

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

SATIN FINISH HARDWOOD FLOORING, LIMITED

Respondent

APPLICATION UNDER Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended

**APPLICATION RECORD
(Returnable June 17, 2019)**

Date: June 17, 2019

GOWLING WLG (CANADA) LLP

Barristers & Solicitors

1 First Canadian Place, Suite 1600

100 King Street West

Toronto ON M5X 1G5

E. Patrick Shea (LSUC No.: 39655K)

Tel: (416) 369-7399

Solicitors for Canadian Imperial Bank of Commerce

TO: THE ATTACHED SERVICE LIST

**ONTARIO
SUPERIOR COURT OF JUSTICE
(BANKRUPTCY AND INSOLVENCY)**

SERVICE LIST

	TO:	SERVICE BY EMAIL/DELIVERY
1.	MNP Ltd. 300 – 111 Richmond Street West Toronto, ON M5H 2G4 Alan Shiner Tel: 416-515-3942 Fax: 416-323-5242 Email: Alan.Shiner@mnp.ca Proposed Receiver	Via Email
2.	Goldman Sloan Nash and Haber LLP 1600 – 480 University Avenue Toronto, ON M5G 1V2 Michael Rotsztain Tel: 416-597-7870 Fax: 416-597-3370 Email: rotsztain@gsnh.com Counsel for Proposed Receiver	Via Email

	TO:	SERVICE BY EMAIL/DELIVERY
3.	<p>Minden Gross LLP Barristers and Solicitors 2200 - 145 King Street West Toronto, ON M5H 4G2</p> <p>Catherine Francis (LSUC# 26900N) Tel: 416-369-4137 Fax: 416-864-9223 cfrancis@mindengross.com</p> <p>Lawyers for Satin Finish Hardwood Flooring, Limited</p>	n/a
4.	<p>Gowling WLG 1600 – 100 King Street West Toronto, ON M5X 1G5</p> <p>Patrick Shea Tel: 416-369-7399 Email: patrick.shea@gowlingwlg.com</p> <p>Thomas Gertner Tel: 416 369 4618 Email: thomas.gertner@gowlingwlg.com</p> <p>Counsel for Canadian Imperial Bank of Commerce</p>	Via Email
5.	<p>Canada Revenue Agency c/o Department of Justice Ontario Regional Office The Exchange Tower, Box 36 130 King Street West, Suite 3400 Toronto, ON M5X 1K6</p> <p>Diane Winters Tel: 416-952-8563 Fax: 416-973-0809 Email: diane.winters@justice.gc.ca</p>	Via Email

	TO:	SERVICE BY EMAIL/DELIVERY
6.	<p>Ministry of Finance Legal Services Branch College Park, 777 Bay Street, 11th Floor Toronto, ON M5G 2C8</p> <p>Kevin J. O’Hara, Counsel Tel: 416-327-8436 Fax: 416-325-1460 Email: kevin.ohara@ontario.ca</p>	Via Email
7.	<p>Teamsters, Local Union 847 216 Matheson Boulevard East Mississauga, Ontario L4Z 1X1</p> <p>Fernanda Santos Tel: 905-502-8895 ext. 221 Fax: 905-501-9251 Email: fsantos@teamsters847.ca</p> <p>The Union</p>	Via Email
8.	<p>Triano Law 108-4100 Victoria Avenue Vineland, Ontario L0R 2C0</p> <p>Lisa Triano Tel: 905-562-3111 Fax: 905-562-7771 Email: ltriano@trianolaw.ca</p> <p>Labour counsel for the Union</p>	Via Email

INDEX

TAB:

- 1** Notice of Application
 - A** Draft Appointment Order
 - B** Draft Approval and Vesting Order
- 2** Affidavit of Paul Montgomery Sworn June 17, 2019
 - A** General Security Agreement Dated as of September 29, 2016
 - B** Demand Letter, Notice of Intention to Enforce Security and Waiver and Consent
 - C** Original Approval and Vesting Order Issued on June 7, 2019
- 3** Blackline to Model Receivership Order
- 4** Blackline to Original Approval and Vesting Order Issued on June 7, 2019
- 5** Blackline to Model Approval and Vesting Order

TAB 1

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

B E T W E E N

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

SATIN FINISH HARDWOOD FLOORING, LIMITED

Respondent

**APPLICATION UNDER section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C.43, as amended**

NOTICE OF APPLICATION

TO THE RESPONDENT(S)

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The claim made by the applicant is set out on the following pages.

THIS APPLICATION will come on for hearing on **MONDAY, 17 JUNE 2019 AT 9:30 A.M., AT 330 UNIVERSITY AVENUE IN TORONTO, ONTARIO.**

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38C prescribed by the *Rules of Civil Procedure*, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2:00 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: 17 June 2019

Issued by _____
Local Registrar

Address of Court Office:
330 University Avenue
Toronto ON M5G 1R7

TO: THE ATTACHED SERVICE LIST

APPLICATION

1. The Applicant makes an Application for:
 - (a) Orders substantially in the form of the draft Orders attached as Schedules A and B; and
 - (b) Such further and other relief as this Honourable Court may deem just.
2. The grounds for the Application are:
 - (a) The grounds set forth in the Affidavit of Paul Montgomery sworn 17 June 2019 and the Pre-Appointment Report of MNP, the proposed Receiver; and
 - (b) Such further and other grounds as counsel may advise and this Honourable Court permit.
3. The following documentary evidence will be used at the hearing of the application:
 - (a) The Affidavit of Paul Montgomery sworn 17 June 2019;
 - (b) The Pre-Appointment Report dated 17 June 2019 of MNP, the proposed Receiver; and
 - (c) Such further and other evidence as this Honourable Court may permit.

Date: 17 June 2019

GOWLING WLG (CANADA) LLP
Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

E. Patrick Shea (LSUC No.: 39655K)
Tel: (416) 369-7399
Fax: (416) 862-7661

Solicitors for the Applicant

TAB 1A

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

THE HONOURABLE) MONDAY, THE 17TH
JUSTICE)
DAY OF JUNE, 2019

B E T W E E N

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

SATIN FINISH HARDWOOD FLOORING, LIMITED

Respondent

**APPLICATION UNDER section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C.43, as amended**

APPOINTMENT ORDER

THIS APPLICATION made by the Canadian Imperial Bank of Commerce (“**CIBC**”) for (i) an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43 (the “**CJA**”) appointing MNP Ltd. (“**MNP**”) as receiver (in such capacity, the “**Receiver**”) without security of the assets and property (the “**Property**”) of Satin Finish Hardwood Flooring, Limited (the “**Debtor**”) for the sole purpose of completing the sale transaction contemplated by an agreement of purchase and sale between the Debtor and 2340125 Ontario Inc. (the “**Purchaser**”) dated May 28, 2019 (the “**Transaction**”) previously approved by the Ontario Superior Court of Justice (in Bankruptcy and Insolvency) [Commercial List] pursuant to an Approval and Vesting Order dated 7 June 2019 and administering the Employee Trust Fund (defined below); and (ii) an Order vesting the Purchased Assets (as defined in the Sale Agreement) in the Purchaser was heard this day at 330 University Ave., Toronto, Ontario.

ON READING the Affidavit of Paul Montgomery sworn 17 June 2019 and the Pre-Appointment Report dated June 17, 2019 of MNP, the proposed Receiver (the “**Pre-Appointment Report**”), and on hearing the submissions of counsel for CIBC and MNP, and such other persons listed on the counsel slip,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record be and is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 101 of the CJA, MNP is hereby appointed as receiver of the Property and the Debtor, without security, for the sole purpose of completing the Transaction and administering the Employee Trust Fund pursuant to the applicable provisions of this Order.

RECEIVER’S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered, authorized and directed to:

- a. complete the Transaction;
- b. execute, sign, issue and endorse documents of whatever nature and take such other actions as are necessary for the purposes of completing the Transaction;
- c. administer the Employee Trust Fund in accordance with the applicable provisions of this Order;
- d. execute, sign, issue and endorse documents of whatever nature and take such other actions as are necessary for the purposes of administering the Employee Trust Fund and disbursing all the funds therein pursuant to the applicable provisions of this Order;

- e. engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- f. report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to its powers and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- g. enter into agreements with the trustee in bankruptcy appointed in respect of the Debtor; and
- h. take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the Employee Trust Fund and the obligations of the Debtor for which the Employee Trust Fund has been established, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use

of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 4 or in paragraph 5 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

5. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

6. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

7. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor, the Property or the Employee Trust Fund shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor, the Property or the employee Trust Fund are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

8. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property or the Employee Trust Fund are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court.

RECEIVER TO HOLD AND ADMINISTER EMPLOYEE TRUST FUND

9. **THIS COURT ORDERS** that the amount of \$337,087.43 paid to the Receiver, as described in the Pre-Appointment Report, for the sole and express purposes of paying (a) the claims, as proved or admitted, described in section 81.4(1) and 81.6(1) of the BIA and (b) the wages, salaries, commissions or compensation, as proved or admitted, for services rendered by employees and former employees of the Debtor after January 2, 2019 and to and including June 14, 2019 (the “**NOI Period**”) and disbursements of travelling salespersons properly incurred by them in and about the Debtor’s business during the NOI Period (collectively, the “**Purpose**”), and any future amounts in excess of \$337,087.43 paid to the Receiver for the Purpose, shall be held in trust by the Receiver separate and apart from other funds held by the Receiver, and the beneficiaries of such trust shall be (A) in the case of Purpose (a), the Persons with valid claims, as proved or admitted, who are entitled to security against the Debtor’s current assets pursuant to section 81.4(1) of the BIA or against all the Debtor’s assets pursuant to section 81.6(1) of the BIA and, in the case of Purpose (b), the Persons entitled to receive the payments, as proved or admitted, described in section 60(1.3)(a) of the BIA for services rendered and disbursements of travelling salespersons properly incurred during the NOI Period had the court approved a BIA Part III, Division I proposal in respect of the Debtor (the beneficiaries under (A) collectively, the “**Employee Beneficiaries**”), and (B) to the extent that monies in the Employee Trust Fund are not required for the Purpose, the Purchaser (subject to the interest of the Purchaser’s secured creditors) and any other Person who after the date hereof pays monies to the Receiver for the Purpose (collectively, the “**Contributing Parties**”), *pro rata* based on the respective payments of such Persons (such trust, the “**Employee Trust Fund**”). The payment by the Contributing Parties of the amount of \$337,087.43 or any future amounts into the Employee Benefit Trust shall be on a “without prejudice” basis and shall not be or deemed to be an admission by any of them of the validity of any of the claims of the Employee Beneficiaries.

10. **THIS COURT ORDERS** that the Receiver shall no later than 5:00 p.m. (Toronto time) on July 5, 2019 provide written notice of the Employee Trust Fund and the procedures with respect to proving claims thereto established under this Order and as provided in the BIA, together with a notice to prove claims against the Trust Fund to (a) in the case of Employee Beneficiaries who are or were members of Teamsters Local Union 847 (the “Local”), to the Local only and notice to the members themselves of the Local or any other Persons is hereby dispensed with, (b) in the case of Employee Beneficiaries who are not or were not members of the Local, to the Persons who are the Employee Beneficiaries at their last known addresses appearing in the records of the Debtor, and (b) to such other Persons who the Receiver considers ought to receive notice.

11. **THIS COURT ORDERS** that Employee Beneficiaries, or other persons with authority under section 126(2) of the BIA, who wish to assert claims against the Employee Trust Fund, shall do so no later than 5:00 p.m. (Toronto time) on August 2, 2019 and in accordance with such section 126(2) and other applicable provisions of the BIA and use such forms and procedures as are prescribed by the BIA, failing which the claims against the Employee Trust Fund of the non-complying Employee Beneficiaries shall be forever barred and extinguished.

12. **THIS COURT ORDERS** that the Receiver shall consult with the Contributing Parties and the Purchaser’s secured creditors in connection with its consideration of and determination of all claims filed against the Employee Trust Fund, provided that the Receiver itself shall make the final determinations on the treatment of all claims filed, subject to review by this Court pursuant to the provisions of this Order or under the applicable provisions of the BIA.

13. **THIS COURT ORDERS** that the Contributing Parties and the Purchaser’s secured creditors shall have standing to participate by their counsel in any and all proceedings taken pursuant to the provisions of this Order or the applicable provisions of the BIA in respect of the Employee Trust Fund or the claims filed against the Employee Trust Fund.

EMPLOYEES

14. **THIS COURT ORDERS** that the Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of

the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. **THIS COURT ORDERS** that the Receiver shall not occupy or take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property, and the Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder.

LIMITATION ON THE RECEIVER'S LIABILITY

16. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, and nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts.

18. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice in Toronto.

SERVICE AND NOTICE

19. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <<https://mnpdebt.ca/en/corporate/engagements/satin-finish-flooring-limited>>

20. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

21. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder, including those in respect of the Employee Trust Fund.

22. **THIS COURT ORDERS** that the Contributing Parties may from time to time apply to this Court for a determination of any matter relating to the Employee Trust Fund on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

23. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

24. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States 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.

Court File No.:	
<p>B E T W E E N:</p> <p>Canadian Imperial Bank of Commerce</p> <p>Applicant</p>	<p>- and -</p> <p>Satin Finish Hardwood Flooring, Limited</p> <p>Respondent</p>
	<p><i>ONTARIO</i></p> <p>SUPERIOR COURT OF JUSTICE</p> <p>(Commercial List)</p> <p>(PROCEEDING COMMENCED AT TORONTO)</p>
	<p>RECEIVERSHIP ORDER</p>
	<p>GOWLING WLG (CANADA) LLP Barristers and Solicitors 1 First Canadian Place 100 King Street West, Suite 1600 Toronto ON M5X 1G5</p> <p>E. Patrick Shea (LSUC No.: 39655K) Telephone: (416) 369-7399 Facsimile: (416) 862-7661</p> <p>SOLICITORS FOR THE APPLICANT</p>

TAB 1B

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

THE HONOURABLE) MONDAY, THE 17TH
JUSTICE) DAY OF JUNE, 2019

B E T W E E N

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

SATIN FINISH HARDWOOD FLOORING, LIMITED

Respondent

**APPLICATION UNDER section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C.43, as amended**

APPROVAL AND VESTING ORDER

THIS APPLICATION made by the Canadian Imperial Bank of Commerce (“**CIBC**”) for (i) an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43 appointing MNP Ltd. (“**MNP**”) as receiver and manager (in such capacity, the “**Receiver**”) without security of the assets and property (the “**Property**”) of Satin Finish Hardwood Flooring, Limited (the “**Debtor**”) for the primary purpose of completing the sale transaction contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Debtor and 2340125 Ontario Inc. (the “**Purchaser**”) dated May 28, 2019 (the “**Transaction**”) previously approved by the Ontario Superior Court of Justice [Commercial List] pursuant to an Approval and Vesting Order dated 7 June 2019 and administering the Employee Trust Fund, as described and defined in such Order; and (ii) an Order vesting the Purchased Assets (as defined in the Sale Agreement) in the Purchaser; was heard this day at 330 University Ave., Toronto, Ontario.

ON READING the Affidavit of Paul Montgomery sworn 17 June 2019 and the Pre-Appointment Report of MNP in its capacity as proposed Receiver, and on hearing the submissions of counsel for CIBC, MNP and those other parties listed on the counsel slip,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby ratified and approved.
2. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to execute on behalf of the Debtor all necessary closing documents relating to the Transaction and to take all necessary steps to complete the Transaction.
3. **THIS COURT ORDERS** that the Receiver be and is hereby authorized to change the Debtor's name to 21091 Ontario Limited or another name which does not include "Satin Finish" or any derivation thereof forthwith on closing of the transaction contemplated by the Sale Agreement.
4. **THIS COURT ORDERS AND DECLARES** that, upon the delivery by the Receiver of a Receiver's Certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the right, title and interest of the Debtor and MNP in its capacity as Receiver in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, 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 save and except for the liabilities and obligations and the security interests, charges, leases and other instruments relating thereto which the Purchaser has expressly agreed to assume under the Sale Agreement.
5. **THIS COURT ORDERS** that the sale of the Purchased Assets to the Purchaser is subject to the security of CIBC including the security identified on the attached Schedule "B" and that the security of CIBC is enforceable against the Purchased Assets without the requirement for CIBC to issue further Notices of Intention to Enforce Security under s. 244 of the *Bankruptcy and Insolvency Act* (the "**BIA**").

6. **THIS COURT ORDERS** that: (a) notwithstanding the Transaction, the Debtor remains liable for the obligations owing to CIBC; and (b) the Excluded Assets, as defined by the Sale Agreement, remain subject to the security of CIBC.

7. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

8. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in its records pertaining to Satin Finish's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

9. **THIS COURT ORDERS** that notwithstanding the bankruptcy of the Debtor, the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on MNP in its capacity as trustee-in-bankruptcy and shall not be void or voidable by creditors of the Debtor and shall not constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA 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.

#3699998 v2 | 4112265

SCHEDULE "A"

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

B E T W E E N

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

SATIN FINISH HARDWOOD FLOORING, LIMITED

Respondent

**APPLICATION UNDER section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C.43, as amended**

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order dated 17 June 2019, MNP Ltd. ("MNP") was appointed receiver (in such capacity, the "**Receiver**") of the assets and property of Satin Finish Hardwood Flooring, Limited ("**Satin Finish**") for the sole purpose of completing the sale transaction contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between Satin Finish and 2340125 Ontario Inc. (the "**Purchaser**") dated May 28, 2019 (the "**Transaction**") previously approved by the Ontario Superior Court of Justice [Commercial List] pursuant to an Approval and Vesting Order dated 7 June 2019 and administering the Employee Trust Fund.

B. Pursuant to a second Order dated 17 June 2019, the Court affirmed and approved the Sale Agreement and provided for the vesting in the Purchaser of the right, title and interest of Satin Finish and MNP in its capacity as Receiver in and to the Purchased Assets, which vesting is to be effective upon the delivery by the Receiver to the Purchaser of a Certificate confirming that the conditions to Closing as set out in Article 4 of the Sale Agreement have been satisfied or waived; and (ii) the Transaction has been completed to the satisfaction of the Receiver.

C. The Receiver has received the amount of 337,087.43 by way of contribution to the Employee Trust Fund.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The conditions to Closing as set out in Article 4 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser.
2. The Transaction has been completed to the satisfaction of the Receiver; and
3. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**MNP LTD., in its capacity as
Receiver of the property and
assets of Satin Finish Hardwood
Flooring, Limited, and not in its
personal capacity**

Name:

Title:

#3699998 | 4112265

SCHEDULE "B"

<u>Security Documents:</u>	
1.	General Security Agreement executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
2.	Notice of Intention to Give Security Under Section 427 of the <i>Bank Act</i> (Canada) executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 27, 2016
3.	Special Security Agreement In Respect of Specified Property or Classes of Property executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
4.	Application for Credit and Promise to Give Special Security executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
5.	Contract Relative to Special Security executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
6.	Full Recourse Guarantee, Assignment and Postponement of Claim executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016

<u>Registrations:</u>	
1.	Registration number 20150911 1533 1590 3225 against Satin Finish under the <i>Personal Property Security Act</i> (Ontario) in favour of Canadian Imperial Bank of Commerce
2.	Registration number 20160921 1031 1682 6308 against Satin Finish under the <i>Personal Property Security Act</i> (Ontario) in favour of Canadian Imperial Bank of Commerce
3.	Registration number 01308329 against Satin Finish under the <i>Bank Act</i> in favour of Canadian Imperial Bank of Commerce

Court File No.:

BETWEEN:

Canadian Imperial Bank of Commerce

- and -

Satin Finish Hardwood Flooring, Limited

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

(PROCEEDING COMMENCED AT TORONTO)

APPROVAL AND VESTING ORDER

GOWLING WLG (CANADA) LLP
Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

E. Patrick Shea (LSUC No.: 39655K)
Telephone: (416) 369-7399
Facsimile: (416) 862-7661

SOLICITORS FOR THE APPLICANT

Court File No.:

BETWEEN:

Canadian Imperial Bank of Commerce

- and -

Satin Finish Hardwood Flooring, Limited

Applicant

Respondent

ONTARIO

**SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

NOTICE OF APPLICATION

GOWLING WLG (CANADA) LLP

Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

E. Patrick Shea (LSUC No.: 39655K)

Telephone: (416) 369-7399

Facsimile: (416) 862-7661

SOLICITORS FOR THE APPLICANT

TAB 2

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

B E T W E E N

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

SATIN FINISH HARDWOOD FLOORING, LIMITED

Respondent

**APPLICATION UNDER section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C.43, as amended**

**AFFIDAVIT OF PAUL MONTGOMERY
(sworn 17 June 2019)**

I, **PAUL MONTGOMERY**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am an Officer of Canadian Imperial Bank of Commerce ("**CIBC**") and have personal knowledge of the matters herein deposed save and except where I rely on information provided to me by others or from my review of documentation, in which cases I provide the source of that information and believe it to be true.
2. I am swearing this Affidavit in support of an Application by CIBC seeking to have MNP Ltd. ("**MNP**") appointed for the primary purpose of completing a sale transaction that was approved by the Court pursuant to an Order dated 7 June 2019 (the "**AVO**") and for no other or improper purpose.
3. CIBC is a secured creditor of Satin Finish Hardwood Flooring, Limited ("**Satin Finish**") and certain related companies. As of the date hereof, CIBC is owed approximately \$13,500,000 by Satin Finish. CIBC has security over all of Satin Finish's assets and property. A true copy of

a general security agreement executed by Satin Finish in favour of CIBC dated as of 29 September 2016 is attached hereto as Exhibit “A”.

4. On 13 December 2018, CIBC delivered a Demand Letter and Notice of Intention to Enforce Security (“**NITES**”) to Satin pursuant to section 244 of the *Bankruptcy and Insolvency Act* (the “**BIA**”). Satin Finish provided to CIBC a Waiver and Consent such that CIBC was in a position to enforce its security as against the assets and property of Satin Finish (the “**Waiver and Consent**”). True copies of the Demand Letter, NITES and Waiver and Consent are attached hereto as Exhibit “B”.

5. On 2 January 2019, Satin Finish filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to Part III of the BIA naming MNP as trustee. Satin Finish obtained a number of extensions of the date by which it was required to file a proposal. The time by which Satin Finish was required to file a proposal under the BIA expired on 14 June 2019 and, as described further below, Satin Finish is now bankrupt.

6. CIBC’s right to enforce its security over the assets and property of Satin Finish was not stayed by the commencement by Satin Finish of the NOI proceedings. CIBC entered into a Forbearance Agreement with Satin Finish to provide Satin Finish with an opportunity to reorganize and repay CIBC, but that Forbearance Agreement has now expired.

7. As set out in the First Report dated 18 January 2019 filed by MNP in its capacity as proposal trustee, MNP obtained as part of the NOI proceedings an opinion from its independent counsel that CIBC’s security over Satin Finish was valid subject to what I understand to be standard assumptions and qualifications.

8. As is more fully described in the Fourth Report dated 5 June 2019 filed by MNP in its capacity as proposal trustee and the Affidavit of David Zimmerman sworn 3 June 2019: (a) Satin Finish engaged in an unsuccessful effort to locate a going concern purchaser for its assets and property; and (b) Satin Finish entered into an agreement with a related party—2340125 Ontario Inc. (the “**Purchaser**”)—to purchase its assets and property (the “**Transaction**”) for a purchase price equal to the obligations owing to CIBC, which are to be assumed by the Purchaser.

9. CIBC was prepared to agree to the Transaction, including the assumption by the Purchaser of the obligations owing by Satin Finish, provided: (a) CIBC's security continued to attach to the Purchased Assets and there were no impediments on CIBC's ability to enforce its security against its collateral; (b) Satin Finish remained liable for the obligations owing to CIBC and CIBC's security continued to attach to any assets or property that is not sold to the Purchaser; and (c) the Purchaser and certain other related parties executed financing and other documents and agreements with respect to the assumption by the Purchaser of the obligations owing to CIBC.

10. Pursuant to an Order dated 7 June 2019 (the "AVO"), a true copy of which is attached as Exhibit "C", the Transaction was approved by the Court. In the AVO, provision was made for Satin Finish's assets and property to vest in the Purchaser subject to CIBC's security, Satin Finish remaining liable for the obligations owing to CIBC and the assets excluded from the Transaction remaining subject to the security of CIBC.


11. Unfortunately, the loan and security documents relating to the assumption by the Purchaser of the obligations owing to CIBC by Satin Finish were not settled and signed by 14 June 2019 and the Debtor became bankrupt at midnight on 14 June 2019.

12. The bankruptcy of Satin Finish has made it impossible to close the Transaction as contemplated by the AVO since before that could occur it was necessary for the agreements relating to the CIBC assumption and related matters to be executed and delivered. The Purchaser is, however, still prepared to complete the Transaction and acquire the Purchased Assets and CIBC is, at the request of the Purchaser, applying to the Court to have MNP appointed as receiver of the assets and property of Satin Finish for the primary purpose of completing the Transaction.

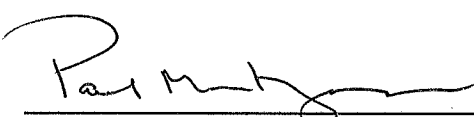
13. CIBC's position with respect to the completion of the Transaction remains unchanged and CIBC is prepared to permit the Purchaser to acquire the Purchased Assets and assume the obligations owing by Satin Finish provided: (a) CIBC's security continues to attach to the Purchased Assets and there are no impediments on CIBC's ability to enforce its security against its collateral; (b) Satin Finish remains liable for the obligations owing to CIBC and CIBC's security continues to attach to any assets or property that is not sold to the Purchaser and (c) the

Purchaser and certain other related parties execute financing and other documents and agreements with respect to the assumption by the Purchaser of the obligations owing to CIBC. CIBC has been working with the Purchaser to prepare the transaction-related documents and I am optimistic that such documents can be finalized and executed by close of business day on 17 June 2019.

SWORN BEFORE ME at the City of)
Toronto, in the Province of Ontario,)
This 17th day of June 2019.)



Commissioner for taking Affidavits)




PAUL MONTGOMERY)

Thomas Gertner, Lawyer
Bowling WLG (Canada) LLP
Suite 1600, 1 First Canadian Place
100 King Street West
Toronto, Ontario
Canada, M5X 1G5

TAB 2A

**THIS IS EXHIBIT "A"
REFERRED TO IN THE AFFIDAVIT OF
PAUL MONTGOMERY SWORN BEFORE
ME ON JUNE 17, 2019**



A Commissioner for Oaths and Notary Public in
and for the Province of Ontario

Thomas Gertner, Lawyer
Gowling WLG (Canada) LLP
Suite 1600, 1 First Canadian Place
100 King Street West
Toronto, Ontario
Canada, M5X 1G5



SECURITY AGREEMENT

For valuable consideration, the undersigned (the "Customer") agrees with Canadian Imperial Bank of Commerce ("CIBC") as follows:

1. **Grant of Security.** The Customer mortgages, charges and assigns to CIBC, and grants to CIBC, and CIBC takes, a Security Interest in the property described in the following paragraph or paragraphs of this section, and in all property described in any schedules, documents or listings that the Customer may from time to time sign and provide to CIBC in connection with this Agreement, and in all present and future Accessions to, and all Proceeds of, any such property (collectively, the "Collateral") as a general and continuing collateral security for the due payment and performance of the Liabilities:

[*Delete inapplicable clauses*]

- (a) ~~Specific Personal Property: the Personal Property described in Schedule A.~~
- (b) **All Personal Property:** all of the Customer's present and after-acquired undertaking and Personal Property (including any property that may be described in Schedule A) but excluding Consumer Goods.
- (c) ~~All Real Property: all of the Customer's present and after-acquired real property (including any property that may be described in Schedule A), together with all buildings placed, installed or erected on any such property, and all fixtures.~~

If none of the above clauses are deleted, clause (b) will apply.

2. **Governing Law.** This Agreement is governed by the laws of Ontario.

3. **Places of Business.** The Customer represents and warrants that the locations of all existing Places of Business are specified in Schedule B. The Customer will promptly notify CIBC in writing of any additional Places of Business as soon as they are established. Subject to section 5, the Collateral will at all times be kept at the Places of Business, and will not be removed without CIBC's prior written consent.

4. **Collateral Free of Charges.** The Customer represents and warrants that the Collateral is, and agrees that the Collateral will at all times be, free of any Charge or trust except in favour of CIBC or incurred with CIBC's prior written consent. CIBC may, but will not have to, pay any amount or take any action required to remove or redeem any unauthorized Charge. The Customer will immediately reimburse CIBC for any amount so paid and will indemnify CIBC in respect of any action so taken.

5. **Use of Collateral.** The Customer will not, without CIBC's prior written consent, sell, lease or otherwise dispose of any of the Collateral (other than Inventory, which may be sold, leased or otherwise disposed of in the ordinary course of the Customer's business). All Proceeds of the Collateral (including among other things all amounts received in respect of Receivables), whether or not arising in the ordinary course of the Customer's business, will be received by the Customer as trustee for CIBC and will be immediately paid to CIBC.

6. **Insurance.** The Customer will keep the Collateral insured to its full insurable value against loss or damage by fire and such other risks as are customarily insured for property similar to the Collateral (and against such other risks as CIBC may reasonably require). At CIBC's request, all policies in respect of such insurance will contain a loss payable clause, and if the Collateral includes real property will contain a mortgage clause, in favour of CIBC and in any event the Customer assigns all proceeds of insurance on the Collateral to CIBC. The Customer will, from time to time at CIBC's request, deliver such policies (or satisfactory evidence of such policies) to CIBC. If the Customer does not obtain or maintain such insurance, CIBC may, but will not have to, do so. The Customer will immediately reimburse CIBC for any amount so paid. The Customer will promptly give CIBC written notice of any loss or damage to all or any part of the Collateral.

7. **Information and Inspection.** The Customer will from time to time immediately give CIBC in writing all information requested by CIBC relating to the Collateral, the Places of Business, and the Customer's financial or business affairs. The Customer will promptly advise CIBC of the Serial Number, model year, make and model of each Serial Number Good at any time included in the Collateral that is held as Equipment, including in circumstances where the Customer ceases holding such Serial Number Good as Inventory and begins holding it as Equipment. CIBC may from time to time inspect any Books and Records and any Collateral, wherever located. For that purpose CIBC may, without charge, have access to each Place of Business and to all mechanical or electronic equipment, devices and processes where any of them may be stored or from which any of them may be retrieved. The Customer authorizes any Person holding any Books and Records to make them available to CIBC, in a readable form, upon request by CIBC.

8. **Receivables.** If the Collateral includes Receivables, CIBC may advise any Person who is liable to make any payment to the Customer of the existence of this Agreement. CIBC may from time to time confirm with such Persons the existence and the amount of the Receivables. Upon Default, CIBC may collect and otherwise deal with the Receivables in such manner and upon such terms as CIBC considers appropriate.

9. **Receipts Prior to Default.** Until Default, all amounts received by CIBC as Proceeds of the Collateral will be applied on account of the Liabilities in such manner and at such times as CIBC may consider appropriate or, at CIBC's option, may be held unappropriated in a collateral account or released to the Customer.

10. **Default.**

- (1) **Events of Default.** The occurrence of any of the following events or conditions will be a Default:

- (a) the Customer does not pay any of the Liabilities when due;
 - (b) the Customer does not observe or perform any of the Customer's obligations under this Agreement or any other agreement or document existing at any time between the Customer and CIBC;
 - (c) any representation, warranty or statement made by or on behalf of the Customer to CIBC is untrue in any material respect at the time when or as of which it was made;
 - (d) the Customer ceases or threatens to cease to carry on in the normal course the Customer's business or any material part thereof;
 - (e) if the Customer is a corporation, there is, in CIBC's reasonable opinion, a change in effective control of the Customer, or if the Customer is a partnership, there is a dissolution or change in the membership of the partnership;
 - (f) the Customer becomes insolvent or bankrupt or makes a proposal or files an assignment for the benefit of creditors under the *Bankruptcy and Insolvency Act* (Canada) or similar legislation in Canada or any other jurisdiction; a petition in bankruptcy is filed against the Customer; or, if the Customer is a corporation, steps are taken under any legislation by or against the Customer seeking its liquidation, winding-up, dissolution or reorganization or any arrangement or composition of its debts;
 - (g) a Receiver, trustee, custodian or other similar official is appointed in respect of the Customer or any of the Customer's property;
 - (h) the holder of a Charge takes possession of all or any part of the Customer's property, or a distress, execution or other similar process is levied against all or any part of such property; or
 - (i) CIBC, in good faith and upon commercially reasonable grounds, believes that the prospect of payment or performance is or is about to be impaired or that the Collateral is or is about to be placed in jeopardy.
- (2) Rights upon Default. Upon Default, CIBC and a Receiver, as applicable, will to the extent permitted by law have the following rights:
- (a) Appointment of Receiver. CIBC may by instrument in writing appoint any Person as a Receiver of all or any part of the Collateral. CIBC may from time to time remove or replace a Receiver, or make application to any court of competent jurisdiction for the appointment of a Receiver. Any Receiver appointed by CIBC will (for purposes relating to responsibility for the Receiver's acts or omissions) be considered to be the Customer's agent. CIBC may from time to time fix the Receiver's remuneration and the Customer will pay CIBC the amount of such remuneration. CIBC will

not be liable to the Customer or any other Person in connection with appointing or not appointing a Receiver or in connection with the Receiver's actions or omissions.

- (b) Dealings with the Collateral. CIBC or a Receiver may take possession of all or any part of the Collateral and retain it for as long as CIBC or the Receiver considers appropriate, receive any rents and profits from the Collateral, carry on (or concur in carrying on) all or any part of the Customer's business or refrain from doing so, borrow on the security of the Collateral, repair the Collateral, process the Collateral, prepare the Collateral for sale, lease or other disposition, and sell or lease (or concur in selling or leasing) or otherwise dispose of the Collateral on such terms and conditions (including among other things by arrangement providing for deferred payment) as CIBC or the Receiver considers appropriate. CIBC or the Receiver may (without charge and to the exclusion of all other Persons including the Customer) enter upon any Place of Business.
- (c) Realization. CIBC or a Receiver may use, collect, sell, lease or otherwise dispose of, realize upon, release to the Customer or other Persons and otherwise deal with, the Collateral in such manner, upon such terms (including among other things by arrangement providing for deferred payment) and at such times as CIBC or the Receiver considers appropriate. CIBC or the Receiver may make any sale, lease or other disposition of the Collateral in the name of and on behalf of the Customer or otherwise.
- (d) Application of Proceeds After Default. All Proceeds of Collateral received by CIBC or a Receiver may be applied to discharge or satisfy any expenses (including among other things the Receiver's remuneration and other expenses of enforcing CIBC's rights under this Agreement), Charges, borrowings, taxes and other outgoings affecting the Collateral or which are considered advisable by CIBC or the Receiver to preserve, repair, process, maintain or enhance the Collateral or prepare it for sale, lease or other disposition, or to keep in good standing any Charges on the Collateral ranking in priority to any Charge created by this Agreement, or to sell, lease or otherwise dispose of the Collateral. The balance of such Proceeds will be applied to the Liabilities in such manner and at such times as CIBC considers appropriate and thereafter will be accounted for as required by law.
- (e) Other Legal Rights. Before and after Default, CIBC will have, in addition to the rights specifically provided in this Agreement, the rights of a secured party under the PPSA, as well as the rights recognized at law and in equity. No right will be exclusive of or dependent upon or merge in any other right, and one or more of such rights may be exercised independently or in combination from time to time.

- (f) **Deficiency.** The Customer will remain liable to CIBC for payment of any Liabilities that are outstanding following realization of all or any part of the Collateral.

11. **CIBC not Liable.** CIBC will not be liable to the Customer or any other Person for any failure or delay in exercising any of its rights under this Agreement (including among other things any failure to take possession of, collect, or sell, lease or otherwise dispose of, any Collateral). None of CIBC, a Receiver or any agent of CIBC (including, in Alberta, any sheriff) is required to take, or will have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Chattel Paper, Securities or Instrument in possession of CIBC, a Receiver or CIBC's agent.

12. **Charges and Expenses.** The Customer agrees to pay on demand all costs and expenses incurred (including among other things legal fees on a solicitor and client basis) and fees charged by CIBC in connection with obtaining or discharging this Agreement or establishing or confirming the priority of the Charges created by this Agreement or by law, compliance with any demand by any Person under the PPSA to amend or discharge any registration relating to this Agreement, and by CIBC or any Receiver in exercising any remedy under this Agreement (including among other things preserving, repairing, processing, preparing for disposition and disposing of the Collateral by sale, lease or otherwise) and in carrying on the Customer's business. All such amounts will bear interest from time to time at the highest interest rate then applicable to any of the Liabilities, and the Customer will reimburse CIBC upon demand for any amount so paid.

13. **Further Assurances.** The Customer will from time to time immediately upon request by CIBC take such action (including among other things the signing and delivery of financing statements and financing change statements, other schedules, documents or listings describing property included in the Collateral, further assignments and other documents, and the registration of this Agreement) as CIBC may require in connection with the Collateral or as CIBC may consider necessary to give effect to this Agreement. If permitted by law, the Customer waives the right to sign or receive a copy of any financing statement or financing change statement, or any statement issued by any registry that confirms any registration of a financing statement or financing change statement, relating to this Agreement. The Customer irrevocably appoints the Manager or the Acting Manager from time to time of CIBC's branch specified on the first page of this Agreement as the Customer's attorney (with full powers of substitution and delegation) to sign, upon Default, all documents required to give effect to this section. Nothing in this section affects the right of CIBC as secured party, or any other Person on CIBC's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification agreements and other documents relating to the Collateral and this Agreement as CIBC or such other Person considers appropriate.

14. **Dealings by CIBC.** CIBC may from time to time increase, reduce, discontinue or otherwise vary the Customer's credit facilities, grant extensions of time and other indulgences, take and give up any Charge, abstain from taking, perfecting or registering any Charge, accept compositions, grant releases and discharges and otherwise deal with the Customer, customers of the Customer, guarantors and others, and with the Collateral and any Charges held by CIBC, as

CIBC considers appropriate without affecting the Customer's obligations to CIBC or CIBC's rights under this Agreement.

15. **Definitions.** In this Agreement:

"Accessions", "Account", "Chattel Paper", "Document of Title", "Equipment", "Goods", "Instrument", "Intangible", "Inventory", "Proceeds", "Purchase-Money Security Interest" and "Security Interest" have the respective meanings given to them in the PPSA.

"Books and Records" means all books, records, files, papers, disks, documents and other repositories of data recording, evidencing or relating to the Collateral to which the Customer (or any Person on the Customer's behalf) has access.

"Charge" means any mortgage, charge, pledge, hypothecation, lien (statutory or otherwise), assignment, financial lease, title retention agreement or arrangement, security interest or other encumbrance of any nature however arising, or any other security agreement or arrangement creating in favour of any creditor a right in respect of a particular property that is prior to the right of any other creditor in respect of such property.

"Consumer Goods" has the meaning given to it in the PPSA, except that, if this Agreement is governed by the laws of the Yukon, it does not include special consumer goods as that term is defined in the Yukon PPSA.

"Default" has the meaning set out in subsection 10(1).

"Liabilities" means all present and future indebtedness and liability of every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Customer to CIBC, wherever and howsoever incurred and any unpaid balance thereof.

"Money" has the meaning given to it in the PPSA or, if there is no such definition, means a medium of exchange authorized or adopted by the Parliament of Canada as part of the currency of Canada, or by a foreign government as part of its currency.

"Person" means any natural person or artificial body (including among others any firm, corporation or government).

"Personal Property" means personal property and includes among other things Inventory, Equipment, Receivables, Books and Records, Chattel Paper, Goods, Documents or Title, Instruments, Intangibles (including intellectual property), Money and Securities, and includes all Accessions to such property.

"Place of Business" means a location where the Customer carries on business or where any of the Collateral is located (including any location described in Schedule B).

“PPSA” means the legislation that applies in the province or territory noted in section 2 of this Agreement, as such legislation may be amended, renamed or replaced from time to time (and includes all regulations from time to time made under such legislation) as follows: in the case of Ontario, the *Personal Property Security Act*, 1990; in the case of Alberta, British Columbia, Manitoba, Prince Edward Island, Saskatchewan and the Yukon Territory, the *Personal Property Security Act*; and in the case of any other province or territory, such legislation as deals generally with Charges on personal property.

“Receivables” means all debts, claims and choses in action (including among other things Accounts and Chattel Paper) now or in the future due or owing to or owned by the Customer.

“Receiver” means a receiver or a receiver and manager.

“Securities” has the meaning given to it in the PPSA or, if there is no such definition and the PPSA defines “security” instead, it means the plural of that term.

“Serial Number” means the number that the Person who manufactured or constructed a Serial Number Good permanently marked or attached to it for identification purposes or, if applicable, such other number as the PPSA stipulates as the serial number or vehicle information number to be used for registration purposes of such Serial Number Good.

“Serial Number Good” means a motor vehicle, trailer, mobile home, aircraft airframe, aircraft engine or aircraft propeller, boat or an outboard motor for a boat.

16. **General.**

- (1) Reservation of the Last Day of any Lease. The Charges created by this Agreement do not extend to the last day of the term of any lease or agreement for lease; however, the Customer will hold such last day in trust for CIBC and, upon the exercise by CIBC of any of its rights under this Agreement following Default, will assign such last day as directed by CIBC.
- (2) Attachment of Security Interest. The Security Interests created by this Agreement are intended to attach (i) to existing Collateral when the Customer signs this Agreement, and (ii) to Collateral subsequently acquired by the Customer, immediately upon the Customer acquiring any rights in such Collateral. The parties do not intend to postpone the attachment of any Security Interest created by this Agreement.
- (3) Purchase-Money Security Interest. If CIBC gives value for the purpose of enabling the Customer to acquire rights in or to any of the Collateral, the Customer will in fact apply such value to acquire those rights (and will provide CIBC with such evidence in this regard as CIBC may require), and the Customer grants to CIBC, and CIBC takes, a Purchase-Money Security Interest in such Collateral to the extent that the value is applied to acquire such rights. A

certificate or affidavit of any of CIBC's authorized representatives is admissible in evidence to establish the amount of any such value.

- (4) Description of Collateral in Schedule A. The fact that box (b) or box (c) of section 1 has been checked without there being any property described in Schedule A does not affect the nature or validity of CIBC's security in the Collateral.
- (5) Entire Agreement. CIBC has not made any representation or undertaken any obligation in connection with the subject matter of this Agreement other than as specifically set out in this Agreement, and in particular nothing contained in this Agreement will require CIBC to make, renew or extend the time for payment of any loan or other credit accommodation to the Customer or any other Person.
- (6) Additional Security. The Charges created by this Agreement are in addition and without prejudice to any other Charge now or later held by CIBC. No Charge held by CIBC will be exclusive of or dependent upon or merge in any other Charge, and CIBC may exercise its rights under such Charge independently or in combination.
- (7) Joint and Several Liability. If more than one Person signs this Agreement as the Customer, the obligations of such Persons will be joint and several.
- (8) Severability; Headings. Any provision of this Agreement that is void or unenforceable in any jurisdiction is, as to that jurisdiction, ineffective to that extent without invalidating the remaining provisions of this Agreement. The headings in this Agreement are for convenience only and do not limit or extend the provisions of this Agreement.
- (9) Interpretation. When the context so requires, the singular will be read as the plural, and vice versa.
- (10) Copy of Agreement. The Customer acknowledges receipt of a copy of this Agreement.
- (11) Waivers. If this Agreement is governed by the laws of Saskatchewan and the Customer is a corporation, the Customer agrees that *The Limitation of Civil Rights Act*, *The Land Contracts (Actions) Act* and Part IV (excepting only section 46) of *The Saskatchewan Farm Security Act* do not apply insofar as they relate to actions as defined in those Acts, or insofar as they relate to or affect this Agreement, the rights of CIBC under this Agreement or any instrument, Charge, security agreement or other document of any nature that renews, extends or is collateral to this Agreement.
- (12) Notice. CIBC may send to the Customer, by prepaid regular mail addressed to the Customer at the Customer's address last known to CIBC, copies of any document required by the PPSA to be delivered by CIBC to the Customer. Any document mailed in this manner will be deemed to have been received by the Customer upon the earlier of actual receipt by the Customer and the expiry of 10 days after

the mailing date. A certificate or affidavit of any of CIBC's authorized representatives is admissible in evidence to establish the mailing date.

- (13) Enurement; Assignment. This Agreement will enure to the benefit of and be binding upon (i) CIBC, its successors and assigns, and (ii) the Customer and the Customer's heirs, executors, administrators, successors and permitted assigns. The Customer will not assign this Agreement without CIBC's prior written consent.

The Customer has signed this Agreement on September 29, 2016.

**SATIN FINISH HARDWOOD
FLOORING, LIMITED**

Per: 
Name: David Zimmerman
Title: Vice-President

I have authority to bind the Customer.

SCHEDULE A

The following is a specific description of property included in the Collateral:

1. Raw lumber, work in process and finished goods consisting of wood and synthetic/laminate flooring products.
2. Equipment for the manufacturing of wood and synthetic/laminate flooring products.

SCHEDULE B

The following are the Places of Business:

The lands and premises municipally known as 15 Fenmar Drive, Toronto, Ontario and legally described under PIN 10296-0356 (LT): PT BLK D PL 5965 NORTH YORK; PT LT 21 CON 5 WYS TWP OF YORK DESIGNATED AS PARTS 4, 5, 6, 7 AND 8 ON PLAN 66R.24024; T/W AN EASEMENT OVER PARTS 1, 2 AND 3 ON PLAN 66R.24024 UNTIL THE SAID PARTS ARE DEDICATED AS PUBLIC HIGHWAY AS IN AT2331980, TORONTO (NYORK); SUBJECT TO AN EASEMENT AS IN TB967596; SUBJECT TO AN EASEMENT AS IN NY801053E; SUBJECT TO AN EASEMENT AS IN NY801054; CITY OF TORONTO.

T1009554\TOR_LAW\9018348\2

TAB 2B

**THIS IS EXHIBIT "B"
REFERRED TO IN THE AFFIDAVIT OF
PAUL MONTGOMERY SWORN BEFORE
ME ON JUNE 17, 2019**



A Commissioner for Oaths and Notary Public in
and for the Province of Ontario

**Thomas Gertner, Lawyer
Gowling WLG (Canada) LLP
Suite 1600, 1 First Canadian Place
100 King Street West
Toronto, Ontario
Canada, M5X 1G5**



Paul Montgomery
Senior Director
Special Loans
CIBC
Commerce Court North
25 King Street West, 16th Floor
Toronto ON M5L 1A2
Tel: 416.980.5202

December 13, 2018

Private and Confidential

BY EMAIL AND REGISTERED MAIL

Satin Finish Hardwood Flooring, Limited
c/o H&R Developments
3625 Dufferin Street, Suite 409
Toronto, Ontario
M3K 1N4

Erie Flooring and Wood Products
c/o H&R Developments
3625 Dufferin Street, Suite 409
Toronto, Ontario
M3K 1N4

Pacific Hardwood Limited
c/o H&R Developments
3625 Dufferin Street, Suite 409
Toronto, Ontario
M3K 1N4

To the Guarantors, the Partners of Erie Flooring and Wood Products, and the Beneficial Owners of certain real property held by 15 Fenmar Investments Limited, each as listed in Schedule "A" hereto.

Attention: Evan Miller

Dear Sirs/Mesdames:

Re: Credit facilities established in favour of Satin Finish Hardwood Flooring, Limited ("Satin"), Pacific Hardwood Limited ("Pacific") and Erie Flooring and Wood Products ("Erie", and collectively with Satin and Pacific, the "Borrowers").

Reference is made to the Credit Agreement dated as of June 29, 2017, between the Borrowers, as borrowers and guarantors, 15 Fenmar Investments Limited ("Fenmar"), Batise Investments Limited ("Batise"), Marmelock Investments Limited ("Marmelock") and Umiak Investments Limited ("Umiak" and collectively with Fenmar, Batise, and Marmelock, the "Guarantors"), as guarantors, and Canadian Imperial Bank of Commerce (the "Lender"), as lender (together with all written amendments, supplements, restatements and replacements, collectively, the "Credit Agreement").

Capitalized terms used in this letter and not otherwise defined herein have the meanings given to them in the Credit Agreement.

The credit facilities extended under the Credit Agreement are repayable to the Lender on demand. In addition, the Borrowers are in breach of the Credit Agreement. The existing and continuing breaches known to the Lender are listed in Schedule B to this letter.

According to the Lender's records, the Borrowers are indebted or otherwise liable to the Lender under the credit facilities established under the Credit Agreement as of December 12, 2018, for the amounts set out in Schedule C to this letter (collectively, the "Indebtedness").

The Guarantors have each guaranteed the repayment of the Indebtedness under the guarantees listed in Schedule D (the "Non-Borrower Guarantees").

Each Borrower has guaranteed the repayment of any Indebtedness incurred by any of the other Borrowers under the cross-guarantees listed in Schedule D (the "Cross Guarantees" together with the Non-Borrower Guarantees, the "Guarantees").

The Lender hereby demands repayment in full of the Indebtedness from the Borrowers and the Guarantors. Interest on the Indebtedness has accrued and will continue to accrue to the date of payment at the rate set out in Schedule C to this letter. The exact amount of the Indebtedness and interest which will have accrued to any date of payment shall be obtained by contacting the Lender. You will also be required to pay the Lender's legal and other expenses in connection with the Indebtedness.

This letter constitutes a demand for payment and acceleration of payment under the terms and conditions of the Credit Agreement and the terms and conditions of all security (the "**Security**") held by Lender directly or indirectly for any of the Indebtedness, including all loan agreements, promissory notes, the Guarantees and other agreements governing the Indebtedness, and under all security instruments held for the Indebtedness, and is made without prejudice to (a) the Lender's rights to make such further and other demands as it shall see fit for any other indebtedness or under any other security, and (b) the Lender's rights to provide further and other notices of breaches.

Unless payment or arrangements satisfactory to the Lender for payment of the Indebtedness are made by no later than 4:00 p.m. on December 23, 2018 (Toronto time), the Lender may take any further steps that it deems necessary or desirable to recover payment of the Indebtedness. These steps include the enforcement of the Security by way of the appointment of an interim receiver, court appointed receiver and manager, a private receiver and manager, or an agent under the Security. The Lender expressly reserves the right to take any steps it deems advisable to protect the Lender's position prior to that date and expressly reserves all of its rights and remedies under the Credit Agreement, the Security and applicable law.

We also enclose seven (7) notices of intention to enforce security issued by the Lender under Section 244 of the *Bankruptcy and Insolvency Act* (Canada) to each of the Borrowers and the Guarantors.

Please govern yourselves accordingly.

Yours very truly,

CANADIAN IMPERIAL BANK OF COMMERCE

A handwritten signature in black ink, appearing to read "Paul Montgomery", with a long horizontal flourish extending to the right.

Per: Paul Montgomery
Senior Director, Special Loans

**SCHEDULE A
ADDITIONAL RECIPIENTS**

1. 15 Fenmar Investments Limited
2. Batise Investments Limited
3. Marmelock Investments Limited
4. Umiak Investments Limited
5. Gordonna Enterprises Limited
6. Tomfam Realty Inc.
7. Géofam Realty Inc.
8. Davfam Realty Inc.
9. Lindifam Realty Inc.

**SCHEDULE B
EXISTING BREACHES**

1. **Financial Covenants – Page 3 ---** The Borrowers have failed to maintain on a consolidated basis a minimum EBITDA as at June 30, 2018 of \$800,000, based on an LTM basis.

**SCHEDULE C
INDEBTEDNESS**

Indebtedness under the Credit Agreement as of December 12, 2018

E&OE

Satin Finish

Revolver	\$ 11,835,059.46
Accrued Interest	\$ 20,122.26
Fees	\$ 30.00
Corporate VISA	\$ 33,000.00
Subtotal Satin	<u>\$ 11,888,211.72</u>

Erie Flooring and Wood Products

Revolver	\$ 2,463,180.82
Accrued Interest	\$ 3,360.02
Fees	\$ 30.00
Corporate VISA	\$ 15,000.00
Subtotal Erie	<u>\$ 2,481,570.84</u>

Pacific Hardwood Limited

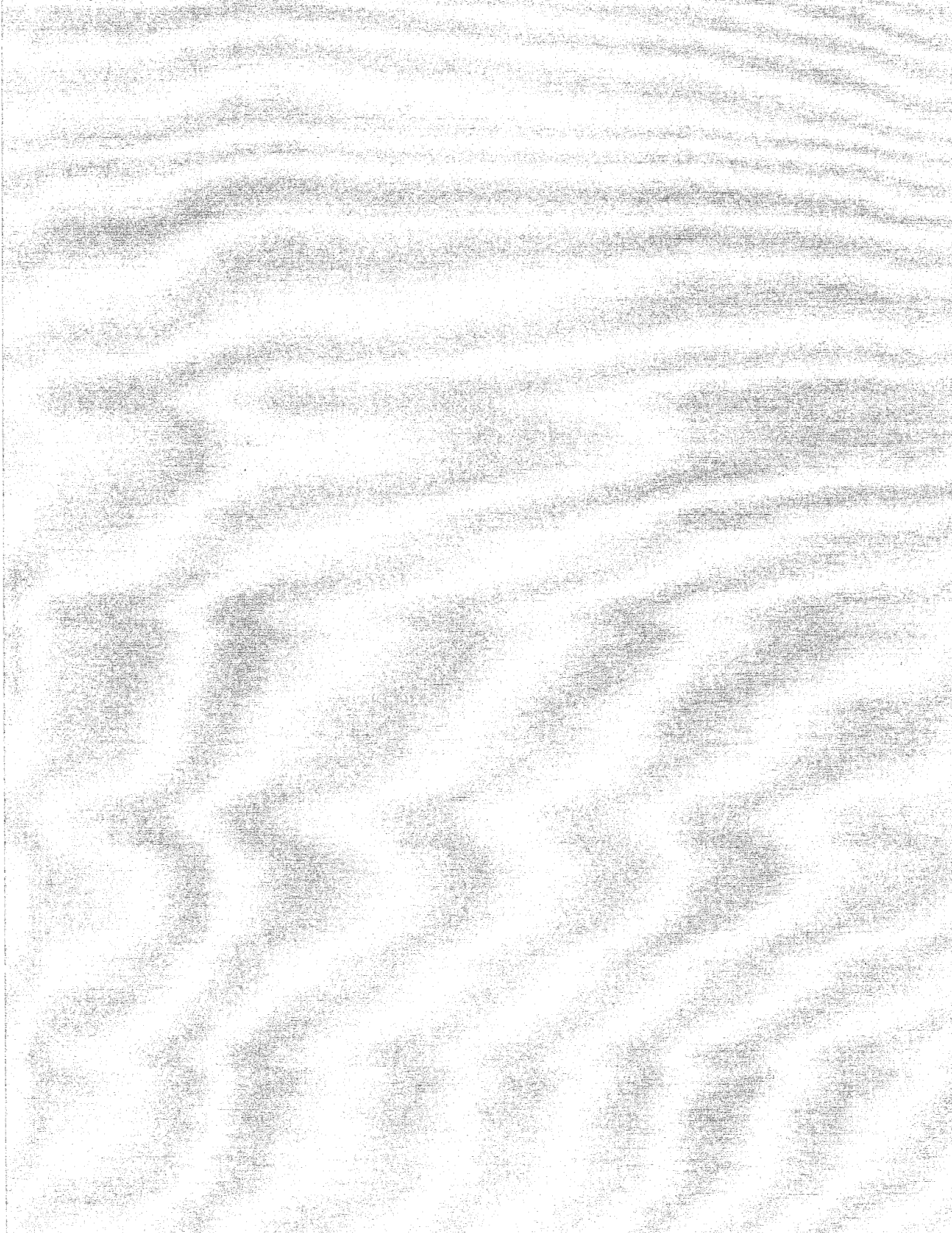
Corporate VISA	\$ 2,000.00
Subtotal Erie	<u>\$ 2,000.00</u>

Total Indebtedness **\$ 14,371,782.56**

The Indebtedness as at any proposed date of payment will also include any fees (inclusive of legal fees), commissions, costs, expenses and other amounts that have been incurred by the Lender for the account of the Borrowers, any adjustment resulting from any revolving or fluctuations in the borrowings, any commissions and other fees for letters of credit (if applicable) and accrued and unpaid interest from now to the date of payment at the rates set out in the Credit Agreement. The amount owing for any letters of credit (if applicable) shall be determined using the applicable interest rate as at any proposed date of payment.

**SCHEDULE D
GUARANTEES**

1. Full Recourse Guarantee executed by Fenmar in favour of the Lender dated September 7, 2017;
2. Full Recourse Guarantee executed by Batise in favour of the Lender dated September 29, 2016;
3. Full Recourse Guarantee executed by Marmelock in favour of the Lender dated September 29, 2016;
4. Full Recourse Guarantee executed by Umiak in favour of the Lender dated September 29, 2016;
5. Full Recourse Cross-Guarantee executed by Satin in favour of the Lender dated September 29, 2016;
6. Full Recourse Cross-Guarantee executed by Pacific in favour of the Lender dated September 29, 2016;
7. Full Recourse Cross-Guarantee executed by Erie in favour of the Lender dated September 29, 2016;
8. all other Guarantees granted by any one or more of the Guarantors or the Borrowers to the Lender not otherwise listed above.



BANKRUPTCY AND INSOLVENCY ACT.

FORM 86

Notice of Intention to Enforce Security
(Rule 124)

TO: SATIN FINISH HARDWOOD FLOORING, LIMITED, an insolvent person

Take notice that:

1. **CANADIAN IMPERIAL BANK OF COMMERCE**, a secured creditor, intends to enforce its security on the property of the insolvent person described below:

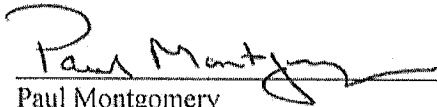
All of the property, assets, and undertaking charged by the security described in paragraph 2 of this Notice.
2. The security that is to be enforced is in the form of:

See Schedule "A".
3. The total amount of indebtedness secured by the security is:

See Schedule "B".
4. The secured creditor will not have the right to enforce the security until after the expiration of the ten (10) day period after this notice is sent unless the insolvent person consents to an earlier enforcement.

DATED at Toronto this 13th day of December, 2018.

CANADIAN IMPERIAL BANK OF COMMERCE

Per: 
Paul Montgomery
Senior Director, Special Loans

SCHEDULE "A"

SECURITY DOCUMENTS

1. General Security Agreement executed by Satin Finish Hardwood Flooring, Limited ("**Satin**") in favour of Canadian Imperial Bank of Commerce (the "**Lender**") dated September 29, 2016.
2. Notice of Intention to Give Security Under Section 427 of the Bank Act (Canada) executed by Satin in favour of the Lender dated September 27, 2016.
3. Special Security Agreement in Respect of Specified Property or Classes of Property executed by Satin in favour of the Lender dated September 29, 2016.
4. Application for Credit and Promise to Give Special Security executed by Satin in favour of the Lender dated September 29, 2016.
5. Contract Relative to Special Security executed by Satin in favour of the Lender dated September 29, 2016.
6. Full Recourse Guarantee executed by Satin in favour of the Lender dated September 29, 2016.
7. All other security granted by Satin to the Lender not otherwise listed above.

SCHEDULE "B"

INDEBTEDNESS

Indebtedness under the Credit Agreement as of December 12, 2018

E&OE

Satin Finish

Revolver	\$	11,835,059.46
Accrued Interest	\$	20,122.26
Fees	\$	30.00
Corporate VISA	\$	33,000.00
Subtotal Satin	\$	<u>11,888,211.72</u>

Erie Flooring and Wood Products

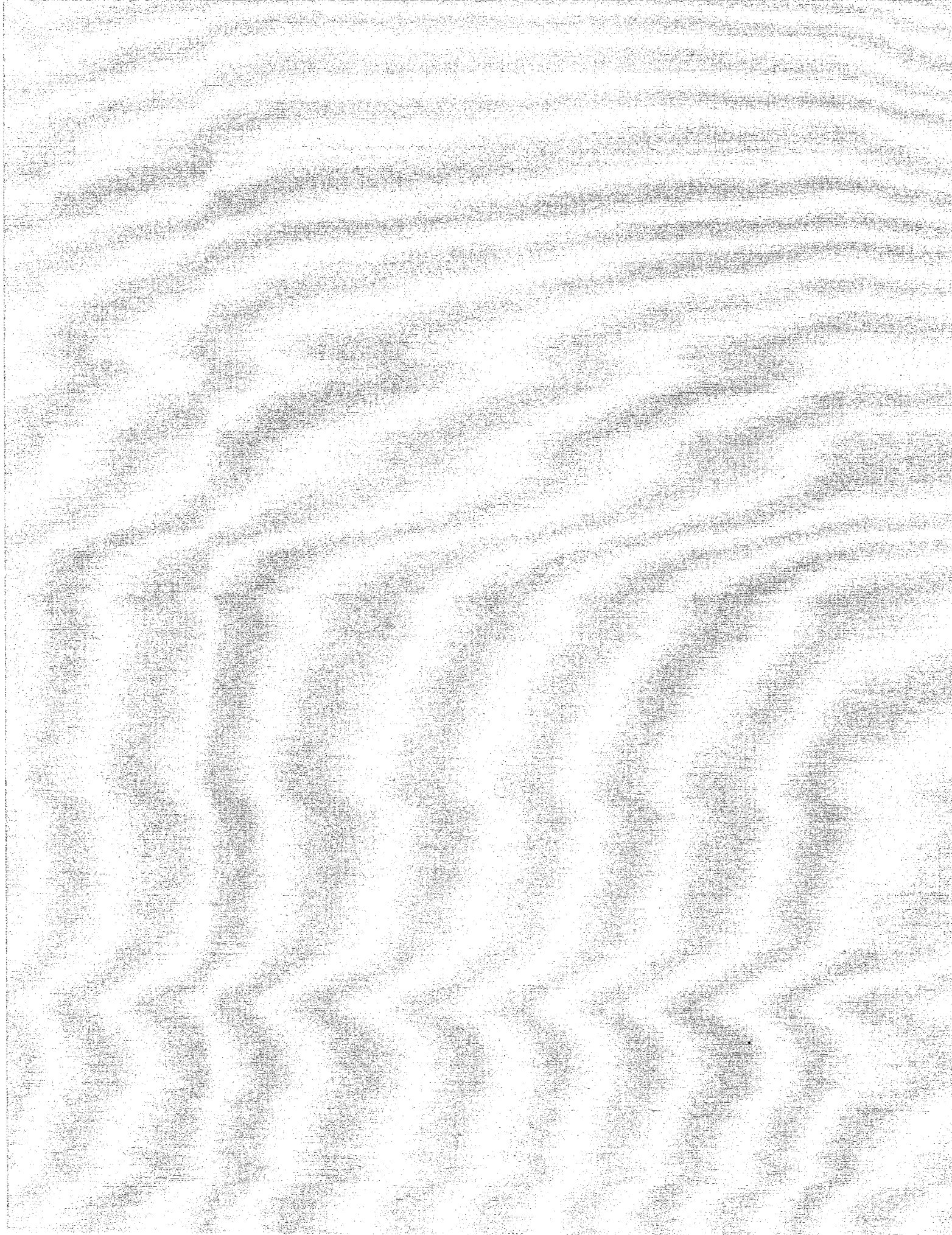
Revolver	\$	2,463,180.82
Accrued Interest	\$	3,360.02
Fees	\$	30.00
Corporate VISA	\$	15,000.00
Subtotal Erie	\$	<u>2,481,570.84</u>

Pacific Hardwood Limited

Corporate VISA	\$	2,000.00
Subtotal Erie	\$	<u>2,000.00</u>

Total Indebtedness **\$ 14,371,782.56**

The Indebtedness as at any proposed date of payment will also include any fees (inclusive of legal fees), commissions, costs, expenses and other amounts that have been incurred by the Lender for the account of the Borrowers, any adjustment resulting from any revolving or fluctuations in the borrowings, any commissions and other fees for letters of credit (if applicable) and accrued and unpaid interest from now to the date of payment at the rates set out in the Credit Agreement. The amount owing for any letters of credit (if applicable) shall be determined using the applicable interest rate as at any proposed date of payment.



WAIVER AND CONSENT

TO: Canadian Imperial Bank of Commerce (the “Lender”)

RE: Credit Agreement dated as of June 29, 2017, between Satin Finish Hardwood Flooring, Limited, Pacific Hardwood Limited, and Erie Flooring and Wood Products, as borrowers and guarantors, 15 Fenmar Investments Limited, Batise Investments Limited, Marmelock Investments Limited and Umiak Investments Limited, as guarantors, and the Lender, as lender (together with all written amendments, supplements, restatements and replacements, collectively, the “Credit Agreement”).

AND RE: Section 244 of the *Bankruptcy and Insolvency Act* R.S.C., 1985, c. B-3 (the “BIA”).

In consideration of the sum of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. Capitalized terms used in this Waiver and Consent and not otherwise defined herein have the meanings ascribed to such terms in the demand letter dated December 13, 2018 issued to each of the undersigned in respect of the Indebtedness owing to the Lender (the “Demand Letter”).
2. Each of the undersigned hereby acknowledges prior receipt of (i) the Demand Letter, and (ii) Notices of Intention to Enforce Security (the “NITES”) issued to each of the undersigned dated December 13, 2018 pursuant to Section 244(1) of the BIA.
3. Each of the undersigned hereby consents in accordance with Section 244(2) of the BIA to an immediate enforcement of the Lender’s Security and waives the 10 day notice period provided for under the Demand Letter, the NITES and Section 244 of the BIA.
4. Each of the undersigned hereby acknowledges that any forbearance by the Lender going forward shall be on a “day to day” basis only and none of such forbearance, the continuation of the extension of credit under the Credit Agreement by the Lender or any delay on the part of the Lender in exercising any of its rights and remedies under the Credit Agreement, the Security and/or applicable law, shall directly or indirectly: (i) create any obligation on the part of the Lender to forbear from taking any enforcement action, or to continue the extension of further credit; (ii) constitute a consent to or waiver of the Demand Letter, the NITES, or any past, present or future default or breach of any provisions of the Credit Agreement and/or any Security; and/or (iii) amend, modify or operate as a waiver of any provision of the Credit Agreement and/or any Security or any right, power, privilege or remedy of the Lender thereunder or under applicable, all of which are reserved.

This Consent and Waiver has been duly executed and delivered by each of the undersigned as of the 13th day of December, 2018.

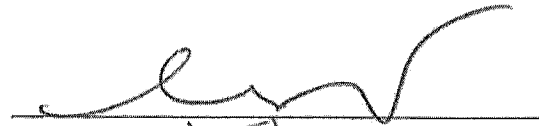
**SATIN FINISH HARDWOOD FLOORING,
LIMITED**

Per


Name: DAVID ZIMMERMAN
Title:

PACIFIC HARDWOOD LIMITED

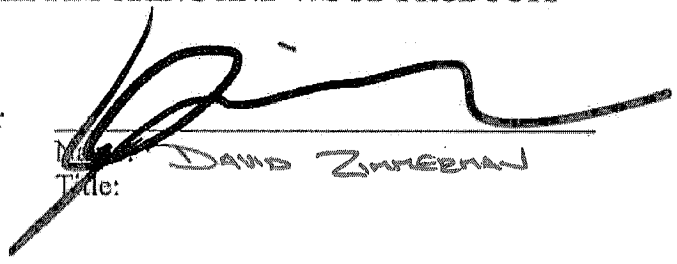
Per



Name: Nick Sam
Title: A.S.O. Director.

ERIE FLOORING AND WOOD PRODUCTS

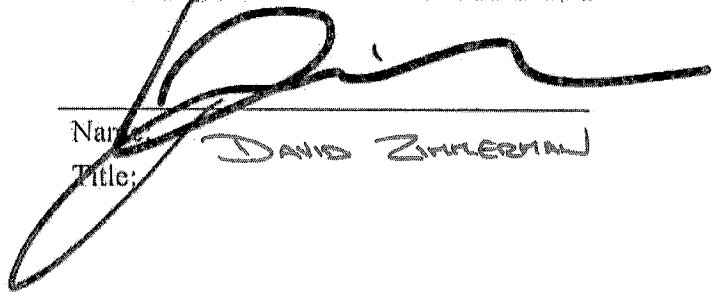
Per



DAVID ZIMMERMAN

Title:

15 FENMAR INVESTMENTS LIMITED

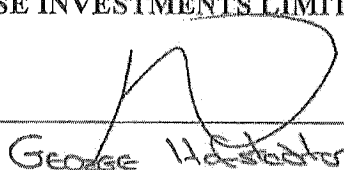


Name:

DAVID ZIMMERMAN

Title:

BATISE INVESTMENTS LIMITED



Name: George Horvath
Title: President

MARMELOCK INVESTMENTS LIMITED



Name: ROBERT RUBINSTEIN

Title: PRESIDENT

Acknowledged and Consented to by each of the undersigned in their capacity as beneficial owners of the lands and premises municipally known as 15 Fenmar Drive, Toronto, Ontario as held in title by 15 Fenmar Investments Limited as nominee:

GORDONNA ENTERPRISES LIMITED

Per: _____

Name:

Title:

DAVID ZIMMERMAN

UMIAK INVESTMENTS LIMITED

Per: _____

Name:

Title:

MARMELOCK INVESTMENTS LIMITED

Per: _____

Name:

Title:


GEOFAM REALTY INC.

Per: _____

Name:

Title:

UMIAK INVESTMENTS LIMITED



Name: Tom Kohn
Title:

Acknowledged and Consented to by each of the undersigned in their capacity as beneficial owners of the lands and premises municipally known as 15 Fenmar Drive, Toronto, Ontario as held in title by 15 Fenmar Investments Limited as nominee:

GORDONNA ENTERPRISES LIMITED

Per: _____
Name:
Title:

UMLIAK INVESTMENTS LIMITED

Per: _____
Name:
Title:

MARMELOCK INVESTMENTS LIMITED

Per: _____
Name:
Title:

GEOFAM REALTY INC.



Per: 
Name: George H. Goshier
Title: President

Acknowledged and Consented to by each of the undersigned in their capacity as beneficial owners of the lands and premises municipally known as 15 Fenmar Drive, Toronto, Ontario as held in title by 15 Fenmar Investments Limited as nominee:

GORDONNA ENTERPRISES LIMITED

Per: _____
Name:
Title:

UMIAK INVESTMENTS LIMITED

Per:  _____
Name: 
Title:

MARMELOCK INVESTMENTS LIMITED

Per: _____
Name:
Title:

GEOFAM REALTY INC.

Per: _____
Name:
Title:

Acknowledged and Consented to by each of the undersigned in their capacity as beneficial owners of the lands and premises municipally known as 15 Fenmar Drive, Toronto, Ontario as held in title by 15 Fenmar Investments Limited as nominee:

GORDONNA ENTERPRISES LIMITED

Per: _____
Name:
Title:

UMLIAK INVESTMENTS LIMITED

Per: _____
Name:
Title:

MARMELOCK INVESTMENTS LIMITED

Per: *R Rubinstein*
Name: ROBERT RUBINSTEIN
Title: PRESIDENT

GEOFAM REALTY INC.

Per: _____
Name:
Title:

Acknowledged and Consented to by each of the undersigned in their capacity as beneficial owners of the lands and premises municipally known as 15 Fenmar Drive, Toronto, Ontario as held in title by 15 Fenmar Investments Limited as nominee:

TOMEAM REALTY INC.

Per: _____

Name: *Tom H. G. G. G.*

Title: *President*

DAVFAM REALTY INC.

Per: _____

Name:

Title:

LINDIFAM REALTY INC.

Per: _____

Name:

Title:

Acknowledged and Consented to by each of the undersigned in their capacity as beneficial owners of the lands and premises municipally known as 15 Fenmar Drive, Toronto, Ontario as held in title by 15 Fenmar Investments Limited as nominee:


TOMFAM REALTY INC.

Per: _____
Name:
Title:

DAVFAM REALTY INC.

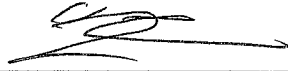
Per: _____
Name:
Title:

LINDIFAM REALTY INC.

Per: 
Name: Mark Mandelbaum
Title: President

TAB 2C

**THIS IS EXHIBIT "C"
REFERRED TO IN THE AFFIDAVIT OF
PAUL MONTGOMERY SWORN BEFORE
ME ON JUNE 17, 2019**



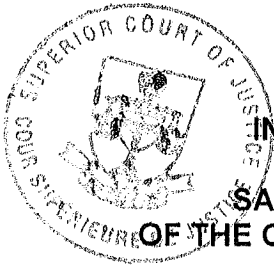
A Commissioner for Oaths and Notary Public in
and for the Province of Ontario

Thomas Gertner, Lawyer
Gowling WLG (Canada) LLP
Suite 1600, 1 First Canadian Place
100 King Street West
Toronto, Ontario
Canada, M5X 1G5

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)

THE HONOURABLE *ME*)
JUSTICE *T McGowan*)

FRIDAY, THE 7TH
DAY OF JUNE, 2019



IN THE MATTER OF A NOTICE OF INTENTION
TO MAKE A PROPOSAL OF
SATIN FINISH HARDWOOD FLOORING, LIMITED
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

APPROVAL AND VESTING ORDER

THIS MOTION, made by Satin Finish Hardwood Flooring, Limited ("**Satin Finish**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between Satin Finish and 2340125 Ontario Inc. (the "**Purchaser**") dated May 28, 2019 and appended to the Affidavit of David Zimmerman dated June 3, 2019, and vesting in the Purchaser Satin Finish's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**") and other relief, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of David Zimmerman and the Reports of MNP Ltd. in its capacity as proposal trustee of Satin Finish (the "**Proposal Trustee**") and on hearing the submissions of counsel for Satin Finish, the Proposal Trustee and Canadian Imperial Bank of Commerce ("**CIBC**"), no one appearing for any other person on the

service list, although properly served as appears from the affidavit of Karen A. Fox sworn June 4, 2019, filed:

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion, Motion Record and the Fourth Report of the Proposal Trustee dated on or about June 3, 2019 (the "**Fourth Report**") is hereby abridged and validated, such that the motion is properly returnable today, and that further service of the Motion Record and the Fourth Report on any other person is hereby dispensed with.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by Satin Finish is hereby authorized and approved.
3. **THIS COURT ORDERS** that Satin Finish be and is hereby authorized to take all necessary steps to complete the Transaction contemplated by the Sale Agreement.
4. **THIS COURT ORDERS** that Satin Finish be and is hereby authorized to change its name to 21091 Ontario Limited or another name which does not include "Satin Finish" or any derivation thereof forthwith on closing of the transaction contemplated by the Sale Agreement.
5. **THIS COURT ORDERS AND DECLARES** that, upon the delivery of a Proposal Trustee's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Proposal Trustee's Certificate**"), all of Satin Finish's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, 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 save and except for the liabilities and obligations and the security interests, charges, leases and other instruments relating thereto which the Purchaser has expressly agreed to assume under the Sale Agreement.

6. **THIS COURT ORDERS** that the sale of the Purchased Assets to the Purchaser is subject to the security of CIBC including the security identified on the attached Schedule B and that the security of CIBC is enforceable against the Purchased Assets without the requirement for CIBC to issue further Notices of Intention to Enforce Security under s. 244 of the *Bankruptcy and Insolvency Act* (the "BIA").

7. **THIS COURT ORDERS** that: (a) notwithstanding the Transaction, Satin Finish remains liable for the obligations owing to CIBC; and (b) the Excluded Assets, as defined by the Sale Agreement, remain subject to the security of CIBC.

8. **THIS COURT ORDERS AND DIRECTS** the Proposal Trustee to file with the Court a copy of the Proposal Trustee's Certificate, forthwith after delivery thereof.

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, Satin Finish is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in its records pertaining to Satin Finish's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

10. **THIS COURT ORDERS** that, notwithstanding the bankruptcy of Satin Finish, the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on the Proposal Trustee and ~~the~~ Satin Finish's trustee in bankruptcy and shall not be void or voidable by creditors of Satin Finish, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA 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.

11. **THIS COURT ORDERS** that the Fourth Report and the activities of the Proposal Trustee described therein be and are hereby approved, provided that only the Proposal

Trustee, in its personal capacity and only with respect to its personal capacity, shall be entitled to rely upon or utilize in any way such approval.

A handwritten signature in black ink, appearing to be "McIntosh", is written over a solid horizontal line.

#3699998 v2 | 4112265

Schedule A – Form of Proposal Trustee’s Certificate

Court File No. 31-2459849

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF A NOTICE OF INTENTION
TO MAKE A PROPOSAL OF
SATIN FINISH HARDWOOD FLOORING, LIMITED
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

PROPOSAL TRUSTEE’S CERTIFICATE

RECITALS

- A. Pursuant to a Notice of Intention to Make a Proposal filed by Satin Finish Hardwood Flooring, Limited (“**Satin Finish**”) under subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (“**BIA**”), MNP Ltd. was appointed as proposal trustee (the “**Proposal Trustee**”) of Satin Finish.
- B. Pursuant to an Order of the Court dated June 7, 2019, the Court approved the agreement of purchase and sale dated May 28, 2019 (the “**Sale Agreement**”) between Satin Finish and 2340125 Ontario Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser of Satin Finish’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchaser of a certificate (i) confirming that the conditions to Closing as set out in Article 4 of the Sale Agreement have been satisfied or waived by Satin Finish and the Purchaser and (ii) the Transaction has been completed to the satisfaction of the Proposal Trustee.
- C. Satin Finish has paid or has made satisfactory arrangements to make the payments required under sections 60(1.3)(a) and 60(1.5(a) of the BIA.
- D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE PROPOSAL TRUSTEE CERTIFIES the following:

1. The conditions to Closing as set out in Article 4 of the Sale Agreement have been satisfied or waived by Satin Finish and the Purchaser.
2. The Transaction has been completed to the satisfaction of the Proposal Trustee.; and
3. This Certificate was delivered by the Proposal Trustee at _____ [TIME] on _____ [DATE].

MNP LTD., in its capacity as Proposal Trustee of the undertaking, property and assets of Satin Finish Hardwood Flooring, Limited, and not in its personal capacity

Per: _____
Name:
Title:

#3699998 | 4112265

Schedule "B"

<u>Security Documents:</u>	
1.	General Security Agreement executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
2.	Notice of Intention to Give Security Under Section 427 of the <i>Bank Act</i> (Canada) executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 27, 2016
3.	Special Security Agreement In Respect of Specified Property or Classes of Property executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
4.	Application for Credit and Promise to Give Special Security executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
5.	Contract Relative to Special Security executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
6.	Full Recourse Guarantee, Assignment and Postponement of Claim executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016

<u>Registrations:</u>	
1.	Registration number 20150911 1533 1590 3225 against Satin Finish under the <i>Personal Property Security Act</i> (Ontario) in favour of Canadian Imperial Bank of Commerce
2.	Registration number 20160921 1031 1682 6308 against Satin Finish under the <i>Personal Property Security Act</i> (Ontario) in favour of Canadian Imperial Bank of Commerce
3.	Registration number 01308329 against Satin Finish under the <i>Bank Act</i> in favour of Canadian Imperial Bank of Commerce

IN THE MATTER OF A NOTICE OF INTENTION TO MAKE A PROPOSAL OF
SATIN FINISH HARDWOOD FLOORING, LIMITED
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

Court File No. 31-2459849

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)**

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

MINDEN GROSS LLP
Barristers and Solicitors
2200 - 145 King Street West
Toronto, ON M5H 4G2

Catherine Francis (LSUC# 26900N)
cfrancis@mindingross.com

Tel: 416-369-4137
Fax: 416-864-9223

Lawyers for Satin Finish Hardwood Flooring, Limited

Court File No.:

BETWEEN:

**Canadian Imperial Bank of Commerce
Applicant**

- and -

**Satin Finish Hardwood Flooring, Limited
Respondent**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

**AFFIDAVIT OF PAUL MONTGOMERY
(Sworn June 17, 2019)**

GOWLING WLG (CANADA) LLP
Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

E. Patrick Shea (LSUC No.: 39655K)
Telephone: (416) 369-7399
Facsimile: (416) 862-7661

SOLICITORS FOR THE APPLICANT

TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

(Commercial List)

THE HONOURABLE) ~~WEEKDAY~~MONDAY, THE #17TH
JUSTICE) DAY OF ~~MONTH~~JUNE, ~~20YR~~2019

PLAINTIFF¹

Plaintiff

BETWEEN

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

DEFENDANT

Defendant

**ORDER
(appointing Receiver)**

SATIN FINISH HARDWOOD FLOORING, LIMITED

Respondent

¹~~The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~

~~THIS MOTION made by the Plaintiff² for an Order pursuant to~~ APPLICATION UNDER section 243(1)101 of the Bankruptcy and Insolvency Courts of Justice Act, R.S.O. 1985,1990, c. B-3, as amended (the "BIA") and C.43, as amended

APPOINTMENT ORDER

THIS APPLICATION made by the Canadian Imperial Bank of Commerce ("CIBC") for (i) an Order pursuant to section 101 of the Courts of Justice Act, R.S.O. 1990, c. C.43, as amended-43 (the "'CJA'") appointing [RECEIVER'S NAME]MNP Ltd. ("MNP") as receiver [and manager] (in such capacitiescapacity, the "'Receiver'") without security, of all-of the assets, undertakings and properties of [DEBTOR'S NAME] (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, and property (the "Property") of Satin Finish Hardwood Flooring, Limited (the "Debtor") for the sole purpose of completing the sale transaction contemplated by an agreement of purchase and sale between the Debtor and 2340125 Ontario Inc. (the "Purchaser") dated May 28, 2019 (the "Transaction") previously approved by the Ontario Superior Court of Justice (in Bankruptcy and Insolvency) [Commercial List] pursuant to an Approval and Vesting Order dated 7 June 2019 and administering the Employee Trust Fund (defined below); and (ii) an Order vesting the Purchased Assets (as defined in the Sale Agreement) in the Purchaser was heard this day at 330 University AvenueAve., Toronto, Ontario.

~~ON READING the affidavitAffidavit of [NAME] sworn [DATE] and the Exhibits thereto~~ Paul Montgomery sworn 17 June 2019 and the Pre-Appointment Report dated June 17, 2019 of MNP, the proposed Receiver (the "Pre-Appointment Report"), and on hearing the submissions of counsel for [NAMES], no one appearing for [NAME] although duly served as appears from the affidavit of service of [NAME] sworn [DATE] and on reading the consent of [RECEIVER'S NAME] to act as the ReceiverCIBC and MNP, and such other persons listed on the counsel slip,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of ~~Motion~~ Application and the ~~Motion~~ Application Record be and is hereby abridged and validated so that this ~~motion~~ Application is properly returnable today and hereby dispenses with further service thereof.

²~~Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~

APPOINTMENT

2. THIS COURT ORDERS that pursuant to ~~section 243(1) of the BIA and~~ section 101 of the CJA, ~~[RECEIVER'S NAME]~~MNP is hereby appointed ~~Receiver~~as receiver of the Property and the Debtor, without security, ~~of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property")~~for the sole purpose of completing the Transaction and administering the Employee Trust Fund pursuant to the applicable provisions of this Order.

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered ~~and~~, authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable: and directed to:

- ~~(a) — to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;~~
- ~~(b) — to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;~~
- ~~(c) — to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;~~

- a. complete the Transaction;
- b. execute, sign, issue and endorse documents of whatever nature and take such other actions as are necessary for the purposes of completing the Transaction;

- c. administer the Employee Trust Fund in accordance with the applicable provisions of this Order;
- d. execute, sign, issue and endorse documents of whatever nature and take such other actions as are necessary for the purposes of administering the Employee Trust Fund and disbursing all the funds therein pursuant to the applicable provisions of this Order;
- e. ~~(d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;~~
- ~~(e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;~~
- ~~(f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;~~
- ~~(g) to settle, extend or compromise any indebtedness owing to the Debtor;~~
- ~~(h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;~~
- ~~(i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;~~

~~(j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;~~

~~(k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business;~~

~~(i) without the approval of this Court in respect of any transaction not exceeding \$ _____, provided that the aggregate consideration for all such transactions does not exceed \$ _____; and~~

~~(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;~~

~~and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, [or section 31 of the Ontario *Mortgages Act*, as the case may be,] shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.~~

~~(l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;—~~

f. ~~(m) to~~ report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to ~~the Property~~its powers and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

~~(n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;~~

~~(o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;~~

~~g. (p) to enter into agreements with any the trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor; (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and~~

~~h. (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.~~

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") ~~shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.~~ 5. ~~THIS COURT ORDERS that all~~ **Persons** shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the ~~business or affairs~~ Employee Trust Fund and the obligations of the Debtor for which the Employee Trust Fund has been established, and any computer programs, computer tapes, computer disks, or other data storage media containing any such

information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 54 or in paragraph 65 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

5. ~~6.~~ **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

~~7. — THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.~~

NO PROCEEDINGS AGAINST THE RECEIVER

6. ~~8.~~ **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

7. ~~9.~~ **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor ~~or,~~ the Property or the Employee Trust Fund shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor ~~or,~~ the Property or the employee Trust Fund are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

8. ~~10.~~ **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, or the Employee Trust Fund are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, ~~provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.~~

~~**NO INTERFERENCE WITH THE**~~**RECEIVER TO HOLD AND ADMINISTER EMPLOYEE TRUST FUND**

9. **THIS COURT ORDERS** that the amount of \$337,087.43 paid to the Receiver, as described in the Pre-Appointment Report, for the sole and express purposes of paying (a) the claims, as proved or admitted, described in section 81.4(1) and 81.6(1) of the BIA and (b) the wages, salaries, commissions or compensation, as proved or admitted, for services rendered by employees and former employees of the Debtor after January 2, 2019 and to and including June 14, 2019 (the "**NOI Period**") and disbursements of travelling salespersons properly incurred by

them in and about the Debtor's business during the NOI Period (collectively, the "Purpose"), and any future amounts in excess of \$337,087.43 paid to the Receiver for the Purpose, shall be held in trust by the Receiver separate and apart from other funds held by the Receiver, and the beneficiaries of such trust shall be (A) in the case of Purpose (a), the Persons with valid claims, as proved or admitted, who are entitled to security against the Debtor's current assets pursuant to section 81.4(1) of the BIA or against all the Debtor's assets pursuant to section 81.6(1) of the BIA and, in the case of Purpose (b), the Persons entitled to receive the payments, as proved or admitted, described in section 60(1.3)(a) of the BIA for services rendered and disbursements of travelling salespersons properly incurred during the NOI Period had the court approved a BIA Part III, Division I proposal in respect of the Debtor (the beneficiaries under (A) collectively, the "Employee Beneficiaries"), and (B) to the extent that monies in the Employee Trust Fund are not required for the Purpose, the Purchaser (subject to the interest of the Purchaser's secured creditors) and any other Person who after the date hereof pays monies to the Receiver for the Purpose (collectively, the "Contributing Parties"), *pro rata* based on the respective payments of such Persons (such trust, the "Employee Trust Fund"). The payment by the Contributing Parties of the amount of \$337,087.43 or any future amounts into the Employee Benefit Trust shall be on a "without prejudice" basis and shall not be or deemed to be an admission by any of them of the validity of any of the claims of the Employee Beneficiaries.

10. **THIS COURT ORDERS** that the Receiver shall no later than 5:00 p.m. (Toronto time) on July 5, 2019 provide written notice of the Employee Trust Fund and the procedures with respect to proving claims thereto established under this Order and as provided in the BIA, together with a notice to prove claims against the Trust Fund to (a) in the case of Employee Beneficiaries who are or were members of Teamsters Local Union 847 (the "Local"), to the Local only and notice to the members themselves of the Local or any other Persons is hereby dispensed with, (b) in the case of Employee Beneficiaries who are not or were not members of the Local, to the Persons who are the Employee Beneficiaries at their last known addresses appearing in the records of the Debtor, and (b) to such other Persons who the Receiver considers ought to receive notice.

11. ~~THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement,~~

~~licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.~~ THIS COURT ORDERS that Employee Beneficiaries, or other persons with authority under section 126(2) of the BIA, who wish to assert claims against the Employee Trust Fund, shall do so no later than 5:00 p.m. (Toronto time) on August 2, 2019 and in accordance with such section 126(2) and other applicable provisions of the BIA and use such forms and procedures as are prescribed by the BIA, failing which the claims against the Employee Trust Fund of the non-complying Employee Beneficiaries shall be forever barred and extinguished.

~~CONTINUATION OF SERVICES~~

12. **THIS COURT ORDERS** that ~~all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.~~ the Receiver shall consult with the Contributing Parties and the Purchaser's secured creditors in connection with its consideration of and determination of all claims filed against the Employee Trust Fund, provided that the Receiver itself shall make the final determinations on the treatment of all claims filed, subject to review by this Court pursuant to the provisions of this Order or under the applicable provisions of the BIA.

~~RECEIVER TO HOLD FUNDS~~

13. **THIS COURT ORDERS** that ~~all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this~~

~~Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.~~ the Contributing Parties and the Purchaser's secured creditors shall have standing to participate by their counsel in any and all proceedings taken pursuant to the provisions of this Order or the applicable provisions of the BIA in respect of the Employee Trust Fund or the claims filed against the Employee Trust Fund.

EMPLOYEES

14. **THIS COURT ORDERS** that ~~all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees.~~ The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

~~15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all~~

~~other personal information to the Receiver, or ensure that all other personal information is destroyed.~~

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. ~~16.~~ **THIS COURT ORDERS** that ~~nothing herein contained shall require~~ the Receiver ~~to~~shall not occupy or ~~to~~ take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property ~~that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the Canadian Environmental Protection Act, the Ontario Environmental Protection Act, the Ontario Water Resources Act, or the Ontario Occupational Health and Safety Act and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation.~~ The, and the Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession~~the Canadian Environmental Protection Act, the Ontario Environmental Protection Act, the Ontario Water Resources Act, or the Ontario Occupational Health and Safety Act and regulations thereunder.~~

LIMITATION ON THE RECEIVER'S LIABILITY

16. ~~17.~~ **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. ~~Nothing, and~~ nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. ~~18.~~ **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, ~~and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.~~³ 3

18. ~~19.~~ **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice in Toronto.

~~20.— THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.~~

FUNDING OF THE RECEIVERSHIP

~~21.— THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$_____ (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the~~

³Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".

~~Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.~~

~~22.— THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.~~

~~23.— THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.~~

~~24.— THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.~~

SERVICE AND NOTICE

19. ~~25.~~ **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a

Case Website shall be established in accordance with the Protocol with the following URL

~~<@>~~:<<https://mnpdebt.ca/en/corporate/engagements/satin-finish-flooring-limited>>

20. ~~26.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

21. ~~27.~~ **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder, including those in respect of the Employee Trust Fund.

22. **THIS COURT ORDERS** that the Contributing Parties may from time to time apply to this Court for a determination of any matter relating to the Employee Trust Fund on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

23. ~~28.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

24. ~~29.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States 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.

~~30.— THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.~~

~~31.— THIS COURT ORDERS that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.~~

~~32.— THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.~~

Court File No.:

BETWEEN:

Canadian Imperial Bank of Commerce

- and -

Satin Finish Hardwood Flooring, Limited

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

(PROCEEDING COMMENCED AT TORONTO)

RECEIVERSHIP ORDER

GOWLING WLG (CANADA) LLP
Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

E. Patrick Shea (LSUC No.: 39655K)
Telephone: (416) 369-7399
Facsimile: (416) 862-7661

SOLICITORS FOR THE APPLICANT

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

~~1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number ___ CL _____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.~~

~~2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.~~

~~3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.~~

~~4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.~~

~~5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.~~

~~6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.~~

~~7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.~~

DATED the _____ day of _____, 20__.

~~[RECEIVER'S NAME], solely in its capacity
as Receiver of the Property, and not in its
personal capacity~~

Per:

Name:

Title:

Document comparison by Workshare Compare on June-17-19 9:46:11 AM

Input:	
Document 1 ID	file:///torfil05/Personal01/gertnert/Desktop/SATIN CLOSING DOCUMENTS\Court Materials\Model - receivership-order-EN.doc
Description	Model - receivership-order-EN
Document 2 ID	file:///C:/Users/GertnerT/AppData/Local/Temp/Workshare/wmtemp3fec/TOR_LAW-#9956486-v5-CIBC__Satin_Finish_Receivership_Order.DOC
Description	TOR_LAW-#9956486-v5-CIBC__Satin_Finish_Receivership_Order
Rendering set	Firm Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	

Padding cell	
--------------	--

Statistics:	
	Count
Insertions	133
Deletions	150
Moved from	3
Moved to	3
Style change	0
Format changed	0
Total changes	289

TAB 4

ONTARIO
SUPERIOR COURT OF JUSTICE
(~~IN BANKRUPTCY AND INSOLVENCY~~)
(Commercial List)

THE HONOURABLE _____) FRIDAY~~MONDAY~~, THE 7TH
JUSTICE _____) DAY OF JUNE, 2019

BETWEEN

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

~~IN THE MATTER OF A NOTICE OF INTENTION
TO MAKE A PROPOSAL OF
SATIN FINISH HARDWOOD FLOORING, LIMITED
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO~~

Respondent

APPLICATION UNDER section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C.43, as amended

APPROVAL AND VESTING ORDER

~~THIS MOTION, made by~~APPLICATION made by the Canadian Imperial Bank of Commerce ("CIBC") for (i) an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43 appointing MNP Ltd. ("MNP") as receiver and manager (in such capacity, the "Receiver") without security of the assets and property (the "Property") of Satin Finish Hardwood Flooring, Limited ("~~Satin Finish~~") for an order approving the "Debtor") for the primary purpose of completing the sale transaction (the "~~Transaction~~") contemplated by an agreement of purchase and sale (the "~~Sale Agreement~~") between Satin Finish the Debtor and 2340125 Ontario Inc. (the "~~Purchaser~~") dated May 28, 2019 and appended to the Affidavit of David Zimmerman (the "~~Transaction~~") previously approved by the Ontario Superior Court of Justice [Commercial List] pursuant to an Approval and Vesting Order dated 7 June 3, 2019, and

vesting in the Purchaser Satin Finish's right, title and interest in and to the assets described 2019 and administering the Employee Trust Fund, as described and defined in such Order; and (ii) an Order vesting the Purchased Assets (as defined in the Sale Agreement (the "Purchased Assets") and other relief,) in the Purchaser; was heard this day at 330 University Avenue Ave., Toronto, Ontario.

ON READING the Affidavit of ~~David Zimmerman~~ Paul Montgomery sworn 17 June 2019 and the ~~Reports~~ Pre-Appointment Report of MNP Ltd. in its capacity as ~~proposal trustee of Satin Finish (the "Proposal Trustee")~~ proposed Receiver, and on hearing the submissions of counsel for ~~Satin Finish, the Proposal Trustee and Canadian Imperial Bank of Commerce ("CIBC"), no one appearing for any other person on the service list, although properly served as appears from the affidavit of Karen A. Fox sworn June 4, 2019, filed: CIBC, MNP and those other parties listed on the counsel slip,~~

~~1. THIS COURT ORDERS~~ that the time for service and filing of the Notice of Motion, Motion Record and the Fourth Report of the Proposal Trustee dated on or about June 3, 2019 (the "Fourth Report") is hereby abridged and validated, such that the motion is properly returnable today, and that further service of the Motion Record and the Fourth Report on any other person is hereby dispensed with.

~~1.~~ 2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by Satin Finish is hereby authorized ratified and approved.

~~2.~~ 3. THIS COURT ORDERS that ~~Satin Finish~~ the Receiver be and is hereby authorized and directed to execute on behalf of the Debtor all necessary closing documents relating to the Transaction and to take all necessary steps to complete the Transaction ~~contemplated by the Sale Agreement.~~

~~3.~~ 4. THIS COURT ORDERS that ~~Satin Finish~~ the Receiver be and is hereby authorized to change ~~its~~ the Debtor's name to 21091 Ontario Limited or another name which does not include "Satin Finish" or any derivation thereof forthwith on closing of the transaction contemplated by the Sale Agreement.

4. ~~5.~~ **THIS COURT ORDERS AND DECLARES** that, upon the delivery by the Receiver of a ~~Proposal Trustee's certificate~~ Receiver's Certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "~~Proposal Trustee~~Receiver's Certificate"), all of ~~Satin Finish's~~ the right, title and interest of the Debtor and MNP in its capacity as Receiver in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, 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 save and except for the liabilities and obligations and the security interests, charges, leases and other instruments relating thereto which the Purchaser has expressly agreed to assume under the Sale Agreement.

5. ~~6.~~ **THIS COURT ORDERS** that the sale of the Purchased Assets to the Purchaser is subject to the security of CIBC including the security identified on the attached Schedule "B" and that the security of CIBC is enforceable against the Purchased Assets without the requirement for CIBC to issue further Notices of Intention to Enforce Security under s. 244 of the *Bankruptcy and Insolvency Act* (the "BIA").

6. ~~7.~~ **THIS COURT ORDERS** that: (a) notwithstanding the Transaction, ~~Satin Finish~~ the Debtor remains liable for the obligations owing to CIBC; and (b) the Excluded Assets, as defined by the Sale Agreement, remain subject to the security of CIBC.

7. ~~8.~~ **THIS COURT ORDERS AND DIRECTS** the ~~Proposal Trustee~~ Receiver to file with the Court a copy of the ~~Proposal Trustee~~ Receiver's Certificate, forthwith after delivery thereof.

8. ~~9.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, ~~Satin Finish~~ the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in its records pertaining to Satin Finish's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

2 ~~10.~~ **THIS COURT ORDERS** that, notwithstanding the bankruptcy of ~~Satin Finish~~ the Debtor, the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on ~~the Proposal Trustee and Satin Finish's MNP in its capacity as trustee~~ in bankruptcy and shall not be void or voidable by creditors of ~~Satin Finish, nor the Debtor and~~ shall it not constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA 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.

~~11.~~ **THIS COURT ORDERS** that ~~the Fourth Report and the activities of the Proposal Trustee described therein be and are hereby approved, provided that only the Proposal Trustee, in its personal capacity and only with respect to its personal capacity, shall be entitled to rely upon or utilize in any way such approval.~~

#3699998 v2 | 4112265

~~Schedule A – Form of Proposal Trustee’s Certificate~~

SCHEDULE “A”

Court File No.: 31-2459849

ONTARIO
SUPERIOR COURT OF JUSTICE
~~(IN BANKRUPTCY AND INSOLVENCY)~~
(Commercial List)

BETWEEN

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

~~IN THE MATTER OF A NOTICE OF INTENTION
TO MAKE A PROPOSAL OF
SATIN FINISH HARDWOOD FLOORING, LIMITED
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO~~

Respondent

APPLICATION UNDER section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C.43, as amended

PROPOSAL TRUSTEE/RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to ~~a Notice of Intention to Make a Proposal filed by an Order dated 17 June 2019, MNP Ltd. (“MNP”) was appointed receiver (in such capacity, the “Receiver”) of the assets and property of Satin Finish Hardwood Flooring, Limited (“Satin Finish”) under subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (“BIA”), MNP Ltd. was appointed as proposal trustee (the “Proposal Trustee”) of Satin Finish.~~ Pursuant to ~~an Order of the Court dated June 7, 2019, the Court approved the~~ for the sole purpose of completing the sale transaction contemplated by an agreement of purchase and sale dated May 28, 2019 (the “Sale Agreement”) between Satin Finish and 2340125 Ontario Inc. (the “Purchaser”) dated May 28, 2019 (the “Transaction”) previously approved by the Ontario Superior Court of Justice [Commercial List] pursuant to an Approval and Vesting Order dated 7 June 2019 and administering the Employee Trust Fund.

B. Pursuant to a second Order dated 17 June 2019, the Court affirmed and approved the Sale Agreement and provided for the vesting in the Purchaser of Satin Finish’s the right, title and interest of Satin Finish and MNP in its capacity as Receiver in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee/Receiver to the Purchaser of a certificate (i) Certificate confirming that the conditions to Closing as set out in Article 4 of the Sale Agreement have been satisfied or waived by Satin Finish

and the Purchaser; and (ii) the Transaction has been completed to the satisfaction of the ~~Proposal Trustee~~Receiver.

C. ~~Satin Finish has paid or has made satisfactory arrangements to make the payments required under sections 60(1.3)(a) and 60(1.5(a) of the BIA. The Receiver has received the amount of \$337,087.43 by way of contribution to the Employee Trust Fund.~~

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

~~THE PROPOSAL TRUSTEE~~**RECEIVER CERTIFIES** the following:

1. The conditions to Closing as set out in Article 4 of the Sale Agreement have been satisfied or waived by ~~Satin Finish~~the Receiver and the Purchaser.
2. The Transaction has been completed to the satisfaction of the ~~Proposal Trustee~~Receiver; and
3. This Certificate was delivered by the ~~Proposal Trustee~~Receiver at _____ [TIME] on _____ [DATE].

**MNP LTD., in its capacity as
~~Proposal Trustee~~Receiver of the
undertaking, property and assets
of Satin Finish Hardwood
Flooring, Limited, and not in its
personal capacity**

P
e
r
:

Name:

Title:

~~Schedule "B"~~

SCHEDULE "B"

<u>Security Documents:</u>	
1.	General Security Agreement executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
2.	Notice of Intention to Give Security Under Section 427 of the <i>Bank Act</i> (Canada) executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 27, 2016
3.	Special Security Agreement In Respect of Specified Property or Classes of Property executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
4.	Application for Credit and Promise to Give Special Security executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
5.	Contract Relative to Special Security executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
6.	Full Recourse Guarantee, Assignment and Postponement of Claim executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016

<u>Registrations:</u>	
1.	Registration number 20150911 1533 1590 3225 against Satin Finish under the <i>Personal Property Security Act</i> (Ontario) in favour of Canadian Imperial Bank of Commerce
2.	Registration number 20160921 1031 1682 6308 against Satin Finish under the <i>Personal Property Security Act</i> (Ontario) in favour of Canadian Imperial Bank of Commerce
3.	Registration number 01308329 against Satin Finish under the <i>Bank Act</i> in favour of Canadian Imperial Bank of Commerce

TAB 5

Court File No.: _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

(Commercial List)

THE HONOURABLE _____) ~~WEEKDAY~~ MONDAY, THE #17TH
JUSTICE _____) ~~DAY OF MONTH~~ JUNE, 20YR2019

B E T W E E N:-

~~PLAINTIFF~~

Plaintiff

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

~~DEFENDANT~~

Defendant

SATIN FINISH HARDWOOD FLOORING, LIMITED

Respondent _____

APPLICATION UNDER section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C.43, as amended.

APPROVAL AND VESTING ORDER

~~THIS MOTION, made by [RECEIVER'S NAME] in its capacity as the Court-appointed~~APPLICATION made by the Canadian Imperial Bank of Commerce ("CIBC") for (i) an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43 appointing MNP Ltd. ("MNP") as receiver (the "and manager (in such capacity, the "Receiver") without security of the undertaking, property and assets of [DEBTOR] (the "Debtor") for an order approving assets and property (the "Property") of Satin Finish Hardwood Flooring.

Limited (the "Debtor") for the primary purpose of completing the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"),) between the Debtor and 2340125 Ontario Inc. (the "Purchaser") dated May 28, 2019 (the "Transaction") previously approved by the Ontario Superior Court of Justice [Commercial List] pursuant to an Approval and Vesting Order dated 7 June 2019 and administering the Employee Trust Fund, as described and defined in such Order; and (ii) an Order vesting the Purchased Assets (as defined in the Sale Agreement) in the Purchaser; was heard this day at 330 University AvenueAve., Toronto, Ontario.

ON READING the ReportAffidavit of Paul Montgomery sworn 17 June 2019 and the Pre-Appointment Report of MNP in its capacity as proposed Receiver, and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other personCIBC, MNP and those other parties listed on the service list, although properly served as appears from the affidavit of [NAME] sworn [DATE] filed: counsel slip.

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby ratified and approved.

THIS COURT ORDERS that the Receiver be and is hereby authorized and directed to execute on behalf of the Debtor all necessary closing documents relating to the Transaction and to take all necessary steps to complete the Transaction.

3. THIS COURT ORDERS that the Receiver be and is hereby authorized to change the Debtor's name to 21091 Ontario Limited or another name which does not include "Satin Finish" or any derivation thereof forthwith on closing of the transaction contemplated by the Sale Agreement.

4. THIS COURT ORDERS AND DECLARES that, upon the delivery by the Receiver of a Receiver's certificateCertificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest of the Debtor and MNP in its capacity as Receiver in and to the Purchased Assets described in the Sale Agreement [and listed on Schedule B hereto] shall vest absolutely in the Purchaser, 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 the Honourable Justice [NAME] dated [DATE]; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule 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 Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets save and except for the liabilities and obligations and the security interests, charges, leases and other instruments relating thereto which the Purchaser has expressly agreed to assume under the Sale Agreement.

3. ~~THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the *Land Registration Reform Act* duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real~~

Property”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

5. **THIS COURT ORDERS** that the sale of the Purchased Assets to the Purchaser is subject to the security of CIBC including the security identified on the attached Schedule “B” and that the security of CIBC is enforceable against the Purchased Assets without the requirement for CIBC to issue further Notices of Intention to Enforce Security under s. 244 of the *Bankruptcy and Insolvency Act* (the “BIA”).

6. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale; (a) notwithstanding the Transaction, the Debtor remains liable for the obligations owing to CIBC; and (b) the Excluded Assets, as defined by the Sale Agreement, remain subject to the security of CIBC.

7. ~~5.~~ **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

8. ~~6.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor Satin Finish's past and current employees, including personal information of those employees listed on Schedule “A” to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

9. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding (a) the pendency of these proceedings;

- (b) ~~any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and~~
- (c) ~~any assignment in bankruptcy made in respect of the Debtor; of the Debtor, the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any MNP in its capacity as trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor and shall not constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) BIA 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.~~

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

~~9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States 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.~~

Revised: January 21, 2014

~~Schedule A – Form of Receiver’s Certificate~~ **SCHEDULE “A”**

Court File No.: _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

(Commercial List)

B E T W E E N:-

~~PLAINTIFF~~

Plaintiff

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

~~DEFENDANT~~

Defendant

SATIN FINISH HARDWOOD FLOORING, LIMITED

Respondent

APPLICATION UNDER section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C.43, as amended

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice (the "Court") dated [DATE OF ORDER], [NAME OF RECEIVER] dated 17 June 2019, MNP Ltd. ("MNP") was appointed as the receiver (in such capacity, the "**Receiver**") of the undertaking, property and assets of [DEBTOR] (the "Debtor"), assets and property of Satin Finish Hardwood Flooring, Limited ("**Satin Finish**") for the sole purpose of completing the sale transaction contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between Satin Finish and 2340125 Ontario Inc. (the "**Purchaser**") dated May 28, 2019 (the "**Transaction**") previously approved by the Ontario Superior Court of Justice [Commercial List], pursuant to an Approval and Vesting Order dated 7 June 2019 and administering the Employee Trust Fund.

B. Pursuant to a second Order of the Court dated [DATE], 17 June 2019, the Court affirmed and approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the
TOR LAW 9956497/2

~~"Purchaser") Sale Agreement and provided for the vesting in the Purchaser of the Debtor's right, title and interest of Satin Finish and MNP in its capacity as Receiver in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a ~~certificate~~ Certificate confirming (i) ~~the payment by the Purchaser of the Purchase Price for the Purchased Assets;~~ (ii) that the conditions to Closing as set out in ~~section 4~~ Article 4 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.~~

C. The Receiver has received the amount of 337,087.43 by way of contribution to the Employee Trust Fund.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. ~~The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;~~ ~~2. The conditions to Closing as set out in section 4 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and~~

~~3. The Transaction has been completed to the satisfaction of the Receiver; and~~

~~4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].~~

~~NAME OF RECEIVER~~ MNP LTD., in its capacity as Receiver of the ~~undertaking~~, property and assets of ~~DEBTOR~~ Satin Finish Hardwood Flooring, Limited, and not in its personal capacity

P
e
r:

Name:

Title:

#3699998 | 4112265

TOR LAW\996649\2

Revised: January 21, 2014

SCHEDULE "B"**Schedule B—Purchased Assets**

Security Documents:	
1.	General Security Agreement executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
2.	Notice of Intention to Give Security Under Section 427 of the <i>Bank Act</i> (Canada) executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 27, 2016
3.	Special Security Agreement In Respect of Specified Property or Classes of Property executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
4.	Application for Credit and Promise to Give Special Security executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
5.	Contract Relative to Special Security executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016
6.	Full Recourse Guarantee, Assignment and Postponement of Claim executed by Satin Finish in favour of Canadian Imperial Bank of Commerce dated September 29, 2016

Registrations:	
1.	Registration number 20150911-1533-1590-3225 against Satin Finish under the <i>Personal Property Security Act</i> (Ontario) in favour of Canadian Imperial Bank of Commerce
2.	Registration number 20160921-1031-1682-6308 against Satin Finish under the <i>Personal Property Security Act</i> (Ontario) in favour of Canadian Imperial Bank of Commerce
3.	Registration number 01308329 against Satin Finish under the <i>Bank Act</i> in favour of Canadian Imperial Bank of Commerce

<u>BETWEEN</u>		Court File No. _____	
Canadian Imperial Bank of Commerce		Satin Finish Hardwood Flooring, Limited	
- and -			
<u>Applicant</u>		<u>Respondent</u>	
		ONTARIO SUPERIOR COURT OF JUSTICE (Commercial List) (PROCEEDING COMMENCED AT TORONTO)	
		APPROVAL AND VESTING ORDER	
		GOWLING WLG (CANADA) LLP Barristers and Solicitors 1 First Canadian Place 100 King Street West Suite 1600 Toronto ON M5X 1G5 F. Patrick Shea (LSUC No. 39655K) Telephone: (416) 369-7399 Facsimile: (416) 862-7661 SOLICITORS FOR THE APPLICANT	

Court File No.:

BETWEEN:

Canadian Imperial Bank of Commerce

Applicant

- and -

Satin Finish Hardwood Flooring, Limited

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

**APPLICATION RECORD
(Returnable June 17, 2019)**

GOWLING WLG (CANADA) LLP
Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

E. Patrick Shea (LSUC No.: 39655K)
Telephone: (416) 369-7399
Facsimile: (416) 862-7661

SOLICITORS FOR THE APPLICANT