

FORCE FILED



NO. S-217202  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THE BANK OF NOVA SCOTIA

PETITIONER

AND:

COMMUNITY MARINE CONCEPTS LTD., VICTORIA  
INTERNATIONAL MARINA LTD., ETERNALAND YUHENG  
INVESTMENT HOLDING LTD. AND 0736657 B.C. LTD.

RESPONDENTS

#### NOTICE OF APPLICATION

**Name of applicant:** Alvarez & Marsal Canada Inc., in its capacity as court appointed Receiver of the Respondents (the "**Receiver**").

To: The Service List attached hereto as **Schedule "A"**

TAKE NOTICE that an application will be made by the applicant to the presiding judge at the courthouse at 800 Smithe Street, Vancouver, BC on April 22, 2022 at 9:45 a.m. by MS Teams, for the orders set out in Part 1 below.

#### Part I: ORDERS SOUGHT

1. An order substantially in the form attached hereto as **Schedule "B"**:
  - (a) approving the Receiver's activities;
  - (b) approving the Receiver's and the Receiver's counsel's fees; and
  - (c) authorizing and directing the Receiver to make certain distributions.

## Part 2: FACTUAL BASIS

### A. Background

1. The Receiver was appointed by consent receivership order dated November 1, 2021 (the "**Receivership Order**"), appointing the Receiver effective December 13, 2021.
2. On April 7, 2022, Huai Yin Zhang, a director and shareholder of the Respondents, filed an application seeking, among other things, (a) approval of a refinancing of the obligations of the Respondents to the Petitioner (the "**Refinancing**") and (b) discharge of the Receiver.
3. The application for approval of the Refinancing is due to be heard on April 14, 2022. The form of order sought anticipates closing of the Refinancing before April 29, 2022.
4. To facilitate closing of the Refinancing, discharge of the Receiver, and a smooth transition of the Respondents' business back to the control of previous management and shareholders, the Receiver is seeking approval of (a) its activities, its fees and disbursements and its counsel's fees and disbursements until discharge, including expected fees, and (b) certain distributions in respect of certain of the Respondents' obligations that the Receiver believes are appropriate to satisfy prior to the completion of these proceedings and a holdback in respect of unanticipated expenses.

### B. Receiver's Fees and Activities

5. The Receiver seeks approval of its fees since the start of this receivership (the "**Receivership**") and its activities (the "**Activities**") as detailed in the Receiver's First Report to Court, dated April 11, 2022 (the "**Report**").
6. In the Report, the Receiver details its Activities to date. By way of summary, the Receiver has:
  - (a) attended the Respondents' head office;
  - (b) reviewed the Respondents' books and records;
  - (c) taken steps to take possession of, preserve and market assets, including opening trust accounts, new utility accounts, and notifying key parties of the Receivership;
  - (d) obtained an appraisal of the Respondents' assets;

- (e) retained CBRE Limited ("**CBRE**") to market the property;
- (f) met with former management, remaining employees, former employees and former contractors;
- (g) engaged former employees and contractors on a contract basis to assist with the ongoing operations and administration of the Receivership;
- (h) attended meetings with stakeholders and counsel;
- (i) communicated with Canada Revenue Agency, Minister of Finance, Minister of National Defense, the Commander Canadian Forces Base Esquimalt and other regulatory bodies;
- (j) retained legal counsel;
- (k) monitored and managed cash receipts and disbursements of the Receivership;
- (l) attended to statutory duties, including mailing notices to creditors identified in the books and records, published a newspaper notice, preparing notices to former employees, submitting forms and attending to correspondence with Service Canada; and
- (m) dealt with government reporting matters, including determining the status of the Respondents' payroll remittances, Goods and Services Tax and other filings.

First Affidavit of Todd Martin, sworn April 13, 2022  
(the "**A&M Affidavit**") at para. 7.

Report, at para. 4.1.

7. The Receiver now seeks approval of its fees and Activities as detailed in the Report and the A&M Affidavit.

8. From the start of the Receivership to March 31, 2022, the Receiver has incurred fees in the amount of \$297,232.00 and disbursements in the amount of \$2,472.35 (not including legal fees), plus taxes in the amount of \$14,985.22, in connection with the Activities, and projected fees and disbursements of \$50,000 (not including legal fees), plus taxes of \$2,500 to wrap up the Receivership, for a total of \$367,189.57.

A&M Affidavit, at para. 8.

9. The Receiver has affirmed its belief that the time expended and the fees charged by A&M are reasonable in light of the services provided and prevailing market rates for services of this nature.

**C. Dentons' Fees and Activities**

10. As further detailed in the First Affidavit of John Sandrelli, sworn April 11, 2022 (the "**Dentons Affidavit**"), and the invoices attached thereto (which have been redacted to protect solicitor-client privilege as between Dentons and the Receiver), Dentons has been counsel for the Receiver since December 2021. Dentons has assisted the Receiver with the Activities. The legal fees of Dentons are disbursements of the Receiver in the Receivership.

11. With respect to the Activities, and noting that the Receiver retains and has not waived solicitor-client privilege with respect to same, Dentons has:

- (a) attended calls and meetings and corresponded with the Receiver regarding advice sought on various matters, including potential sales processes, outstanding litigation against the Respondents, license and lease issues, and operational issues;
- (b) attended calls and meetings and corresponded with counsel to the Petitioner regarding various issues, including to obtain documents to support a review of the Petitioner's security;
- (c) drafted and revised documents, memoranda and pleadings;
- (d) reviewed and analyzed searches of public registries in relation to security on the property of the Respondents, completed security review and provided opinion to the Receiver; and
- (e) attended calls with stakeholders, including the Petitioner, counsel for shareholders of the Respondents, and others.

Dentons Affidavit at para. 8.

12. Dentons has had a significant role in the Receiver's Activities, specifically Dentons has:

- (a) assisted in reviewing agreements associated with sales process, shareholders, providing legal advice with respect to certain litigation, preparing court materials, and attending court hearings;

- (b) assumed significant responsibility throughout these Proceedings and has worked closely with the Receiver throughout;
- (c) staffed its legal team with experienced insolvency lawyers and properly delegated legal tasks to members of the legal team that had the skills to complete each activity in a cost-effective manner;
- (d) helped the Receiver and stakeholders to resolve disputes, and progress towards a transaction that would see creditors paid and the business of the Respondents continue; and
- (e) been transparent regarding its fees and the Receiver believes that Dentons' fees are reasonable in the circumstances.

Dentons Affidavit, at para. 15.

13. The Receiver has affirmed that the services performed by Dentons were at the Receiver's request and that the Receiver believes that the time expended and the fees charged by Dentons are reasonable in light of the services provided and prevailing market rates for fees of this nature.

A&M Affidavit, at paras. 17-19.

#### **D. Cox Taylor's Fees and Activities**

14. As further detailed in the First Affidavit of Aurora Faulkner Killam, sworn April 12, 2022 (the "**Cox Taylor Affidavit**"), and the invoices attached thereto (which have been redacted to protect solicitor-client privilege), Cox Taylor was retained as counsel for the Receiver in December 2021 in relation to certain matters arising from Vic Reg Vic-S-S-190234 and related Arbitration under CCDC-14 Design-Build Stipulated Price Contract made April 21, 2016. The legal fees of Cox Taylor are disbursements of the Receiver in the Receivership.

15. With respect to the Activities, Cox Taylor has:

- (a) attended calls and online meetings and corresponded with the Receiver and others regarding the history of the Action, advice sought on outstanding litigation by and against the Respondents, and operational issues arising from the Action;
- (b) drafted and revised documents;
- (c) reviewed various matters and issues and reported to the Receiver;

- (d) attended calls with stakeholders, including counsel for shareholders of the Respondents, and others; and
- (e) facilitated negotiation of priority or security agreements for claims of builder's lien to allow for the redemption of the Receivership by the shareholder.

Cox Taylor Affidavit, at para. 8.

16. As part of retaining Cox Taylor, the Receiver paid outstanding accounts receivable in respect of services provided to the Respondents prior to the commencement of the Receivership.

A&M Affidavit, at para. 22.

17. The Receiver has affirmed that the services performed by Cox Taylor were at the Receiver's request and that the Receiver believes that the time expended and the fees charged by Cox Taylor are reasonable in light of the services provided and prevailing market rates for fees of this nature.

A&M Affidavit, at paras. 20-24.

#### **E. Distributions for Priority Obligations and Holdback**

18. The Receiver has, in reviewing the books and records of the Respondents, identified certain amounts owing by the Respondents that are or may be senior in priority to the Respondents' indebtedness to the Petitioner (the "**Priority Obligations**").

19. The Priority Obligations total \$1.191 million, and are set out at paragraph 8.7 of the Report. The Priority Obligations comprise source deductions due to Canada Revenue Agency, Provincial Sales Tax, property taxes, professional fees, fees due to CBRE in respect of the sale process, and other operating expenses.

Report, at para. 8.7.

20. The Receiver is seeking approval of the Court to make distributions in respect of the Priority Obligations (the "**Distributions**") to the extent the authority to make such Distributions is not included in the Receivership Order.

21. The Receiver also seeks approval of the Court to retain funds remaining in the Receiver's "Post-Receivership Accounts", as defined in s. 13 of the Receivership Order, for a period of six months after discharge in the event there are other unanticipated expenses or obligations in respect of the Respondents (the "**Holdback**"). The Receiver

proposes to return any unused Holdback to the Respondents after six months.

### **Part 3: LEGAL BASIS**

#### **I. Approval of Receiver's, Dentons' and Cox Taylor's Fees and Activities**

1. Paragraph 22 of the Receivership Order provides that "the Receiver and its counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis."

Receivership Order, s. 22

2. Courts have provided direction as to the exercise a supervising court should undertake to approve receivers' fees and activities. This direction includes that it is not necessary to go through the supporting documentation for the fees, line by line, to determine what the appropriate fees are for a receivership. In addition, the supervising court's analysis should not involve second guessing the amount of time spent by a receiver unless it is clearly excessive or overreaching. Generally, courts have directed that supervising courts should consider all the relevant factors, and should award costs (or fees) in a holistic manner.

*Bank of Nova Scotia v. Diemer*, 2014 ONSC 365  
("Diemer") at para. 19

*Re: Redcorp Ventures Ltd.*, 2016 BCSC 188  
("Redcorp") at para. 28.

3. A receiver must pass its accounts from time to time to allow interested parties to question the receiver's activities and conduct. In addition, the passing of accounts ensures that the supervising court is in a position to ascertain if the receiver's fees and disbursements are properly made and are fair and reasonable in the circumstances.

*Redcorp*, at para. 22.

4. Further, the Court has the inherent jurisdiction to approve the activities of a court-appointed receiver. If the receiver has met the objective test of demonstrating that it has acted reasonably, prudently, and not arbitrarily, a court may approve the activities as set out in its reports.

5. On application to approve a receiver's accounts and the accounts of its legal counsel:

- (a) the accounts should be verified by affidavit;
- (b) the accounts should contain sufficient evidence to permit a court to conclude that what was incurred for services rendered was at the standard rate of charges of the receiver and of the receiver's counsel; and
- (c) the accounts should provide a sufficient description of the services rendered to permit a court to determine whether the liability for fees was properly made or incurred.

*Redcorp*, at paras. 26 & 32.

6. The Receiver's accounts and those of its counsel have been verified by affidavit. The affidavits filed in support of this application, and the invoices appended thereto contain sufficiently detailed descriptions to, without waiving privilege, provide the Court with sufficient evidence to conclude that the fees incurred were at standard rates for the Receiver. Further, the affidavits and the invoices provide sufficient evidence for the Court to assess the Receiver's fees and its counsel's fees in relation to the factors for consideration identified in applicable case law, as set out in more detail below.

See A&M Affidavit; Dentons Affidavit;  
and Cox Taylor Affidavit

7. Courts will consider the following non-exhaustive factors in assessing the reasonableness of a receiver's fees:

- (a) the nature, extent and value of the assets;
- (b) the complications and difficulties encountered by the receiver;



- (c) the time spent by the receiver;
- (d) the receiver's knowledge, experience and skill;
- (e) the diligence and thoroughness displayed by the receiver;
- (f) the responsibilities assumed;
- (g) the results of the receiver's efforts; and
- (h) the cost of comparable services.

*HSBC Bank Canada v. Maple Leaf Loading Ltd.*, 2014  
BCSC 2245 ("**Maple Leaf Loading**") at para. 11.

8. As noted by the New Brunswick Court of Appeal:

There is no fixed rate or settled scale for determining the amount of compensation to be paid a receiver. He [the receiver] is usually allowed either a percentage upon his receipts or a lump sum based upon the time, trouble and degree of responsibility involved. The governing principle appears to be that the compensation allowed a receiver should be measured by the fair and reasonable value of his services and while sufficient fees should be paid to induce competent persons to serve as receivers, receiverships should be administered as economically as reasonably possible. Thus, allowances for services performed must be just, but nevertheless moderate rather than generous.

[Emphasis added.]

*Belyea v. Federal Business Development Bank*, 1983  
CarswellNB 27 at para. 3 (C.A.)

9. The Receiver submits its fees are fair and reasonable because:

- (a) the assets and business of the Respondents are complex;
- (b) the Receiver has spent significant time and effort in taking possession of, preserving and marketing the assets, as well as in consulting with stakeholders, including the Petitioner, former management, and current shareholders;

- (c) the Receiver has facilitated progressing the Refinancing, while simultaneously progressing preservation and marketing efforts;
- (d) the Receiver has significant knowledge, experience and skill;
- (e) the Receiver has displayed diligence and thoroughness in discharging its duties, and has taken on significant responsibilities in the Receivership;
- (f) a full repayment of the Respondents' obligations to the Petitioners and the other Priority Obligations and continued operation of the Respondents business is a positive result to the Receivership; and
- (g) the fees of the Receiver is in line with comparable services when performed in a prudent and economical manner.

Report, paras. 3.1-8.9.

A&M Affidavit, at paras. 7-16.

10. Similar factors are considered on the assessment of legal accounts of counsel to the Receiver, including:

- (a) the time expended;
- (b) the complexity of the receivership;
- (c) the degree of responsibility assumed by the lawyers;
- (d) the amount of money involved, including the amount of proceeds after realization and the payments to the creditors;
- (e) the degree and skill of the lawyers involved;
- (f) the results achieved; and
- (g) the client's expectations as to the fee.

*Maple Leaf Loading*, at para. 12.

11. The Receiver submits Dentons' fees are fair and reasonable, because:

- (a) Dentons has assisted, and will assist, the Receiver with all Activities, assisting in reviewing agreements associated with sales process, shareholders, providing legal advice with respect to certain litigation, preparing court materials, and attending court hearings;
- (b) Dentons has assumed significant responsibility throughout these Proceedings and has worked closely with the Receiver throughout;
- (c) Dentons has staffed its legal team with experienced insolvency lawyers and properly delegated legal tasks to members of the legal team that had the skills to complete each activity in a cost-effective manner;
- (d) in working with the Receiver, Dentons has helped the Receiver and stakeholders to resolve disputes, and progress towards a transaction that would see creditors paid and the business of the Respondents continue; and
- (e) Dentons has been transparent regarding its fees and the Receiver believes that Dentons' fees are reasonable in the circumstances.

Dentons Affidavit, at para. 15.

12. The Receiver submits Cox Taylor's fees are fair and reasonable, because:

- (a) Cox Taylor has extensive knowledge, and has provided significant assistance to the Receiver, in respect of the matter for which they were retained;
- (b) Cox Taylor has assumed significant responsibility during the Period and has worked closely with the Receiver;
- (c) Cox Taylor has staffed its legal team with experienced lawyers and properly delegated legal tasks to members of the legal team that had the skills to complete each activity in a cost-effective manner;

- (d) in working with the Receiver, Cox Taylor has helped progress certain issues in respect of the action for which they were retained to enable the Refinancing to progress.

Cox Taylor Affidavit, at para. 18.

13. In addition, the evidence shows that:

- (a) the Receiver's professional fees and disbursements were properly incurred;
- (b) the work completed by the Receiver was delegated to the appropriate professionals with the appropriate seniority and appropriate hourly rates;
- (c) the Receiver's fees in this matter are consistent with fees charged by other insolvency firms of a similar size for work of a similar nature and complexity; and
- (d) the services were performed by the Receiver in a prudent and economical manner.

A&M Affidavit, at para. 14.

14. Similarly, the evidence shows that:

- (a) Dentons' and Cox Taylor's professional fees and disbursements were properly incurred;
- (b) the work completed by counsel was delegated to the appropriate professionals in each firm with the appropriate seniority and hourly rates;
- (c) counsel's fees in this matter are consistent with the market for similar firms with the capacity to handle a file of comparable size and complexity;
- (d) each of the invoices were reviewed for reasonableness at the time of billing;

- (e) invoices were provided to the Receiver when rendered and all have been approved by the Receiver; and
- (f) the services were performed by Dentons and Cox Taylor in a prudent and economical manner.

Dentons Affidavit, at para. 18.

Cox Taylor Affidavit, at para. 21.

## **Conclusion**

15. The Receiver submits that the Activities of the Receiver and its counsel as detailed in the Report, the A&M Affidavit, the Cox Taylor Affidavit, and the Dentons Affidavit were carried out pursuant to, and in accordance with, the Receivership Order and subsequent Orders of this Court. The Receiver submits that at all times it has acted reasonably, prudently, and not arbitrarily.

16. Further, the approval sought by the Receiver is not a general approval of its activities, but is the approval of the specific Activities taken by the Receiver as specifically detailed in the Report, and is linked to the fees and disbursements of the Receiver for which approval is also being sought.

17. The Receiver submits that Activities were necessary to progress this Receivership. The Receiver carried out all Activities in good faith.

18. Therefore, the Receiver submits that it is appropriate in these circumstances to approve the Receiver's fees, disbursements, and Activities as outlined in the Report, the A&M Affidavit, the Cox Taylor Affidavit, and the Dentons Affidavit.

## **II. Distribution for Priority Obligations and Holdback**

19. Pursuant to paragraph 3 of the Receivership Order, the Receiver was empowered to take possession of and exercise control over the assets, undertakings and property of the Respondents, including cash held by the Respondents as of the date of appointment.

Receivership Order, s. 3

20. Pursuant to paragraph 13 of the Receivership Order, the Receiver is to hold monies collected from and after the making of the Receivership Order in the "Post-Receivership Accounts", as defined in the Receivership Order. The Receiver is then to hold such funds to be paid in accordance with the terms of the Receivership Order or any further order of the Court.

Receivership Order, s. 13

21. Pursuant to paragraph 36 of the Receivership Order, the Receiver may apply to this Court for advice and directions in the discharge of its powers and duties.

Receivership Order, s. 36

22. Given the application filed by Ms. Zhang seeking to repay all amounts owing to the Petitioner and discharge the Receiver, the Receiver believes that making the Distributions is appropriate prior to discharging the Receiver and winding up these proceedings. The Distributions are in respect of obligations that would typically be considered as senior in priority to the obligations of the Respondents to the Petitioner, and the Receiver is in possession of funds in the Post-Receivership Accounts that are sufficient to pay these amounts.

23. The Receiver also believes that retaining the Holdback in the event there are unanticipated expenses or obligations in respect of the Respondents is appropriate. Given that the Receivership is coming to a close with the Refinancing, rather than the more typical path of asset sales and security realization, it is prudent to ensure that unanticipated expenses or obligations can be satisfied by the Receiver if such expenses are advanced against the Receiver. In assisting to transition operations back to existing management, the Receiver should not be exposed to potential liability or extra cost, when such would not be the case if the Receivership progressed in a more typical fashion.

24. To enable the discharge of the Receiver, the closing of the Refinancing and an orderly transition of operations back to former management and shareholders, the Receiver seeks this Court's authorization and direction to make the Distributions and satisfy the Priority Obligations prior to discharge.

**Part 4: MATERIALS TO BE RELIED ON**

1. Consent Receivership Order dated November 1, 2021;
2. Notice of Application of Huai Yin Zhang, filed April 7, 2022;
3. Receiver's Report to the Court dated April 11, 2022
4. Affidavit #1 of John Sandrelli, sworn April 11, 2022;
5. Affidavit #1 of Aurora Faulkner Killam, sworn April 12, 2022;
6. Affidavit #1 of Todd Martin, sworn April 13, 2022; and
7. Such other pleadings and materials previously filed herein as counsel may advise.

The applicant(s) estimate(s) that the application will take 15 minutes if unopposed.

- ☐ 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 of 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 of record 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).

Date: 13/APR/2022

  
\_\_\_\_\_  
Signature of lawyer for filing party  
Tevia Jeffries

To be completed by the court only:	
Order made	
<input type="checkbox"/>	Part 1: in the terms requested in paragraphs _____ of Part 1 of this Notice of Application
<input type="checkbox"/>	with the following variations and additional terms:
	_____
	_____
	_____
Date: _____	
Signature of <input type="checkbox"/> Judge <input type="checkbox"/> Master	

## APPENDIX

### Part 3: THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other 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

**SCHEDULE "A"**

NO. S-217202  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

THE BANK OF NOVA SCOTIA

PETITIONER

AND:

COMMUNITY MARINE CONCEPTS LTD., VICTORIA INTERNATIONAL  
MARINA LTD., ETERNALAND YUHENG INVESTMENT HOLDING LTD. AND  
0736657 B.C. LTD.

RESPONDENTS

**SERVICE LIST**

(as at April 12, 2022)

<b>NAME OF COUNSEL:</b>	<b>NAME OF PARTY(IES):</b>
Blakes, Cassels & Graydon LLP Suite 2600 – 595 Burrard St. Vancouver, BC V7X 1L3  Attention: Peter Bychawski / Claire Hildebrand  Tel: (604) 631-3300  Email: peter.bychawski@blakes.com claire.hildebrand@blakes.com	<i>Counsel for the Petitioner, The Bank of Nova Scotia</i>
Forrester & Company 300 – 171 Water Street Vancouver, BC V6B 1A7  Attention : Crystal Law / Glen Forrester  Tel : (604) 682-1066  Email: gforrester@forresterbarristers.ca jchiang@forresterbarristers.ca	<i>Counsel for the Respondents, Community Marine Concepts Ltd., Victoria International Marina Ltd., Eternaland Yuheng Investment Holding Ltd. and 0736657 B.C. Ltd.</i>

<p>Dentons Canada LLP 20<sup>th</sup> Floor – 250 Howe Street Vancouver, BC V6C 3R8</p> <p>Attention: John Sandrelli / Emma Newbery</p> <p>Tel: (604) 443-7132</p> <p>Email: <a href="mailto:john.sandrelli@dentons.com">john.sandrelli@dentons.com</a>  <a href="mailto:tevia.jeffries@dentons.com">tevia.jeffries@dentons.com</a>  <a href="mailto:emma.newbery@dentons.com">emma.newbery@dentons.com</a>  <a href="mailto:avic.arenas@dentons.com">avic.arenas@dentons.com</a>  <a href="mailto:lee.ngo@dentons.com">lee.ngo@dentons.com</a></p>	<p><i>Counsel for Court-Appointed Receiver (Alvarez &amp; Marsal Canada Inc.)</i></p>
<p>Alvarez &amp; Marsal Canada Inc. Cathedral Place Building 925 West Georgia Street, Suite 902 Vancouver, BC V6C 3 L2</p> <p>Attention: Todd Martin / Pinky Law</p> <p>Tel : (604) 638-7440</p> <p>Email: <a href="mailto:tmartin@alvarezandmarsal.com">tmartin@alvarezandmarsal.com</a>  <a href="mailto:pinky.law@alvarezandmarsal.com">pinky.law@alvarezandmarsal.com</a></p>	<p><i>Court-Appointed Receiver</i></p>
<p>Fasken Martineau DuMoulin LLP 2900 – 550 Burrard Street Vancouver, BC V6C 1A3</p> <p>Attention: Kibben Jackson</p> <p>Tel: (604) 631-3131</p> <p>Email: <a href="mailto:kjackson@fasken.com">kjackson@fasken.com</a>;  <a href="mailto:svolkow@fasken.com">svolkow@fasken.com</a></p>	<p><i>Counsel for Ed Scripps</i></p>
<p>JFK Law Corporation 816 – 1175 Douglas Street Victoria BC V8W 2E1</p> <p>Attention: Robert Janes, QC</p> <p>Tel: 1-250-405-3460</p> <p>Email: <a href="mailto:rjanes@jfkllaw.ca">rjanes@jfkllaw.ca</a>;  <a href="mailto:krose@jfkllaw.ca">krose@jfkllaw.ca</a></p>	<p><i>Counsel for Songhees First Nation</i></p>

<p>Allen / McMillan Litigation Counsel 1625 – 1185 West Georgia St. Vancouver, BC V6E 4E6</p> <p>Attention: Wes McMillan</p> <p>Tel: 604-282-3980</p> <p>Email: <a href="mailto:wes@amlc.ca">wes@amlc.ca</a>; <a href="mailto:thea@amlc.ca">thea@amlc.ca</a></p>	<p><i>Counsel for Blue Water Systems Ltd.</i></p>
<p>Justice Health and Revenue Legal Services Branch Ministry of Attorney General PO Box 9280 Stn Prov Govnt Victoria, BC V8W 9J7</p> <p>Attention: Aaron Welch / Cindy Cheuk</p> <p>Tel: 1-250-387-6121</p> <p>Email: <a href="mailto:AGLSBRevTaxInsolvency@gov.bc.ca">AGLSBRevTaxInsolvency@gov.bc.ca</a>; <a href="mailto:Aaron.Welch@gov.bc.ca">Aaron.Welch@gov.bc.ca</a>; <a href="mailto:Cindy.Cheuk@gov.bc.ca">Cindy.Cheuk@gov.bc.ca</a></p>	<p><i>Ministry of Attorney General</i></p>
<p>Pearlman Lindholm 201 – 19 Dallas Road Victoria, BC V8V 5A6</p> <p>Attention: Mikaila Mauro</p> <p>Tel: 1-250-388-4433</p> <p>Email: <a href="mailto:mmauro@pearlmanlindholm.com">mmauro@pearlmanlindholm.com</a>; <a href="mailto:adahl@pearlmanlindholm.com">adahl@pearlmanlindholm.com</a></p>	<p><i>Counsel for Andrea Guyon</i></p>
<p>Richards Buell Sutton LLP 700 - 401 West Georgia Street Vancouver, BC V6B 5A1</p> <p>Attention: Daniel Nugent / Winsome Glover</p> <p>Tel: 604-595-9917</p> <p>Email: <a href="mailto:dnugent@rbs.ca">dnugent@rbs.ca</a>; <a href="mailto:wglover@rbs.ca">wglover@rbs.ca</a>; <a href="mailto:dramsey@rbs.ca">dramsey@rbs.ca</a></p>	<p><i>Counsel for Amber Mortgage Investment Corp.</i></p>

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SCHEDULE "B"

NO. S-217202  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THE BANK OF NOVA SCOTIA

PETITIONER

AND:

COMMUNITY MARINE CONCEPTS LTD., VICTORIA INTERNATIONAL  
MARINA LTD., ETERNALAND YUHENG INVESTMENT HOLDING LTD. AND  
0736657 B.C. LTD.

RESPONDENTS

**ORDER MADE AFTER APPLICATION**

	)	)	
BEFORE	)	)	22/APR/2022
	)	)	

ON THE APPLICATION of Alvarez & Marsal Canada Inc., in its capacity as court appointed Receiver of the Respondents (the "**Receiver**"); AND ON HEARING Tevia Jeffries, counsel for the Receiver and those other counsel listed on **Schedule "A"**, appearing by MS TEAMS; AND UPON READING the Receiver's First Report to the Court dated April 11, 2022 (the "**Report**"), the Affidavit of John Sandrelli sworn April 11, 2022 (the "**Dentons Affidavit**"), the Affidavit of Aurora Faulkner Killam sworn April 12, 2022 (the "**Cox Taylor Affidavit**"), and the Affidavit of Todd Martin sworn April 13, 2022 (the "**A&M Affidavit**", together with the Dentons Affidavit and the Cox Taylor Affidavit, the "**Fee Affidavits**");

THIS COURT ORDERS AND DECLARES THAT:

1. The activities of the Receiver, as set out in the Report, are hereby approved; provided however, that the Receiver in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.
2. The fees and disbursements of the Receiver and its counsel, as set out in the Report and the Fee Affidavits, are hereby approved.

3. The distributions of funds held by the Receiver as described in the Report (the "**Distributions**") in respect of the Priority Obligations (as defined in the Report) are approved and the Receiver is authorized and directed to make such Distributions.
4. The Receiver is hereby authorized to retain the funds remaining in the Receiver's trust account after payment of the Distributions (the "**Holdback**") for the following purposes:
  - (a) to pay any fees and disbursements of the Receiver and its counsel that have been approved by order of this Court but not yet paid; and
  - (b) to pay claims or liabilities attributable to the assets, undertakings and property of the Debtors where payment is sought from the Receiver.
5. If any Holdback remains six months after the Receiver is discharged, the Receiver shall pay any remaining Holdback to the Respondents, unless otherwise ordered by this Court.
6. Endorsement of this Order, other than by counsel for the Receiver, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

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Signature of Tevia Jeffries  
Lawyer for Alvarez & Marsal Canada Inc.

BY THE COURT

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REGISTRAR

**Schedule A**

**LIST OF COUNSEL APPEARING**

Name of Counsel:	Representing:



NO. S-217202  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

THE BANK OF NOVA SCOTIA

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AND:

COMMUNITY MARINE CONCEPTS LTD.,  
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RESPONDENTS

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**ORDER MADE AFTER APPLICATION**  
[APPROVAL OF FEES AND ACTIVITIES]

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DENTONS CANADA LLP  
BARRISTERS & SOLICITORS  
250 Howe Street, 20<sup>th</sup> Floor  
Vancouver, BC V6C 3R8  
Phone No.: (604) 687-4460  
Attention: Tevia Jeffries

File No. 529227-22