal statute, provincial statute or any other law or rule of equity,the vesting of any of the Purchased Assets in the Purchaser pursuant to this Order and the obligations of Morris Group under the APA, shall be binding on any trustee in bankruptcy that may be appointed in respect of any member of Morris Group and shall not be void or voidable by creditors of Morris Group, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.
18. The Transaction is exempt from any requirement under any applicable federal or provincial law to obtain shareholder approval and is exempt from the application of any bulk sales legislation in any Canadian province or territory.

LABOUR AND EMPLOYMENT MATTERS

18A. The Letter of Understanding #8 between MIL and Contour, by and through the Monitor (on the one hand) and the Retail, Wholesale and Department Store Union, Local 955 (on the other hand) dated November 30, 2020, (the “**LOU**”), a copy of which is appended to the Twelfth Report, shall be and is hereby approved and declared to be effective in accordance with its terms. Further, and in particular:

- (a) Words and phrases contained in paragraph 18A hereof which begin with capital letters but which are not expressly defined herein shall bear the respective meanings ascribed to such words and phrases in the LOU;
- (b) MIL and Contour, by and through the Monitor, shall be and are hereby authorized and directed to perform their respective obligations and covenants set out in the LOU;
- (c) Contour, by and through the Monitor, shall be and is hereby directed and authorized:
 - i. to make the Advances to each of the Subject Employees prior to the bankruptcy of MIL in the manner contemplated in paragraphs 11 and 12 of the LOU;
 - ii. to require each Subject Employee, upon receipt of his or her respective Advance from the Monitor, to execute in favour of the Monitor the form of Promissory Note attached as an Appendix to the Twelfth Monitor’s Report whereby the Subject Employee covenants to repay to Contour the respect amount of the Advance paid to such Subject Employee by Contour (the “**Promissory Note(s)**”);
 - iii. to collect repayment of the respective Advances owing to Contour by the Subject Employees pursuant to the Promissory Notes; and
 - iv. to pay to the Subject Employees the COVID Hardship Payments described in the COVID Hardship Fund Memo appended to the Twelfth Report of the Monitor (the “**COVID Hardship Payments**”).
- (d) It is hereby declared, pursuant to section 22 of the *Crown Liability and Proceedings Act*, RSC 1985, c C-50, that:
 - i. the entry into the LOU by MIL, Contour and the Union and the payment and performance by MIL, Contour and the Union of their respective obligations under the LOU;
 - ii. the making of the Advances to the Subject Employees by Contour prior to the bankruptcy of MIL;
 - iii. the execution of the Promissory Notes by the Subject Employees in favour of Contour; and
 - iv. the enforcement of the Promissory Notes by Contour in order to collect repayment of the Advances from the Subject Employees;

do not constitute, and shall not be deemed, interpreted or regarded as:

- v. an assignment made by the Subject Employees of an amount payable under the *Wage Earner Protection Program Act*, SC 2005 c 47 (the “**WEPPA**”), contrary to section 37 of the WEPPA;

- vi. a charge granted by the Subject Employees of an amount payable under the WEPPA, contrary to section 37 of the WEPPA;
 - vii. an attachment of an amount payable under the WEPPA, contrary to section 37 of the WEPPA;
 - viii. anticipation of an amount payable under the WEPPA, contrary to section 37 of the WEPPA;
 - ix. the giving of security by the Subject Employees of an amount payable under the WEPPA, contrary to section 37 of the WEPPA; or
 - x. a transaction appearing to assign, charge, attach, anticipate or give as security amounts payable under the WEPPA, contrary to section 37 of the WEPPA.
- (e) It is hereby declared, pursuant to section 22 of the *Crown Liability and Proceedings Act*, RSC 1985, c C-50, that the making of the Advances to the Subject Employees by Contour prior to the bankruptcy of MIL and the making of the COVID Hardship Payments to the Subject Employees by Contour:
- i. is not, and shall not be interpreted, deemed or construed as, a payment to the Subject Employees on account of eligible wages under the WEPPA;
 - ii. shall not reduce the amount of eligible wages (if any) owing to the Subject Employees by MIL; and
 - iii. is not and shall not be interpreted, deemed or construed as, an amount that the Subject Employees have received in relation to MIL by virtue of their rights in respect of eligible wages under the WEPPA.

MISCELLANEOUS MATTERS

- 19. The Monitor, the Purchaser and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction, including, without limitation, an application to the Court to deal with interests which are registered against title to the Real Property after the time of the granting of this Order.
- 20. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, Australia or the United States of America to give effect to this Order and to assist the Monitor 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 as to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.
- 21. Service of this Order on any party not attending this application is hereby dispensed with. Parties attending this application shall be served in accordance with the Electronic Case Information and Service Protocol adopted in the ARI Order.

ISSUED at Saskatoon, Saskatchewan, this _____ day of December, 2020.

(Deputy) Local Registrar

CONTACT INFORMATION AND ADDRESS FOR SERVICE:

Name of firm:	MLT Aikins LLP
Lawyer in charge of file:	Jeffrey M. Lee, Q.C. and Paul Olfert
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File No:	35572.3

SCHEDULE "A"
FORM OF MONITOR'S CERTIFICATE

COURT FILE NUMBER **QB No. 1884 of 2019**

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE **SASKATOON**

**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 101098672
SASKATCHEWAN LTD., MORRIS INDUSTRIES LTD., MORRIS SALES AND SERVICE LTD.,
CONTOUR REALTY INC., and MORRIS INDUSTRIES (USA) INC.**

MONITOR'S CERTIFICATE

RECITALS

- A. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Approval and Vesting Order.
- B. Pursuant to the Amended and Restated Initial Order of the Honourable Mr. Justice R.S. Smith granted in these proceedings on January 16, 2020 (the "**ARI Order**"), Alvarez and Marsal Canada Inc. was appointed monitor (the "**Monitor**") within these proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act*, RSC 1985, c c-36 (the "**CCAA**") by 101098672 Saskatchewan Ltd., Morris Industries Ltd. ("**MIL**"), Morris Sales and Service Ltd., Contour Realty Inc. ("**Contour**") and Morris Industries (USA) Inc. (collectively, "**Morris Group**");
- C. Pursuant to the Order (Enhancement of Monitor's Powers) of the Honourable Mr. Justice R.W. Elson granted in the CCAA Proceedings on February 18, 2020 (the "**EMP Order**"), the Monitor was empowered to carry out certain powers and to exercise certain rights for and on behalf of Morris Group in the manner more specifically described therein;
- D. Pursuant to the Sale Approval and Vesting Order granted within the CCAA Proceedings on December 18, 2020 (the "**Sale Approval and Vesting Order**"), the Court approved an Asset Purchase Agreement dated as of December 3, 2020 (the "**APA**") between Morris Industries Ltd., by and through the Monitor ("**MIL**") and Contour Realty Inc., by and through the Monitor ("**Contour**"), on the one hand, and 102114983 Saskatchewan Ltd. (the "**Purchaser**"), on the other hand, for the sale to the Purchaser of the right, title and interest of MIL and/or Contour to the assets described in the APA (the "**Purchased Assets**") and provided for the vesting in the Purchaser of the right, title and interest of Morris Group in and to the Purchased Assets, which vesting is to be effective with respect to such Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the purchase price for the Purchased Assets; and (ii) that the conditions to closing as set out in Article 7 of the APA have been satisfied or waived by the Monitor and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

THE MONITOR CERTIFIES the following:

- 1. The Purchaser has paid and the Monitor has received the Purchase Price for the Purchased Assets payable on the closing date pursuant to the APA;

2. The conditions to Closing as set out in Article 7 of the APA have been satisfied or waived by the Monitor and the respective Purchaser;
3. The Transaction has been completed to the satisfaction of the Monitor; and
4. This Certificate was delivered by the Monitor at **[Time]** on **[Date]**.

ALVAREZ & MARSAL CANADA INC., in its capacity as Monitor of the undertaking, property and assets of Morris Industries Ltd. and Contour Realty Inc., and not in its personal capacity.

Per; _____
Name:
Title:

SCHEDULE "B"
PURCHASED ASSETS

1. For the purposes of the APA, the "**Purchased Assets**" refers to all of the Purchased Assets described in Schedule A to the APA including, without limitation, certain real property located in the Province of Manitoba and legally described as follows:
 - a. All that portion of NW ¼ 2-15-18 WPM lying NELY of a line drawn parallel to and perpendicular 120 feet NELY from the centre line of Railway Plan 301 NLTO exc: Railway Plan 302 NLTO;
 - b. Parcel A Plan 5293 NLTO Exc Road Plan 5301 NLTO subject so special reservations as to mines minerals and other matters as particularly defined in the original grant from the Crown in SW ¼ 11-15-18 WPM;
 - c. Lots 3 to 5 Block 23 Plan G NLTO Exc: Railway Plan 302 NLTO excepting thereout all mines and minerals vested in the Crown (Manitoba) by the Real Property Act in NW ¼ 2-15-18 WPM; and
 - d. Parcel 1: Lots 1 to 8 Block 24 Plan G NLTO exc: Out of Lot 6, Railway Plan 302 NLTO in NE ¼ 2-15-18 WPM and Parcel 3: Lots 2 to 4 Block 25 Plan G NLTO exc: Railway Plan 302 NLTO in NE ¼ 2-15-18 WPM.

SCHEDULE "C"
PERMITTED ENCUMBRANCES

1. In regard to the APA, "**Permitted Encumbrances**" refers to the following (with all terms capitalized but not otherwise defined in this Order bearing the respective meanings ascribed to them in the APA):
 - e. Encumbrances related to Taxes and utilities arising by operation of law (statutory or otherwise) which relate to or secure Liabilities that in each case are not yet due or are not in arrears or, if due or in arrears, the validity of which is being contested;
 - f. easements, covenants, rights of way and other restrictions if registered provided that they are complied with in all material respects and do not, in the aggregate, materially adversely affect the operation of the Business or the continued use of the real property to which they relate after the Closing on substantially the same basis as the Business is currently being operated and such real property is currently being used;
 - g. registered agreements with municipalities or public utilities if they have been complied with in all material respects or adequate security has been furnished to secure compliance;
 - h. registered easements on real property for the supply of utilities or telephone services and for drainage, storm or sanitary sewers, public utilities lines, telephone lines, cable television lines or other services, provided such easements have been complied with in all material respects;
 - i. all encumbrances and instruments registered against title to the property that is the subject of the Real Property Leases;
 - j. in respect of the Real Property Leases, the provisions of any Applicable Law, including by-laws, regulations, airport zoning regulations, ordinances and similar instruments relating to development and zoning, and any reservations, exceptions, limitations, provisos and conditions contained in the original Crown grant or patent; and
 - k. without limiting the generality of the foregoing, the following interests registered in the Manitoba Land Titles Registry:
 - i. Caveat registered in favour of The Town of Minnedosa on September 20, 1966 as Registration Number 39771/5.
 - ii. Caveat registered in favour of The Manitoba Telephone System on September 27, 1968 as Registration Number 41504/5.

SCHEDULE "D"
ENCUMBRANCES TO BE DISCHARGED

1. Mortgage registered in favour of Bank of Montreal on June 13, 2006 as Registration Number 1058455/5.