

SETTLEMENT AGREEMENT

This settlement agreement (the "**Settlement Agreement**") is dated for reference the ____ day of August, 2016 (the "**Effective Date**"), by and among the following parties (the "**Parties**");

AMONG:

HC PIPER MANUFACTURING INC., by its Trustee in Bankruptcy, **ALVAREZ & MARSAL CANADA INC.**, in its capacity as Trustee for HC Piper, and not in its personal capacity ("**HC Piper**")

AND:

PIPER FABRICATION 2003 LTD. ("**Piper Fab**")

AND:

HC PROCESS SYSTEMS INC. ("**HC Process**")

(Piper Fab and HC Process collectively hereinafter referred to as the "**Shareholder Creditors**")

AND:

1344861 ALBERTA INC. ("**134**")

AND:

CHARLES DEAN ("**Dean**")

AND:

JOSEPH LYALL ("**Lyall**")

AND:

WILLIAM SMITH ("**Smith**")

AND:

HAMISH FERGUSON ("**Ferguson**")

(Dean, Lyall, Smith and Ferguson collectively hereinafter referred to as the "**134 Mortgagees**")

WHEREAS:

- A. HC Piper was assigned into Bankruptcy on June 11, 2015 in Bankruptcy Court File No. 25-2004629 and Alvarez & Marsal Canada Inc. was appointed as Trustee in Bankruptcy of the Estate of HC Piper;
- B. Royal Bank of Canada ("**RBC**") is first secured creditor with respect to certain assets of HC Piper (the "**RBC Secured Assets**") having provided a performance bond for a contract of HC Piper;
- C. Business Development Bank of Canada ("**BDC**") was the first secured creditor of HC Piper respecting personal property, excepting out the RBC Secured Assets, and first secured creditor of 134 respecting real property and personal property;
- D. HC Piper and 134 were joint borrowers for the loan from BDC;
- E. Shareholder Creditors were the second secured creditor of HC Piper respecting personal property, excepting out the RBC Secured Assets;
- F. 134 Mortgagees were the second secured creditor of 134 respecting real property;
- G. Pursuant to a purchase and sale agreement dated January 15, 2016 between 134 and DWP Co. Ltd., 134 sold the lands legally described as Plan 0716409, Block 16, Lot 1 and certain equipment for the sum of \$6,000,000 (the "**134 Proceeds**");
- H. The Trustee has substantially completed the liquidation of the estate of HC Piper and has net funds available for distribution estimated at between \$875,000 and \$1,085,000 as set out in the attached Schedule 1 (the "**HC Piper Funds**");
- I. The HC Piper Funds include \$175,000 held in respect of any claim that may be made under the performance bond issued by RBC. The performance bond expires in September, 2016 and no claims are expected to be lodged against the performance bond as the Trustee has completed the related contract;
- J. Counsel for the Trustee holds in trust proceeds of \$641,002.09 from the 134 Proceeds pending resolution of entitlement to those proceeds ("**Fasken Trust Funds**");
- K. BDC was repaid all amounts owed to it (the "**BDC Debt**") from a combination of the 134 Proceeds and the HC Piper asset realizations;
- L. The Shareholder Creditors filed secured and unsecured claims aggregating \$3,011,966;
- M. The inspectors of the estate of HC Piper (the "**Inspectors**") instructed the Trustee to review the Shareholder Creditors' security and advise of its validity and enforceability against the Trustee. The Trustee has reported its findings to the Inspectors;
- N. The Inspectors have instructed the Trustee to enter into this Settlement Agreement to resolve any dispute the estate may have with the Shareholder Creditors' claim;

- O. The Inspectors have instructed the Trustee to enter into an agreement to settle any claims between HC Piper and 134; and
- P. The Trustee, on behalf of the estate of HC Piper and HC Piper itself, 134, the HC Piper Secured Creditors and the 134 Mortgagees have agreed to settle (1) their claims against 134 and HC Piper, as applicable; (2) all claims between 134 and HC Piper; and (3) any marshalling, or other priority, and arguments amongst any of the Parties hereto as set out in the Settlement Agreement;

The Parties hereto (each a "**Party**") wish to settle their disputes in accordance with the terms and conditions of this Settlement Agreement effective as of the Effective Date.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged by the Parties, and in exchange for the mutual covenants set forth in this Settlement Agreement, the Parties agree as follows:

1. SETTLEMENT

- 1.1 The Parties agree the HC Piper Funds shall be deemed to have been, and shall be, as applicable, distributed as follows:
 - (i) \$175,000 to be paid as a pro-rata dividend to arm's length trade creditors (specifically excluding any claims by the Shareholder Creditors, 134 or by 134 Mortgages);
 - (ii) \$84,640 to 134 in settlement of property tax arrears and lease termination damages; and
 - (iii) the remaining HC Piper Funds, after full realization of the estate assets as set out in Schedule 1 and after payment of the amounts set out above in this Section 1.1, shall be paid equally to the Shareholder Creditors with respect to their secured.
- 1.2 The Fasken Trust Funds shall be released to 134 and it is acknowledged and confirmed that the estate of HC Piper paid \$1.1 million towards the full payout of the BDC Debt.
- 1.3 The Trustee agrees to accept the claims of the Shareholder Creditors, subject to the above distributions being made.

2. RELEASES

- 2.1 Upon execution of this Settlement Agreement and all payments being made in accordance with Section 1, each of the Parties on its own behalf and on behalf of each of its directors, officers, employees, agents, successors, heirs, assigns, liquidators, receivers, receiver managers, trustees, owners, shareholders, and insurers (collectively the "**Releasors**") HEREBY RELEASES, REMISES AND FOREVER DISCHARGES every other Party, each of his or her (as applicable) directors, officers, employees, agents,

executors, affiliates, successors, heirs, assigns, liquidators, receivers, receiver managers, trustees, owners, shareholders, and insurers (collectively the "**Releasees**") from any and all claims, complaints, disputes, demands, causes of action, liabilities, obligations, damages, legal fees, costs, expenses and disbursements of any nature or kind, whatsoever and howsoever arising, whether known or unknown, whether in law or in equity or pursuant to statute, which the Releasors have ever had, now have, or at any time hereafter may have by reason of, relating to, arising out of, or connected with any event, act or omission prior to or existing up to and inclusive of the effective date of this Settlement Agreement, which arises directly or indirectly from, or is in any way connected with 134, HC Piper and this Settlement Agreement.

3. TIME

- 3.1 Time is of the essence of this Settlement Agreement.

4. GENERAL

- 4.1 Neither the failure, nor any delay, on the part of any Party to exercise any right, remedy, power or privilege under this Settlement Agreement shall operate as a waiver of that right, remedy, power or privilege. No waiver of any right, remedy, power or privilege with respect to any particular occurrence shall be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence.
- 4.2 Each Party shall do, execute or provide, or shall cause to be done, executed or provided, all such further acts, documents and assurances as the other party may reasonably request for the purpose of giving effect to this Settlement Agreement and to each and every provision hereof, and shall act in good faith in the performance of any and all obligations herein.
- 4.3 This Settlement Agreement shall be binding upon all successors-in-interest of the Parties. For clarity, no Party may assign its interest, directly or indirectly, in this Settlement Agreement.
- 4.4 The Trustees Statement of Receipts & Disbursements as at May 31, 2016 attached as Schedule 2 has been approved by the Inspectors and is hereby approved by all parties to this Settlement.
- 4.5 No amendment or waiver of any provision or condition in this Settlement Agreement shall be effective unless in writing signed by all of the applicable Parties.
- 4.6 This Settlement Agreement shall not be construed against any Party as the author or drafter, each Party having had the opportunity to discuss and review the terms hereof
- 4.7 None of the Parties shall disclose this Settlement Agreement or any aspects of the within settlement and transaction except to its legal, accounting, financial or other professional advisors, or as may be required by applicable law or a regulatory authority. The Parties agree to keep confidential and not disclose to any third party, without the prior written

consent of the other Parties, any information, whether written or oral, respecting the terms and conditions contained in this agreement and all documents delivered pursuant hereto.

- 4.8 This Settlement Agreement constitutes the final written expression of all of the agreements between the Parties with respect to the subject matter discussed herein and is a complete and exclusive statement of the terms thereof. There are no representations, warranties, covenants, promises, or undertakings except those expressly provided herein.
- 4.9 This Settlement Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same agreement. Facsimile, email, scanned or photocopied signatures to this Settlement Agreement shall be as effective as originals and may be delivered by electronic transmission (including email).

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4.10 This Settlement Agreement shall be governed by and interpreted in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein without regard to the conflict of laws rules thereof and the Parties hereby attorn to the jurisdiction of the Alberta Court of Queen's Bench, Judicial District of Calgary.

IN WITNESS HEREOF, the Parties, through their duly authorized signatories, have executed this Settlement Agreement as of the Effective Date.

HC PIPER MANUFACTURING INC.,
by its Trustee in Bankruptcy, **ALVAREZ**
& MARSAL CANADA INC., in its
capacity as Trustee for HC Piper and not
in its personal capacity

Per:

Signature

1344861 ALBERTA INC.

Per:



Signature

PIPER FABRICATION 2003 LTD.

Per:

Signature

HC PROCESS SYSTEMS INC.

Per:

Signature



WITNESS



CHARLES DEAN

WITNESS

JOSEPH LYALL

WITNESS

WILLIAM SMITH

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& **MARSAL CANADA INC.**, in its
capacity as Trustee for HC Piper and not
in its personal capacity

1344861 ALBERTA INC.

Per:

Signature

Per:

Signature

PIPER FABRICATION 2003 LTD.

HC PROCESS SYSTEMS INC.

Per:

William Smith

Signature

Per:

Signature

WITNESS

CHARLES DEAN

WITNESS

JOSEPH LYALL

W. Smith

WITNESS

William Smith

WILLIAM SMITH

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Per:

Signature

Per:

Signature

PIPER FABRICATION 2003 LTD.

HC PROCESS SYSTEMS INC.

Per:

Signature

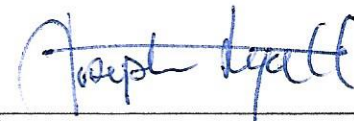
Per:

Signature

WITNESS

CHARLES DEAN





WITNESS

JOSEPH LYALL

WITNESS

WILLIAM SMITH


WITNESS


HAMISH FERGUSON

SCHEDULE 1
HC PIPER FUNDS

[See attached]

HC Piper Manufacturing Inc., in Bankruptcy
Estimated Realization Analysis (see Note 1)

Schedule 1

31-May-16

	Low	High
Assets available for realization		
Cash in Estate Trust Account, May 31, 2016	\$ 1,005,080	\$ 1,005,080
Accounts receivable, ETA	15,000	25,000
Return of Trust Funds from 134 Alberta	30,000	30,000
Income taxes recovery	100,000	125,000
Gross Receipts	<u>1,150,080</u>	<u>1,185,080</u>
Priority costs, deemed trust claims, etc.	(10,000)	(10,000)
February Rent	(65,000)	(65,000)
Agent, Trustee and Legal Fees, to complete	(100,000)	(100,000)
134 Contribution to Agent and Legal Fees	100,000	100,000
Other liquidation, admin costs and contingency	(25,000)	(25,000)
RBC Performance Bond on ETAPP (note 2)	(175,000)	-
	<u>(275,000)</u>	<u>(100,000)</u>
Estimated funds available for distribution	\$ 875,080	\$ 1,085,080

Notes:

1. The Estimated realization analysis is an estimate only and is based on future events the outcome of which will vary from that projected and the variances may be material to a user of this information.
2. Holdback for amount callable under the bond issued by RBC, who is secured for the amount. ETA contract complete and they should release the bond, so unlikely it will be called on.

SCHEDULE 2

Trustee's Statement of Receipts and Disbursements

(see attached)

HC Piper Manufacturing Inc. - in Bankruptcy
Interim Statement of Receipts and Disbursements
For The Period from June 11, 2015 - May 31, 2016

Receipts

Cash on hand at date of bankruptcy	\$ 842,652.82
Collection of pre bankruptcy accounts receiveable	218,197.89
Collection of outstanding accounts receivable (Toyo & ETAPP)	835,967.67
Revenue - Post Bankruptcy (All Contracts)	2,009,154.23
Rental income	3,630.00
Sale of Assets	545,265.00
Sale of miscellaneous inventory	11,530.80
Miscellaneous refunds	23,928.90
GST Collected	129,045.09
Total Receipts	<u>4,619,372.40</u>

Disbursements

ETA Project expenses	288,012.41
Payroll	543,962.71
Payroll remittances	276,268.50
Payment of WEPPA priority payments	61,117.94
Employee expenses	6,410.53
Operating and office expenses	50,450.11
Utilities & Telephone	42,670.43
Contractors - ETA	54,534.58
Contractors - General	87,624.31
Legal fees	91,109.00
Trustee's fees	396,934.38
GST Paid	133,048.40
Insurance	24,005.00
Bank charges	135.01
Facility rent	450,236.46
Payments to secured creditors	1,100,000.00
Prebankruptcy lien claims	777.50
Advertising	6,844.84
Court fees	150.00
Total Disbursements	<u>3,614,292.11</u>

Receipts in excess of disbursements

\$ 1,005,080.29