

No. S196066
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

PLAINTIFF

AND:

VINCO HOLDINGS LTD.
WATERWAY HOUSEBOATS LTD.

DEFENDANTS

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF
VINCO HOLDINGS LTD. and WATERWAY HOUSEBOATS LTD.

NOTICE OF APPLICATION

Name of applicant: Alvarez & Marsal Canada Inc., Receiver of Vinco Holdings Ltd. ("VHL") and Waterway Houseboats Ltd. ("WHL") (collectively, "Vinco" or the "Company") (the "Receiver")

To: Plaintiff and all Defendants, and their counsel

TAKE NOTICE that an application will be made by the Receiver to the presiding Judge at the courthouse at 800 Smithe Street, Vancouver, BC V6Z 2E1 on February 4, 2021, at 9:45 a.m. for the order(s) set out in Part 1 below.

Part 1: ORDER(S) SOUGHT

Service

1. An Order, in the form of the draft order attached as **Schedule "A"** to this Notice of Application, that service of notice of this Application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this Application, and time for service of this Application is abridged to that actually given.

Approval Activities to Date

2. An Order that:

- (a) the actions, conduct and activities of the Receiver set out in the Fourth Report of the Receiver dated January 26, 2021 (the "**Fourth Report**") are approved and confirmed;
- (b) the Receiver's statement of receipts and disbursements as set out in the Fourth Report are approved and confirmed.

Approval of Maris Offer

3. An Order:

- (a) approving the Contract of Purchase and Sale dated January 12, 2021, between Maris Management & Consulting Inc. ("**Maris**" or the "**Buyer**") and the Receiver attached as **Exhibit "A"** to the First Affidavit of Wen-Shih Yang made January 26, 2021 (the "**Maris Offer**") concerning the sale of the real property legally described as:

Lot 1, Section 6, Township 22, Range 7 West of the 6th Meridian,
Kamloops Division, Yale District, Plan NEP68382
PID 024-940-917
(the "**Titus Property**")

Lot 1, Section 6, Township 22, Range 7 West of the 6th Meridian,
Kamloops Division, Yale District, Plan NEP22615
PID: 023-231-939
(the "**Monashee Property**", and together with the Titus Property, the
"**Lands**")

- (b) vesting of all of the Company's right, title and interest in the Lands to Maris, free and clear from any and all security interests, hypothecs, mortgages, trusts or deemed trusts, liens, executions, levies, charges or other financial or monetary claims; and

Approval of Interim Distribution to CIBC

- 4. An Order approving and authorizing the Receiver to make an interim distribution to the Canadian Imperial Bank of Commerce ("**CIBC**") of the net proceeds of the sale of the Lands as partial payment of the indebtedness owing to CIBC by the Company (the "**Second Interim Distribution**"); and
- 5. Such further and other relief as counsel may advise and this Honourable Court may deem appropriate.

Part 2: FACTUAL BASIS

Background

- 1. Pursuant to an Order pronounced on June 11, 2019, (the "**Receivership Order**") by the Honorable Mr. Justice Bundrett of the Supreme Court of British Columbia (the "**Court**"), upon application of the Canadian Imperial Bank of Commerce ("**CIBC**"), Alvarez & Marsal

Canada Inc. was appointed as the Receiver of the assets, undertakings and property of Vinco Holdings Ltd. ("**VHL**") and Waterway Houseboats Ltd. ("**WHL**") (collectively, "**Vinco**" or the "**Company**").

2. The Company operated a houseboat rental business on Mara Lake in Sicamous, British Columbia, with a head office also located in Sicamous, British Columbia.
3. On December 5, 2019, the Receiver filed an application for an order, *inter alia*, approving the sale of chattels to Able Solutions Inc., and the sale of certain real property to the District of Sicamous, which was to be heard on December 16, 2019 (the "**December 16 Hearing**"). Subsequently, on December 16, 2019, Checkpoint Developments Ltd. ("**Checkpoint**") submitted an offer totaling \$2.6 million and Chattels (the "**Checkpoint Offer**"), and the December 16 Hearing was adjourned to December 20, 2019.
4. On December 20, 2019, this Honourable Court granted an order approving the sale of the movable property of the Company including the houseboats, pleasure and service crafts, equipment, vehicles and portable buildings (collectively, the "**Chattels**") and approved the sale of the 16-acre waterfront property (the "**Mervyn Road Property**") to Checkpoint Developments Ltd. (the "**Checkpoint SAVO**") for a purchase price totaling \$2.6 million (the "**Checkpoint Transaction**"). On March 11, 2020, the Checkpoint Transaction closed effectively transferring the right, title and interest of the Mervyn Road Property and Chattels to Checkpoint.
5. On August 18, 2020, upon the application of the Receiver, this Honourable Court granted an order (the "**Interim Distribution Order**") approving the Receiver's activities since the first report of the Receiver dated December 4, 2019 (the "**First Report**") and the Receiver's fees and disbursements and those of its legal counsel; and an interim distribution of \$1.5 million to CIBC (the "**Interim Distribution**").
6. The Receivership Order authorizes the Receiver to solicit offers in respect of the Company's property and sell any parts thereof and apply for any vesting order or other orders necessary to convey the Company's property to a purchaser.

Outline of Receiver's Activities to Date

7. Since the Third Report, the Monitor's activities have included, but have not been limited to, the following:
 - (a) conducting ongoing discussions, meetings and communications with CIBC, other key stakeholders and creditors;
 - (b) maintaining ongoing communications with the litigation counsel, Rush Ihass Hardwick LLP ("**Rush**"), regarding the results of the Court of Appeal proceedings further described in the First Report, the Third Report and the Fourth Report, and consulting with the Receiver's legal counsel, DLA Piper (Canada) LLP ("**DLA**"), and updating CIBC of same;

- (c) attending to various communications with Checkpoint and its counsel to discuss storage of purchased inventory located at the Titus Property, among other outstanding matters;
- (d) providing direction to Colliers International ("**Colliers**") on the continued marketing of the Titus Property and the Monashee Property as well as negotiations with Maris on the purchase of the Residual Properties;
- (e) collecting rent and communicating with the tenant, 1937 Enterprises Inc., who continues to lease the building located on the Monashee Property;
- (f) communicating with the Receiver's independent contractor on various site matters and receiving site monitoring updates on the Residual Properties;
- (g) reviewing invoices, making necessary payments and maintaining a ledger of cash receipts and disbursements;
- (h) making an interim distribution of \$1.5 million to CIBC pursuant to the Interim Distribution Order; and
- (i) communicating with the Canada Revenue Agency, Minister of Finance and other regulatory bodies and fulfilling various statutory regulatory requirements.

Sales Process for the Titus and Monashee Properties

8. Colliers, under the direction of the Receiver and in consultation with CIBC, commenced marketing of the Titus Property and Monashee Property in July 2019. Solicitation of offers included direct marketing to Colliers' database of customers as well as posting the Residual Properties on the Multiple Listing Service ("**MLS**").
9. On September 19, 2019, Kent Macpherson completed appraisals of the Residual Properties (the "**Kent Macpherson Appraisal**"), which suggested values of \$380,000 and \$490,000 for the Titus Property and Monashee Property, respectively. A copy of the Kent Macpherson Appraisal is attached as Appendix "A" of the Fourth Report.
10. The Residual Properties were initially listed on the MLS for a combined sale price of \$995,000. A number of offers were received separately for the Titus Property and Monashee Property as well as on the combined Lands, however, none of the offers were able to move forward to conclusion at prices that appeared reasonable and fair in the circumstances. Subsequently, in January 2020, the Receiver, in consultation with CIBC and Colliers, reduced the MLS listing of the Lands to \$895,000. In December 2020, following nearly one year of limited inquiries and offers well below the combined appraisal values of \$870,000 for both properties, the Lands' MLS listing was separated for the Titus Property and Monashee Property at reduced sale prices of \$295,000 and \$395,000, respectively.
11. On January 14, 2021, the Maris Offer of \$350,000 for the Lands (the "**Purchase Price**"), of which \$195,000 is allocated to the Titus Property and \$155,000 is allocated to the

Monashee Property, from Maris was accepted by the Receiver following consultation with Colliers and the support of CIBC.

12. The Receiver is in support of the Maris Offer for the following reasons:
 - (a) the Maris Offer of \$350,000 represents the highest purchase price received to date out of five total offers received since July 2019;
 - (b) Maris has paid a \$20,000 deposit to Colliers, to be held in trust;
 - (c) the Maris Offer is conditional, however, the Receiver believes that all conditions can be cleared to permit closing and the Maris Offer is not subject to any financing conditions;
 - (d) the sale is anticipated to close 10 days after approval of the Maris Offer, should it be granted, by this Honourable Court;
 - (e) the Lands have been listed for sale for 18 months and the demand for real estate in the Sicamous market remains slow and uncertain;
 - (f) significant marketing efforts have been performed by Colliers. In addition to posting the Lands on the MLS, Colliers had prepared marketing brochures; listed the Lands on alternative real estate listing websites; prepared and distributed marketing email campaigns to Colliers' database of contacts; prepared print advertising in the Vancouver Sun, Salmon Arm Observer and Kelowna Capital News; and made direct contact with over 100 prospects;
 - (g) the Lands continue to incur holding costs including utilities, insurance, security and weekly monitoring by an independent contractor; and
 - (h) the secured creditor, CIBC, is supportive of the Maris Offer.
13. For these reasons, the Receiver is of the view that approval of the Maris Offer is appropriate in the circumstances and is in the best interests of the Company's stakeholders.

Receiver's Interim Statement of Cash Receipts and Disbursements

14. The Receiver's Statement of Receipts and Disbursements for the period June 11, 2019 to December 31, 2020, is summarized in the Fourth Report. The Receiver held a closing cash balance of \$334,645 and excludes potential recoveries that may be expected from the litigation proceedings and sale of the Lands, which is subject to the approval of this Honourable Court.
15. Given the current and anticipated cash needs of the Company and these proceedings, the Receiver is of the view that the Second Interim Distribution is appropriate in the circumstances and will not impair the ability for the Receiver to continue this proceeding to its conclusion.

Part 3: LEGAL BASIS

1. The Receivership Order, made in these proceedings;
2. *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3;
3. *Law and Equity Act*, R.S.B.C. 1996, c. 250;
4. *Supreme Court Civil Rules*; and
5. The inherent jurisdiction of this Court.

Part 4: MATERIAL TO BE RELIED ON

1. Receiver's Fourth Report, dated January 26, 2021;
2. Affidavit #1 of Wen-Shih Yang made January 26, 2021; and
3. Such further and other materials as counsel may advise and this Honourable Court may permit

The Receiver's estimate that this application will take 30 minutes.

- ☐ This matter is within the jurisdiction of a master.
- ☒ This matter is not within the jurisdiction of a master.

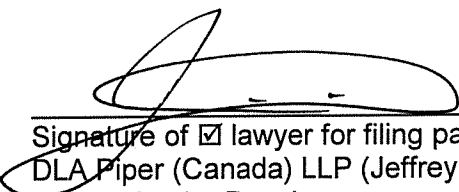
TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

- (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

January 26, 2021

Dated


Signature of ☒ lawyer for filing party
DLA Piper (Canada) LLP (Jeffrey D. Bradshaw)
Lawyer for the Receiver

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs _____ of Part 1
of this notice of application

☐ with the following variations and additional terms:

Date: _____

Signature of ☐ Judge ☐ Master

APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ oral matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ none of the above

SCHEDULE "A"

No. S196066
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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**IN THE MATTER OF THE RECEIVERSHIP OF VINCO HOLDINGS LTD. and WATERWAY
HOUSEBOATS LTD.**

ORDER MADE AFTER APPLICATION

))
))
BEFORE)	THE HONOURABLE)
))
))
))

February 4, 2021

ON THE APPLICATION of Alvarez & Marsal Canada Inc., Court-appointed Receiver of Vinco Holdings Ltd. and Waterway Houseboats Ltd. (the "**Receiver**"), coming on for hearing at Vancouver, British Columbia, on February 4, 2021, by a way of telephone; and on hearing Jeffrey D. Bradshaw, counsel for the Receiver, and other counsel as listed on **Appendix "A"** hereto; and no one appearing on behalf of the other parties, although duly served; AND ON READING the Receiver's Fourth Report dated January 26, 2021 (the "Fourth Report"), filed herein;

THIS COURT ORDERS that:

1. service of notice of this Application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this Application, and time for service of this Application is abridged to that actually given;
2. the actions, conduct and activities of the Receiver set out in the Fourth Report are approved and confirmed;

3. the Receiver's statement of receipts and disbursements as set out in the Fourth Report are approved and confirmed;
4. the Contract of Purchase and Sale, dated January 12, 2021, between the Receiver and Maris Management & Consulting Inc. ("**Maris**"), attached as **Appendix "B"** hereto (the "**Maris Agreement**"), concerning the sale of the lands and premises legally described as:

Lot 1, Section 6, Township 22, Range 7 West of the 6th Meridian, Kamloops
Division, Yale District, Plan NEP68382
PID 024-940-917
(the "**Titus Property**")

Lot 1, Section 6, Township 22, Range 7 West of the 6th Meridian, Kamloops
Division, Yale District, Plan NEP22615
PID: 023-231-939

(the "**Monashee Property**", and together with the Titus Property,
the "**Lands**")

to Maris is hereby approved;

5. the total price for the Lands shall be \$350,000, allocated as follows:
 - (a) \$195,000 for the Titus Property; and
 - (b) \$155,000 for the Monashee Property;
6. upon
 - (a) completion of the Maris Agreement, and
 - (b) presentation of a certified copy of this Order for registration in the Kamloops Land Title Office.

all of the right, title and interest of Vinco Holdings Ltd. and Waterway Houseboats Ltd. (collectively, "**Vinco**") in and to the Lands shall vest absolutely in Maris in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, 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: (i) any encumbrances or charges created by the Order of this Court dated June 11, 2019; (ii) those Claims listed on **Appendix "C"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Appendix "D"** hereto), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Lands are hereby expunged and discharged as against the Lands;

7. upon presentation for registration in the Kamloops Land Title Office of a certified copy of this Order, together with a letter from DLA Piper (Canada) LLP, the solicitors for the

Receiver, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to:

- (a) enter Maris as the owner of the Lands, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Lands, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of Maris in and to the Lands is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of Maris as aforesaid; and
 - (b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Lands all of the registered Encumbrances except for those listed in **Appendix "D"**;
8. for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Lands shall stand in the place and stead of the Lands, and all Claims shall attach to the net proceeds from the sale of the Lands with the same priority as they had with respect to the Lands immediately prior to the sale, as if the Lands had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale;
9. vacant possession of the Lands shall be delivered by the Receiver to Maris at 12:00 noon on the Closing Date (as defined in the Maris Agreement), subject to the permitted encumbrances as set out in the Maris Agreement and listed on **Appendix "D"**;
10. the Receiver, with the consent of Maris, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court;
11. notwithstanding:
- (a) these proceedings;
 - (b) any applications for a bankruptcy order in respect of Vinco now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made by or in respect of Vinco,

the vesting of the Lands in Maris pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Vinco and shall not be void or voidable by creditors of Vinco, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction

under the *Bankruptcy and Insolvency Act* 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;

12. the Receiver shall be at liberty to pay out to the Canadian Imperial Bank of Commerce ("**CIBC**") the net proceeds from the sale of the Lands as further partial payment of the indebtedness owing to CIBC by the Company;
13. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, 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 or to assist the Receiver and its agents in carrying out the terms of this Order; and
14. the Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

Signature of ☒ lawyer for the Receiver
DLA Piper (Canada) LLP (Jeffrey D. Bradshaw)

BY THE COURT

REGISTRAR

APPENDIX "A"

LIST OF COUNSEL

NAME OF LAWYER	REPRESENTING
Ralph G. Hildebrand	District of Sicamous and District of Sicamous Development Corporation
Daniel Shouldice	Checkpoint Developments Ltd.
Peter Bychawski	Canadian Imperial Bank of Commerce

APPENDIX "B"
CONTRACT OF PURCHASE AND SALE

CONTRACT OF PURCHASE AND SALE INFORMATION ABOUT THIS CONTRACT

THIS INFORMATION IS INCLUDED FOR THE ASSISTANCE OF THE PARTIES ONLY. IT DOES NOT FORM PART OF THE CONTRACT AND SHOULD NOT AFFECT THE PROPER INTERPRETATION OF ANY OF ITS TERMS.

1. **CONTRACT:** This document, when signed by both parties, is a legally binding contract. **READ IT CAREFULLY.** The parties should ensure that everything that is agreed to is in writing.
2. **DEPOSIT(S):** Section 28 of the *Real Estate Services Act* requires that money held by a brokerage in respect of a real estate transaction for which there is an agreement between the parties for the acquisition and disposition of the real estate be held by the brokerage as a stakeholder. The money is held for the real estate transaction and not on behalf of one of the parties. If a party does not remove a subject clause, the brokerage requires the written agreement of both parties in order to release the deposit. If both parties do not sign the agreement to release the deposit, then the parties will have to apply to court for a determination of the deposit issue.
3. **COMPLETION:** (Section 4) Unless the parties are prepared to actually meet at the Land Title Office and exchange title documents for the Purchase Price, it is, in every case, advisable for the completion of the sale to take place in the following sequence:
 - (a) The Buyer pays the Purchase Price or down payment in trust to the Buyer's Lawyer or Notary (who should advise the Buyer of the exact amount required) several days before the Completion Date and the Buyer signs the documents.
 - (b) The Buyer's Lawyer or Notary prepares the documents and forwards them for signature to the Seller's Lawyer or Notary who returns the documents to the Buyer's Lawyer or Notary.
 - (c) The Buyer's Lawyer or Notary then attends to the deposit of the signed title documents (and any mortgages) in the appropriate Land Title Office.
 - (d) The Buyer's Lawyer or Notary releases the sale proceeds at the Buyer's Lawyer's or Notary's office.

Since the Seller is entitled to the Seller's proceeds on the Completion Date, and since the sequence described above takes a day or more, it is strongly recommended that the Buyer deposits the money and the signed documents **AT LEAST TWO DAYS** before the Completion Date, or at the request of the Conveyancer, and that the Seller delivers the signed transfer documents no later than the morning of the day before the Completion Date.

While it is possible to have a Saturday Completion Date using the Land Title Office's Electronic Filing System, parties are strongly encouraged **NOT** to schedule a Saturday Completion Date as it will restrict their access to fewer lawyers or notaries who operate on Saturdays; lenders will generally not fund new mortgages on Saturdays; lenders with existing mortgages may not accept payouts on Saturdays; and other offices necessary as part of the closing process may not be open.

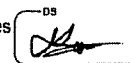
4. **POSSESSION:** (Section 5) the Buyer should make arrangements through the REALTOR® for obtaining possession. The Seller will not generally let the Buyer move in before the Seller has actually received the sale proceeds. Where residential tenants are involved, Buyers and Sellers should consult the *Residential Tenancy Act*.
5. **TITLE:** (Section 9) It is up to the Buyer to satisfy the Buyer on matters of zoning or building or use restrictions, toxic or environmental hazards, encroachments on or by the Property and any encumbrances which are staying on title before becoming legally bound. It is up to the Seller to specify in the Contract if there are any encumbrances, other than those listed in Section 9, which are staying on title before becoming legally bound. If you as the Buyer are taking out a mortgage, make sure that title, zoning and building restrictions are all acceptable to your mortgage company. In certain circumstances, the mortgage company could refuse to advance funds. If you as the seller are allowing the Buyer to assume your mortgage, you may still be responsible for payment of the mortgage, unless arrangements are made with your mortgage company.
6. **CUSTOMARY COSTS:** (Section 15) In particular circumstances there may be additional costs, but the following costs are applicable in most circumstances:

Costs to be Borne by the Seller

Lawyer or Notary Fees and Expenses:
 - attending to execution documents.
 Costs of clearing title, including: - investigating title,
 - discharge fees charged by
 encumbrance holders,
 - prepayment penalties.
 Real Estate Commission (plus GST).
 Goods and Services Tax (if applicable).

Costs to be Borne by the Buyer

Lawyer or Notary Fees and Expenses:
 - appraisal (if applicable)
 - Land Title Registration fees
 Fire Insurance Premium.
 Sales Tax (if applicable).
 Property Transfer Tax.
 Goods and Services Tax (if applicable).
 - searching title,
 - drafting documents.
 Land Title Registration fees.
 Survey Certificate (if required).
 Costs of Mortgage, including:
 - mortgage company's Lawyer/Notary.



In addition to the above costs there may be financial adjustments between the Seller and the Buyer pursuant to Section 6 and additional taxes payable by one or more of the parties in respect of the Property or the transaction contemplated hereby (e.g. empty home tax and speculation tax).

7. **CLOSING MATTERS:** The closing documents referred to in Sections 11, 11A and 11B of this Contract will, in most cases, be prepared by the Buyer's Lawyer or Notary and provided to the Seller's Lawyer or Notary for review and approval. Once settled, the lawyers/notaries will arrange for execution by the parties and delivery on or prior to the Completion Date. The matters addressed in the closing documents referred to in Sections 11A and 11B will assist the lawyers/notaries as they finalize and attend to various closing matters arising in connection with the purchase and sale contemplated by this Contract.
8. **RISK:** (Section 16) The Buyer should arrange for insurance to be effective as of 12:01 am the Completion Date.
9. **FORM OF CONTRACT:** This Contract of Purchase and Sale is designed primarily for the purchase and sale of freehold residences. If your transaction involves: a house or other building under construction, a lease, a business, an assignment, other special circumstances (including the acquisition of land situated on a First Nations reserve), additional provisions, not contained in this form, may be needed, and professional advice should be obtained. A Property Disclosure Statement completed by the Seller may be available.
10. **REALTOR® Code, Article 11:** A REALTOR® shall not buy or sell, or attempt to buy or sell an interest in property either directly or indirectly for himself or herself, any member of his or her Immediate Family, or any entity in which the REALTOR® has a financial interest, without making the Realtor's position known to the buyer or seller in writing. Section 5-9 of the Rules: If a licensee acquires, directly or indirectly, or disposes of real estate, or if the licensee assists an associate in acquiring, directly or indirectly, or disposing of real estate, the licensee must make a disclosure in writing to the opposite party before entering into any agreement for the acquisition or disposition of the real estate.
11. **RESIDENCY:** When completing their residency and citizenship status, the Buyer and the Seller should confirm their residency and citizenship status and the tax implications thereof with their Lawyer/Accountant.
12. **AGENCY DISCLOSURE:** (Section 21) all Realtors with whom the Seller or the Buyer has an agency relationship should be listed. If additional space is required, list the additional Realtors on a Contract of Purchase and Sale Addendum.



BCREA



THE CANADIAN
BAR ASSOCIATION
British Columbia Branch

PAGE 1 of 6 PAGES

CONTRACT OF PURCHASE AND SALE

BROKERAGE: Colliers International DATE: January 12th 2021

ADDRESS: #1900 - 200 Granville Street Vancouver PC: V6C2R6 PHONE: (604) 681-4111

PREPARED BY: Mark Lester MLS® NO: 10187421

SELLER: <u>Alvarez & Marsal Canada Inc.</u>	BUYER: <u>Maris Management & Consulting Inc.</u>
SELLER: _____	BUYER: _____
ADDRESS: _____	ADDRESS: <u>18113 107th Avenue</u>
_____ PC: _____	<u>Edmonton Alberta</u>
PHONE: _____	_____ PC: <u>T5S 1K4</u>
	PHONE: _____
	OCCUPATION: _____

PROPERTY:

1272

Titus Road, Sicamous BC and 1265 Monashee Frontage

UNIT NO.	ADDRESS OF PROPERTY
<u>1265 Monashee Frontage Road</u>	
CITY/TOWN/MUNICIPALITY	POSTAL CODE
<u>024-940-917</u>	<u>023-231-939</u>
PID	OTHER PID(S)

Lot 1, Section 6, Township 22, Range 7 West of the 6th Meridian, Kamloops Division, Yale District, Plan NEP68382
Lot 1, Section 6, Township 22, Range 7 West of the 6th Meridian, Kamloops Division, Yale District, Plan NEP22615

LEGAL DESCRIPTION

The Buyer agrees to purchase the Property from the Seller on the following terms and subject to the following conditions:

- PURCHASE PRICE:** The purchase price of the Property will be _____
Three Hundred Fifty Thousand
_____ DOLLARS \$ 350,000.00 (Purchase Price)
- DEPOSIT:** A deposit of \$ 20,000.00 which will form part of the Purchase Price, will be paid **within 24 hours of acceptance** unless agreed as follows:

All monies paid pursuant to this section (Deposit) will be paid in accordance with section 10 or by uncertified cheque except as otherwise set out in this section 2 and will be delivered in trust to Colliers International

_____ and held in trust in accordance with the provisions of the *Real Estate Services Act*. In the event the Buyer fails to pay the Deposit as required by this Contract, the Seller may, at the Seller's option, terminate this Contract. The party who receives the Deposit is authorized to pay all or any portion of the Deposit to the Buyer's or Seller's conveyancer (the "Conveyancer") without further written direction of the Buyer or Seller, provided that: (a) the Conveyancer is a Lawyer or Notary; (b) such money is to be held in trust by the Conveyancer as stakeholder pursuant to the provisions of the *Real Estate Services Act* pending the completion of the transaction and not on behalf of any of the principals to the transaction; and (c) if the sale does not complete, the money should be returned to such party as stakeholder or paid into Court.

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3. TERMS AND CONDITIONS: The purchase and sale of the Property includes the following terms and is subject to the following conditions:

1. Schedule "A" is Incorporated and forms part of this Contract of Purchase and Sale
2. All references to the Seller will read as references to Alvarez and Marsal Canada Inc., in its capacity as Receiver of Vinco Holdings Ltd. and Waterway Houseboats Ltd. (the "Receiver").
3. The Seller warrants that the access easement in favour of 1265 Monashee Frontage Road over 1272 Titus Road ~~has been removed and such easement termination has been registered in Land Titles~~ before closing - [AT] will be registered [AT] [CK]
4. The Seller acknowledges that it has executed the Fixed Term Lease between the Seller and Checkpoint Developments Ltd, for the premises at 1272 Titus Road dated December 1st 2020, and that it will assign such Fixed Term Lease to the Buyer on Closing of the transaction along with the security deposit of \$4,000, to be credited to the Buyer at Closing.
[CK] \$1,250.00 [AT]
5. The Seller will provide the Buyer with all materials, appraisals, inspection reports, consulting reports and survey plans and other materials pertaining to the Property upon approval of this offer by the Court.
6. The purchase Price shall be allocated and the two properties will be conveyed to the Buyer as two separate transactions and allocated as follows:
1272 Titus Road: \$195,000
1265 Monashee Frontage Road: \$155,000
7. Subject to the approval by the Supreme Court of British Columbia, pursuant to Order No. VLC-S-S0196066, Vancouver Registry, within 21 days of this Offer having been accepted and having no conditions to the benefit of the Buyer. This condition is for the sole benefit of the Seller.
8. Completion, Possession and Adjustments subject to Schedule "A", shall be 10 days following approval of this Offer by the Supreme Court of British Columbia, or if such day is a weekend or holiday, the next business day.
9. GST
The Buyer and the Seller have been advised to seek professional advice regarding any questions about GST liability, exemptions or the right to apply for a rebate. In the event that GST applies to this transaction, the Buyer is responsible for the payment of the GST.
10. BC PROPERTY TRANSFER TAX
The Buyer acknowledges their responsibility to pay transfer fees as prescribed by the Property Transfer Act of BC amounting to:
(a) 1% of the purchase price up to \$200,000
(b) 2% of the purchase price over \$200,000 and up to \$2,000,000
(c) 3% of the purchase price greater than \$2,000,000 and up to \$3,000,000 and
(d) 5% of the purchase price that exceeds \$3,000,000 plus;
(e) Additional Tax: if the Buyer is a Foreign National, Foreign Corporation or Taxable Trustee:
i) 15% if the Property is in the Metro Vancouver Regional District, or
ii) 20% if the Property is in the Capital Regional District, The Fraser Valley Regional District, the Regional District of the Central Okanagan, or the Regional District of Nanaimo
(f) Speculation and Vacancy Tax: The Buyer is aware that a Speculation and Vacancy Tax of 0.5% for Canadian Citizens and Permanent Residents, or 2% for foreign entities may be applicable.
11. Upon Closing the lease on 1265 Monashee Frontage Road between Vinco Holdings Ltd (the "Landlord") and 1937 Ent. Ltd (the "Tenant") and Ben Dewes (the "Indemnifier"), dated September 01 2018 (the "Triple Net Lease") will be assigned to the Buyer, as Landlord. There shall also be a credit to the account of the Buyer in the amount of \$2,000, which represents the pre-paid last month's rent as per clause 5.2 of the Triple Net Lease.

Each condition, if so indicated is for the sole benefit of the party indicated. Unless each condition is waived or declared fulfilled by written notice given by the benefiting party to the other party on or before the date specified for each condition, this Contract will be terminated thereupon and the Deposit returnable in accordance with the *Real Estate Services Act*.

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4. **COMPLETION:** The sale will be completed on See Clause 3, yr. _____
(Completion Date) at the appropriate Land Title Office.
5. **POSSESSION:** The Buyer will have vacant possession of the Property at _____ m. on _____, yr. _____ (Possession Date) OR, subject to the following existing tenancies, if any:
See Clause 3
6. **ADJUSTMENTS:** The Buyer will assume and pay all taxes, rates, local improvement assessments, fuel utilities and other charges from, and including, the date set for adjustments, and all adjustments both incoming and outgoing of whatsoever nature will be made as of See Clause 3, yr. _____ (Adjustment Date).
7. **INCLUDED ITEMS:** The Purchase Price includes any buildings, improvements, fixtures, appurtenances and attachments thereto, and all blinds, awnings, screen doors and windows, curtain rods, tracks and valances, fixed mirrors, fixed carpeting, electric, plumbing, heating and air conditioning fixtures and all appurtenances and attachments thereto as viewed by the Buyer at the date of inspection, INCLUDING:

BUT EXCLUDING:

Items owned by the respective tenants

8. **VIEWED:** The Property and all included items will be in substantially the same condition at the Possession Date as when viewed by the Buyer on _____ yr. _____
9. **TITLE:** Free and clear of all encumbrances except subsisting conditions, provisos, restrictions exceptions and reservations, including royalties, contained in the original grant or contained in any other grant or disposition from the Crown, registered or pending restrictive covenants and rights-of-way in favour of utilities and public authorities, existing tenancies set out in Section 5, if any, and except as otherwise set out herein.
10. **TENDER:** Tender or payment of monies by the Buyer to the Seller will be by certified cheque, bank draft, wire transfer, cash or Lawyer's/Notary's or real estate brokerage's trust cheque.
11. **DOCUMENTS:** All documents required to give effect to this Contract will be delivered in registrable form where necessary and will be lodged for registration in the appropriate Land Title Office by 4 pm on the Completion Date.
11. **A. SELLER'S PARTICULARS AND RESIDENCY:** The Seller shall deliver to the Buyer on or before the Completion Date a statutory declaration of the Seller containing: (1) particulars regarding the Seller that are required to be included in the Buyer's Property Transfer Tax Return to be filed in connection with the completion of the transaction contemplated by this Contract (and the Seller hereby consents to the Buyer inserting such particulars on such return); (2) declarations regarding the Speculation and Vacancy Tax for residential properties located in jurisdictions where such tax is imposed, if requested by the Buyer's Conveyancer, and the Vancouver Vacancy By-Law for residential properties located in the City of Vancouver; and (3) if the Seller is not a non-resident of Canada as described in the non-residency provisions of the *Income Tax Act*, confirmation that the Seller is not then, and on the Completion Date will not be, a non-resident of Canada. If on the Completion Date the Seller is a non-resident of Canada as described in the residency provisions of the *Income Tax Act*, the Buyer shall be entitled to hold back from the Purchase Price the amount provided for under section 116 of the *Income Tax Act*.

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- 11. B. GST CERTIFICATE:** If the transaction contemplated by this Contract is exempt from the payment of Goods and Services Tax ("GST"), the Seller shall execute and deliver to the Buyer on or before the Completion Date, an appropriate GST exemption certificate to relieve the parties of their obligations to pay, collect and remit GST in respect of the transaction. If the transaction contemplated by this Contract is not exempt from the payment of GST, the Seller and the Buyer shall execute and deliver to the other party on or before the Completion Date an appropriate GST certificate in respect of the transaction.
- 12. TIME:** Time will be of the essence hereof, and unless the balance of the cash payment is paid and such formal agreements to pay the balance as may be necessary is entered into on or before the Completion Date, the Seller may, at the Seller's option, terminate this Contract, and, in such event, the amount paid by the Buyer will be non-refundable and absolutely forfeited to the Seller, subject to the provisions of Section 28 of the *Real Estate Services Act*, on account of damages, without prejudice to the Seller's other remedies.
- 13. BUYER FINANCING:** If the Buyer is relying upon a new mortgage to finance the Purchase Price, the Buyer, while still required to pay the Purchase Price on the Completion Date, may wait to pay the Purchase Price to the Seller until after the transfer and new mortgage documents have been lodged for registration in the appropriate Land Title Office, but only if, before such lodging, the Buyer has: (a) made available for tender to the Seller that portion of the Purchase Price not secured by the new mortgage, and (b) fulfilled all the new mortgagee's conditions for funding except lodging the mortgage for registration, and (c) made available to the Seller, a Lawyer's or Notary's undertaking to pay the Purchase Price upon the lodging of the transfer and new mortgage documents and the advance by the mortgagee of the mortgage proceeds pursuant to the Canadian Bar Association (BC Branch) (Real Property Section) standard undertakings (the "CBA Standard Undertakings").
- 14. CLEARING TITLE:** If the Seller has existing financial charges to be cleared from title, the Seller, while still required to clear such charges, may wait to pay and discharge existing financial charges until immediately after receipt of the Purchase Price, but in this event, the Seller agrees that payment of the Purchase Price shall be made by the Buyer's Lawyer or Notary to the Seller's Lawyer or Notary, on the CBA Standard Undertakings to pay out and discharge the financial charges, and remit the balance, if any, to the Seller.
- 15. COSTS:** The Buyer will bear all costs of the conveyance and, if applicable, any costs related to arranging a mortgage and the Seller will bear all costs of clearing title.
- 16. RISK:** All buildings on the Property and all other items included in the purchase and sale will be, and remain, at the risk of the Seller until 12:01 am on the Completion Date. After that time, the Property and all included items will be at the risk of the Buyer.
- 17. PLURAL:** In this Contract, any reference to a party includes that party's heirs, executors, administrators, successors and assigns; singular includes plural and masculine includes feminine.
- 18. REPRESENTATIONS AND WARRANTIES:** There are no representations, warranties, guarantees, promises or agreements other than those set out in this Contract and the representations contained in the Property Disclosure Statement if incorporated into and forming part of this Contract, all of which will survive the completion of the sale.
- 19. PERSONAL INFORMATION:** The Buyer and the Seller hereby consent to the collection, use and disclosure by the Brokerages and by the managing broker(s), associate broker(s) and representative(s) of those Brokerages (collectively the "REALTOR®(s)") described in Section 21, the real estate boards of which those Brokerages and REALTOR®s are members and, if the Property is listed on a Multiple Listing Service®, the real estate board that operates the Multiple Listing Service®, of personal information about the Buyer and the Seller:
- for all purposes consistent with the transaction contemplated herein;
 - if the Property is listed on a Multiple Listing Service®, for the purpose of the compilation, retention and publication by the real estate board that operates the Multiple Listing Service® and other real estate boards of any statistics including historical Multiple Listing Service® data for use by persons authorized to use the Multiple Listing Service® of that real estate board and other real estate boards;

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- c. for enforcing codes of professional conduct and ethics for members of real estate boards; and
- d. for the purposes (and to the recipients) described in the British Columbia Real Estate Association's Privacy Notice and Consent form.

The personal information provided by the Buyer and Seller may be stored on databases outside Canada, in which case it would be subject to the laws of the jurisdiction in which it is located.

20. ASSIGNMENT OF REMUNERATION: The Buyer and the Seller agree that the Seller's authorization and instruction set out in section 25(C) below is a confirmation of the equitable assignment by the Seller in the Listing Contract and is notice of the equitable assignment to anyone acting on behalf of the Buyer or Seller.

20A. RESTRICTION ON ASSIGNMENT OF CONTRACT: The Buyer and the Seller agree that this Contract: (a) must not be assigned without the written consent of the Seller; and (b) the Seller is entitled to any profit resulting from an assignment of the Contract by the Buyer or any subsequent assignee.

21. AGENCY DISCLOSURE: The Seller and the Buyer acknowledge and confirm as follows (initial appropriate box(es) and complete details as applicable):

INITIALS	

A. The Seller acknowledges having received, read and understood Real Estate Council of British Columbia (RECBC) form entitled "Disclosure of Representation in Trading Services" and hereby confirms that the Seller has an agency relationship with

Mark Lester PREC (Designated Agent(s)/REALTOR®(s))

who is/are licensed in relation to Colliers International (Brokerage).

INITIALS	

B. The Buyer acknowledges having received, read and understood RECBC form entitled "Disclosure of Representation in Trading Services" and hereby confirms that the Buyer has an agency relationship with

_____ (Designated Agent(s)/REALTOR®(s))

who is/are licensed in relation to _____ (Brokerage).

INITIALS	

C. The Seller and the Buyer each acknowledge having received, read and understood RECBC form entitled "Disclosure of Risks Associated with Dual Agency" and hereby confirm that they each consent to a dual agency relationship with

_____ (Designated

Agent(s)/REALTOR®(s)) who is/are licensed in relation to _____ (Brokerage),

having signed a dual agency agreement with such Designated Agent(s)/REALTOR®(s) dated _____.

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INITIALS	

D. If only (A) has been completed, the Buyer acknowledges having received, read and understood RECBC form "Disclosure of Risks to Unrepresented Parties" from the Seller's agent listed in (A) and hereby confirms that the Buyer has no agency relationship.

INITIALS	

E. If only (B) has been completed, the Seller acknowledges having received, read and understood RECBC form "Disclosure of Risks to Unrepresented Parties" from the Buyer's agent listed in (B) and hereby confirms that the Seller has no agency relationship.

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22. ACCEPTANCE IRREVOCABLE (Buyer and Seller): The Seller and the Buyer specifically confirm that this Contract of Purchase and Sale is executed under seal. It is agreed and understood that the Seller's acceptance is irrevocable, including without limitation, during the period prior to the date specified for the Buyer to either:

- a. fulfill or waive the terms and conditions herein contained; and/or
- b. exercise any option(s) herein contained.

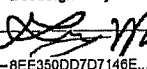
23. THIS IS A LEGAL DOCUMENT. READ THIS ENTIRE DOCUMENT AND INFORMATION PAGE BEFORE YOU SIGN.

24. OFFER: This offer, or counter-offer, will be open for acceptance until 5 o'clock P. m. on January 14, yr. 2021 (unless withdrawn in writing with notification to the other party of such revocation prior to notification of its acceptance), and upon acceptance of the offer, or counter-offer, by accepting in writing and notifying the other party of such acceptance, there will be a binding Contract of Purchase and Sale on the terms and conditions set forth.

WITNESS

X
BUYER

DocuSigned by:


8EE350DD7D7146E...

Maris Management & Consulting Inc.

PRINT NAME

WITNESS

X
BUYER

PRINT NAME

If the Buyer is an individual, the Buyer declares that they are a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act*:

Yes

☐ ☐
INITIALS

No

☐ ☐
INITIALS

25. ACCEPTANCE: The Seller (a) hereby accepts the above offer and agrees to complete the sale upon the terms and conditions set out above, (b) agrees to pay a commission as per the Listing Contract, and (c) authorizes and instructs the Buyer and anyone acting on behalf of the Buyer or Seller to pay the commission out of the proceeds of sale and forward copies of the Seller's Statement of Adjustments to the Cooperating/Listing Brokerage, as requested forthwith after completion.

Seller's acceptance is dated January 14, yr. 2021

The Seller declares their residency:

RESIDENT OF CANADA

☒ ☐
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NON-RESIDENT OF CANADA

☐ ☐
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as defined under the *Income Tax Act*.

WITNESS

X
SELLER

Alvarez & Marsal Canada Inc.

PRINT NAME

WITNESS

X
SELLER

PRINT NAME

*PREC represents Personal Real Estate Corporation

Trademarks are owned or controlled by The Canadian Real Estate Association (CREA) and identify real estate professionals who are members of CREA (REALTOR®) and/or the quality of services they provide (MLS®).

BC 2075 REV. SEPT 2020

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CREA WEBForms®

APPENDIX "C"

CLAIMS TO BE DISCHARGED FROM TITLE

Titus Property

Party	Nature of Charge	Registration No.
Canadian Imperial Bank of Commerce	Mortgage	CA7449028
Canadian Imperial Bank of Commerce	Assignment of Rents	CA7449029

Monashee Property

Party	Nature of Charge	Registration No.
Canadian Imperial Bank of Commerce	Mortgage	CA7449030
Canadian Imperial Bank of Commerce	Assignment of Rents	CA7449031

APPENDIX "D"

PERMITTED ENCUMBRANCES, EASEMENTS, AND RESTRICTIVE CONVENANTS

1. The reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown.
2. The following:

Titus Property

PARTY	NATURE OF CHARGE OR INTEREST	REGISTRATION NO.
	EASEMENT	XJ30365
BRITISH COLUMBIA HYDRO AND POWER AUTHORITY	STATUTORY RIGHT OF WAY	XJ30367
BC TEL INCORPORATION NO. A1801	STATUTORY RIGHT OF WAY	XJ30368
CHECKPOINT DEVELOPMENTS LTD.	FIXED TERM LEASE Dated: December 1, 2020	UNREGISTERED

Monashee Property

PARTY	NATURE OF CHARGE OR INTEREST	REGISTRATION NO.
BRITISH COLUMBIA HYDRO AND POWER AUTHORITY	STATUTORY RIGHT OF WAY	XJ30367
BC TEL INCORPORATION NO. A1801	STATUTORY RIGHT OF WAY	XJ30368
1937 ENT. LTD.	TRIPLE NET LEASE Dated: September 1, 2018	UNREGISTERED

No. S196066
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

PLAINTIFF

AND:

VINCO HOLDINGS LTD.
WATERWAY HOUSEBOATS LTD.

DEFENDANTS

ORDER MADE AFTER APPLICATION

DLA Piper (Canada) LLP
Barristers & Solicitors
2800 Park Place
666 Burrard Street
Vancouver, BC V6C 2Z7

Tel. No. 604.687.9444
Fax No. 604.687.1612
File No. 076334-00009

CDB/day

No. S196066
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CANADIAN IMPERIAL BANK
OF COMMERCE

PLAINTIFF

AND:

VINCO HOLDINGS LTD.
WATERWAY HOUSEBOATS
LTD.

DEFENDANTS

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF VINCO
HOLDINGS LTD. and WATERWAY HOUSEBOATS LTD.

NOTICE OF APPLICATION

DLA Piper (Canada) LLP
Barristers & Solicitors
2800 Park Place
666 Burrard Street
Vancouver, BC V6C 2Z7

Tel. No. 604.687.9444
Fax No. 604.687.1612

File No.: 076334-00009

JDB/day