

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

**BETWEEN:**

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD.,  
7949952 CANADA INC. and 7949987 CANADA INC.**

Defendants

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**MOTION RECORD  
(RETURNABLE JULY 26, 2019)**

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July 11, 2019

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# INDEX

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

**BETWEEN:**

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD.,  
7949952 CANADA INC. and 7949987 CANADA INC.**

Defendants

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TAB “1”



Court File No. 35-124515

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

**B E T W E E N:**

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD.,  
7949952 CANADA INC. and 7949987 CANADA INC.**

Defendants

**NOTICE OF MOTION  
(returnable July 26, 2019)**

MNP Ltd. ("**MNP**"), in its capacity as court-appointed receiver (the "**Receiver**") of certain of the assets, undertakings and properties of Tomlin Industries (2000) Inc. ("**Tomlin**"), Caml North America Ltd. ("**Caml**"), 7949952 Canada Inc. o/a Acryline ("**952 Inc.**"), and 7949987 Canada Inc. ("**987 Inc.**" and together with Tomlin, Caml and 952 Inc., hereinafter referred collectively as the "**Companies**", "**Debtors**" or the "**Tomlin Group**") pursuant to the Order of the Honourable Mr. Justice Aston dated March 12, 2019 (the "**Appointment Order**") will make a motion to the Court on Friday, July 26, 2019 at 10:00 a.m. or as soon after that time as the motion can be heard, at the Courthouse, 80 Dundas Street, London, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

- (a) an Order, substantially in the form attached to the Motion Record at Tab 3:
- (i) if necessary, abridging or waiving the time for service and filing, dispensing with service, or validating the method of service of this Notice of Motion, the Motion Record, the motion confirmation form(s) and the First Report of the Receiver dated July 11, 2019 and all appendices thereto (the "**First Report**"), and all supplementary motion materials, if any, and directing that any further service of same be dispensed with such that this motion is properly returnable on July 26, 2019;

- (ii) approving the First Report and the activities and actions of the Receiver described therein;
- (iii) approving the Receiver's Interim Statement of Receipts and Disbursements for the period from March 12, 2019 through June 30, 2019 (the "**Interim R&D**");
- (iv) approving the professional fees and disbursements of the Receiver and its counsel, Miller Thomson LLP ("**Miller Thomson**") and Kaufman LLP, including approval of the estimate of additional fees and disbursements required in connection with the receivership proceeding without further Court approval (collectively, the "**Professional Fees**");
- (v) authorizing Zitta Immobilier Inc. and Les Produits Zitta Inc./Zitta Products Inc. (collectively, the "**Purchasers**") and the Receiver to directly remit all future Business Receivable collections, as described in the First Report (the "**Business Receivable Collections**"), to the Toronto-Dominion Bank ("**TD Bank**");
- (vi) approving and directing the Receiver to distribute the balance of funds held by the Receiver as follows:
  - (A) firstly, to pay Business Development Bank of Canada ("**BDC**");
  - (B) secondly, to pay the unpaid Professional Fees; and
  - (C) thirdly, to pay TD Bank;
- (vii) approving the discharge of MNP as Receiver;
- (viii) releasing the Receiver from any and all liability, save and except for any gross negligence or wilful misconduct on the Receiver's part, upon the filing of a certificate with the Court confirming that the administration by the Receiver of its duties pursuant to the Appointment Order have been completed; and
- (ix) such further and other relief as counsel may advise and this Honourable Court may deem just,

THE GROUNDS FOR THE MOTION ARE:

Approval of the First Report, the Receiver's Activities and the Interim R&D

- (a) the Receiver has carried out its duties and responsibilities in accordance with the terms of the Appointment Order;
- (b) the Receiver seeks approval of the First Report and the Receiver's activities detailed therein;
- (c) the particulars of the receipts and disbursements reflected in the Interim R&D are detailed in the First Report.

Approval of Professional Fees

- (d) pursuant to paragraph 19 of the Appointment Order, the Receiver and counsel to the Receiver were granted a first charge on the property subject to the receivership proceeding as security for the Professional Fees, both before and after the making of the Appointment Order;
- (e) pursuant to paragraphs 20 and 21 of the Appointment Order, the accounts of the Receiver and its legal counsel must be passed from time to time by a judge of the Ontario Superior Court of Justice and the Receiver is at liberty to apply reasonable amounts out of the monies in the Receiver's hands against the Professional Fees as advances against the Professional Fees when and as approved by the Court;
- (f) the Receiver and its legal counsel have maintained detailed records of the Professional Fees;
- (g) it is the Receiver's opinion that the Professional Fees are fair and reasonable and justified in the circumstances and accurately reflect the work done by the Receiver and its legal counsel in connection with these receivership proceedings;

Distribution

- (h) the Receiver has received an opinion from its independent legal counsel, Litwack Alain Notaries, that the security that BDC holds over the immovable property located in Quebec in the form of a first and second hypothec in the amount of \$700,000 and \$225,000, respectively, is valid and enforceable;

- (i) the Receiver has received opinions from its independent legal counsel, Miller Thomson LLP, that, subject to the customary assumptions and qualifications, TD Bank has a valid and perfected first-ranking security interest in the personal property of the Debtors situate in Ontario and Alberta and the movable assets situate in Quebec;

Discharge

- (j) the Receiver has duly and properly discharged its duties, responsibilities and obligations as Receiver;

Other

- (k) Appointment Order;
- (l) Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43, as amended;
- (m) Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;
- (n) Rules 3, 4, 6, 11 and 13 of the *Bankruptcy and Insolvency General Rules*;
- (o) Rules 1.04, 1.05, 3.02(1), 16 and 37 of the *Ontario Rules of Civil Procedure*; and
- (p) such other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) the First Report;
- (b) the Fees Affidavit of Jerry Henechowicz sworn July 5, 2019 and the exhibits attached thereto;
- (c) the Fees Affidavit of Tony Van Klink sworn July 11, 2019 and the exhibits attached thereto;
- (d) the Fees Affidavit of Michael Schacter sworn July 11, 2019 and the exhibits attached thereto;

- (e) all other pleadings and materials previously filed in these proceedings; and
- (f) such further and other evidence as counsel may advise and this Honourable Court may permit.

July 11, 2019

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Tomlin Industries (2000) Inc., Caml North America  
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7949987 Canada Inc.



The Toronto-Dominion Bank  
Plaintiff and

Tomlin Industries (2000) Inc., et al.  
Defendants

Court File No.: 35-2214905T

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

**NOTICE OF MOTION  
(RETURNABLE JULY 26, 2019)**

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and 7949987 Canada Inc.

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TAB "2"

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)

THE TORONTO-DOMINION BANK

Plaintiff

- and -

TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD.,  
7949952 CANADA INC. and 7949987 CANADA INC.

Defendants

FIRST REPORT OF THE RECEIVER  
JULY 11, 2019

INTRODUCTION

1. This report is submitted by MNP Ltd. in its capacity as Receiver (“MNP” or the “Receiver”) of all of the Purchased Assets and Business Receivables, as defined in the Purchase Agreement described below, of Tomlin Industries (2000) Inc. (“Tomlin”), Caml North America Ltd. (“Caml”), 7949952 Canada Inc. o/a Acryline (“952 Inc.”), and 7949987 Canada Inc. (“987 Inc.” and together with Tomlin, Caml and 952 Inc., hereinafter referred collectively as the “Companies”, “Debtors” or the “Tomlin Group”).
2. By motion returnable on March 12, 2019, the Toronto-Dominion Bank (“TD Bank”) sought, among other things, an order appointing MNP as Receiver, to exercise the powers and duties specifically set out in such Order with respect to the Purchased Assets and Business Receivables as defined in the Purchase Agreement described below and two Approval and Vesting Orders in respect to both personal/movable property and real/immovable property.

3. MNP, as Proposed Receiver of the Debtors, prepared a Pre-filing Report dated March 11, 2019, a copy of which is attached hereto (without appendices) as **Appendix “A”** (the “**Pre-filing Report**”), to:
  - a. provide the Court with relevant information pertaining to the Debtors, in addition to that provided in the affidavit of the representative of TD Bank, including the urgency of the relief sought;
  - b. provide information to the Court regarding the sale process leading to the sale of substantially all of the Companies’ assets and business on a going-concern basis pursuant to an Agreement of Purchase and Sale dated March 11, 2019 (the “**Purchase Agreement**”) between MNP as Receiver and Zitta Immobilier Inc. and Les Produits Zitta Inc./Zitta Products Inc. (collectively, the “**Purchasers**”) as Purchasers (the “**Transaction**”), for which immediate approval was being sought following the appointment of MNP as Receiver; and
  - c. to provide the Court with information regarding the Transaction and the Proposed Receiver’s recommendation regarding same.
  
4. On March 12, 2019, the Court granted:
  - a. the Appointment Order appointing MNP as Receiver, a copy of which is attached hereto as **Appendix “B”**;
  - b. two Approval and Vesting Orders:
    - i. one for personal property (movable property), a copy of which is attached hereto as **Appendix “C”**;
    - ii. one for real property (immovable property), a copy of which is attached hereto as **Appendix “D”**; and
  - c. the Ancillary Order sealing the Confidential Appendices to the Pre-filing Report, a copy of which is attached hereto as **Appendix “E”**.

## BACKGROUND

5. The Tomlin Group was a manufacturer, importer and distributor of bathtubs, shower enclosures and related accessories sold through retailers, home improvement centres and contractors across North America.
6. The Tomlin Group's head office was located at 608 Weber Street N, Unit 3, Waterloo, Ontario (the "**Head Office**"). All sales, marketing, administration, accounting and finance activities were carried out from the Head Office. A showroom and warehouse were also located at the Head Office.
7. Tomlin operated from the Head Office. It primarily acted as an importer of higher end freestanding cast iron bathtubs under the "SLIK" brand that are manufactured in China. At the time of the Receiver's appointment, Tomlin had 10 employees.
8. 952 Inc. manufactured moulded acrylic bathtubs, shower bases as well as specialty designed shower and bath enclosures for the senior's housing and commercial markets from an approximate 30,000 sq. ft. factory located at 2015 (Rue) Bécancour Street, Lyster, Quebec (the "**Quebec Property**" or the "**Immovable Property**"). At the time of the Receiver's appointment, 952 Inc. had 14 employees.
9. Caml was in the business of distributing glass shower enclosures from a single source supplier. It had been inactive since mid-2017, when its single supplier changed ownership resulting in significant quality issues and the loss of substantially all of its customers.
10. 987 Inc. owned the Quebec Property that housed 952 Inc.'s manufacturing and distribution operations. The Quebec Property was 987 Inc.'s sole asset.
11. Tomlin, 952 Inc. and Caml (collectively, the "**Operating Companies**") also had inventory stored at two third party warehouses located in Ontario and Alberta.

## TERMS OF REFERENCE

12. Except as described in this Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards of the Chartered



Professional Accountants of Canada. Accordingly, the Receiver expresses no opinion or other form of assurance with respect to such information.

13. This Report has been prepared for the use of this Court and the Debtors' stakeholders as general information relating to the Debtors and to assist the Court in making a determination of whether to approve the relief sought. Accordingly, the reader is cautioned that this Report may not be appropriate for any other purpose. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Report contrary to the provisions of this paragraph.

14. All references to currency in this Report are in Canadian Dollars unless noted otherwise.

### **PURPOSE OF REPORT**

15. The purpose of this the Receiver's first report (the "**Report**") is to:

- a. update the Court on the Receiver's activities following its appointment including the completion of the Transaction;
- b. review the status of realizations from the Business Receivables, as defined in the Purchase Agreement, and other assets excluded from the Transaction;
- c. review the Companies' statutory obligations that may have priority to the liabilities due to secured creditors;
- d. provide and seek the Court's approval of the accounts of the Receiver and its counsel, Miller Thomson LLP ("**Miller Thomson**") and Kaufman LLP ("**Kaufman**");
- e. review the claims of secured creditors and the Receiver's recommendation regarding the distribution of funds to Business Development Bank of Canada ("**BDC**") and TD Bank; and
- f. provide support for the Receiver's motion for an order, among other things:

- i. approving this Report and the activities and actions of the Receiver described herein;
- ii. approving the Receiver's Interim Statement of Receipts and Disbursements for the period March 12 to June 30, 2019 (the "**Interim R&D**");
- iii. approving the fees and disbursements of the Receiver and its counsel Miller Thomson and Kaufman, including approval of the estimate of additional fees and disbursements required in connection with the receivership proceeding (collectively, the "**Professional Fees**");
- iv. authorizing the Purchasers and the Receiver to directly remit all future Business Receivable collections, as described below, to TD Bank;
- v. approving and directing the Receiver to distribute funds firstly to BDC for the amount set out below in paragraph 56, secondly to the Receiver, Miller Thomson and Kaufman for the Professional Fees, to the extent not paid by TD Bank directly, and the remainder to TD Bank subject to maintaining the required reserves set out below in paragraph 55;
- vi. approving the discharge of MNP as Receiver and thereupon releasing MNP from any and all liability upon the filing of a certificate with the Court confirming that the administration by the Receiver of its duties pursuant to the Appointment Order have been completed; and
- vii. such other relief as the Court deems just.

## RECEIVER'S ACTIVITIES

16. Following its appointment, the Receiver's activities concentrated on:

- a. completing the Transaction as described in further detail below;
- b. arranging payment of outstanding employee wages and vacation pay up to the Closing Date, as defined below, in accordance with the Purchase Agreement;

- c. assisting with the assignment of various service contracts to the Purchasers, including arranging payment for any arrears necessary to assign the various contracts;
- d. arranging for the extension of property insurance and other services requested by the Purchasers;
- e. arranging for the termination of various contracts and commercial property leases;
- f. taking possession of certain of the Companies' financial records including mirror images of the Companies' servers necessary for the administration of these proceedings;
- g. administering any Wage Earner Protection Program Act ("WEPPA") claims ;
- h. preparing and on March 19, 2019, sending to all known creditors the Receiver's statutory notice pursuant to s.245/246 of the *Bankruptcy and Insolvency Act*;
- i. posting the Appointment Order together with other court and statutory reports to the Receiver's website, which can be found at:  
<https://mnpdebt.ca/en/corporate/engagements/tomlingroup>;
- j. coordinating and monitoring Business Receivable collections with the Purchasers;
- k. calculating Adjustments as set out in Section 2.08 of the Purchase Agreement and reviewing same with the Purchasers; and
- l. responding to creditor and other service provider enquiries.

## COMPLETION OF THE TRANSACTION

17. A copy of the unredacted Purchase Agreement is attached hereto as **Appendix "F"**. The pertinent provisions of the Purchase Agreement are summarized as follows:

- a. Purchased Property (2.01) – Personal Property (except for Excluded Assets), as defined in the Purchase Agreement, and the Immovable Property;



- b. Excluded Assets (2.04) –Business Receivables, among other things, as defined in the Purchase Agreement;
  - c. Purchase Price (2.05(a)) - \$1,348,000;
  - d. Deposit (2.06(a)) - \$200,000;
  - e. Allocation of Purchase Price (2.05(b))- \$680,000 in respect of the Immovable Property and \$668,000 for Personal Property;
  - f. Employees (3.04) – the Receiver to pay all outstanding wages and vacation pay to the Assumed Employees, as defined in the Purchase Agreement, as at the Closing Date;
  - g. Post-Closing Adjustments (2.08) – includes adjustments for taxes, prepaid revenues, prepaid expenses, utilities, business inventory and employee salaries, wages, vacation pay and related amounts owing to governmental authorities (the “**Adjustments**”) and the Purchasers held back \$20,000 on closing in respect to potential Adjustments; and
  - h. Collection of Business Receivables (2.04(b)) – although the Business Receivables were excluded from the Transaction, among other related terms, the Purchasers agreed to use commercially reasonable efforts to collect the Business Receivables on behalf of the Receiver for a period of 120 days after the Closing Date and to remit the amounts collected, less a 10% collection fee (the “**Collection Fee**”), to the Receiver.
18. The Transaction closed effective March 15, 2019.
19. A total of \$1,328,000 was remitted to the Receiver representing the purchase price of \$1,348,000 less an agreed upon \$20,000 holdback by the Purchasers for any potential Adjustments in their favour.

## Adjustments

20. The Purchase Agreement provides for an adjustment of 35% of the change in the book value of Business Inventory, as defined in the Purchase Agreement, between February 11, 2019 (the “**Inventory Date**”) and the Closing Date (the “**Inventory Adjustment**”).
21. The parties agreed to the Inventory Adjustment, together with an adjustment of up to \$8,000 in favour of the Receiver in respect of deposits paid by the Companies on purchases of Business Inventory, as defined in the Purchase Agreement.
22. After the Closing Date, the Receiver and the Purchasers agreed to further Adjustments to reimburse the Receiver for its payment of certain post-closing operating expenses incurred at the request and behalf of the Purchasers.
23. The Receiver and the Purchasers have exchanged schedules of Adjustments but have not agreed upon all of the Adjustments. The Receiver’s calculations of the Adjustments along with reasons for rejecting certain Adjustments proposed by the Purchasers was provided to the lawyers for the Purchasers by way of a letter dated May 15, 2019 from the lawyers for the Receiver, a copy of which is attached as **Appendix “G”**.
24. The Receiver has not received any response from the Purchasers or their lawyers regarding the Adjustments set out in the letter dated May 15, 2019.
25. As set out in the above letter, the Receiver calculates that the Purchasers are required to remit from the \$20,000.00 holdback \$11,493.30 to the Receiver prior to any amounts due to the Purchasers for Business Receivable collection fees.

## Business Receivable Collections

26. At the date of the Appointment Order, the book value and aging of the Companies’ accounts receivable as at March 12, 2019 is summarized below:



RECEIVERSHIP OF THE TOMLIN GROUP					
SUMMARY OF BUSINESS RECEIVABLES					
AS AT MARCH 12, 2019					
Aging	0-30	31-60	61-90	90 +	Total
<b>Tomlin</b>					
Canadian	67,899	(420)	192	12,624	80,295
USD	25,811	8,074	6,570	17,533	57,988
Exchange	1,3301	1,3301	1,3301	1,3301	1,3301
	<b>102,230</b>	<b>10,319</b>	<b>8,931</b>	<b>35,945</b>	<b>157,425</b>
<b>952 Inc.</b>					
Canadian	42,322	(1,982)	15,575	32,269	88,184
USD	50,566	(11,677)	30,274	23,964	93,126
Exchange	1,3301	1,3301	1,3301	1,3301	1,3301
	<b>109,579</b>	<b>(17,514)</b>	<b>55,842</b>	<b>64,144</b>	<b>212,051</b>
<b>Total</b>	<b>211,810</b>	<b>(7,196)</b>	<b>64,773</b>	<b>100,089</b>	<b>369,476</b>

27. Accounts receivable collections to June 30, 2019 are summarized in the table below:

RECEIVERSHIP OF THE TOMLIN GROUP						
SUMMARY OF BUSINESS RECEIVABLES COLLECTIONS						
MARCH 12 TO JUNE 30, 2019						
	Opening Balance	March 12 to March 15, 2019	March 16 to June 30, 2019	Discounts Allowed	Determined Uncollectable	Remaining Collectable
Tomlin	157,425	8,388	86,152	125	54,185	8,575
952 Inc.	212,051	11,195	41,518	287	42,691	116,360
<b>Total</b>	<b>369,476</b>	<b>19,583</b>	<b>127,670</b>	<b>411</b>	<b>96,876</b>	<b>124,935</b>

The Business Receivable collections above include \$61,101.23 remitted by the Companies' customers directly to the Companies' business bank accounts at TD Bank.

28. As set out above, \$124,935 of Business Receivables are still considered collectable. Section 2.04(b) of the Purchase Agreement provides that after 60 days from the date of closing and on 7 days notice to the Purchaser, the Receiver has the right to take steps to directly collect any outstanding Business Receivables that are in default of payment terms. As over 60 days have passed since the closing of the Purchase Agreement and the Companies' payment terms are net 30 days, any remaining Business Receivables are in default of their payment terms. Accordingly, by letter dated July 3, 2019, the Receiver's counsel sent notice to the Purchasers of the Receiver's intention to take steps to directly collect the Business Receivables in default which, as set out above comprise all outstanding Business Receivables. A copy of the notice to the Purchasers is attached as **Appendix "H"**.

29. Pursuant to the Purchase Agreement, the Purchasers are entitled to a Collection Fee of 10% of all total Business Receivable collections between March 16 and July 3, 2019. Based on Business Receivable collections of \$127,670 during that period, the Purchasers are owed \$12,767. As set out above in paragraph 25, the Receiver calculates that \$11,493.30 is due to the Receiver from the Purchasers from the holdback for Adjustments. Accordingly, the Receiver will remit \$1,273.70 to the Purchasers in final settlement of the Adjustments and Collection Fee.
30. Since TD Bank is in a shortfall position, the Receiver recommends that all future Business Receivable collections be remitted by the Purchasers or the Receiver directly to TD Bank net of any applicable Collection Fee.

### **INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS**

31. The Receiver's Interim R&D as at June 30, 2019 is attached as **Appendix "I"**. The balance of \$1,309,930.31 excludes approximately \$61,000 of accounts receivable collections remitted directly to the Tomlin Group's accounts at TD Bank.

### **PROFESSIONAL FEES AND DISBURSEMENTS**

#### **Receiver's Fees and Disbursements**

32. Pursuant to Paragraph 19 of the Appointment Order, the Receiver and counsel to the Receiver shall be paid their reasonable professional fees in each case at their standard rates and charges and the Receiver and counsel to the Receiver have been granted 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 as security for payment of the professional fees (the "**Receiver's Charge**").
33. Pursuant to paragraphs 20 and 21 of the Appointment Order, the Receiver and Miller Thomson shall pass their legal accounts as referred to this Court and is at liberty, from time to time, to apply reasonable amounts, out of the monies in its hands, against the professional fees, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its professional fees when and as approved by the Court.



34. The Receiver has issued one invoice covering its fees and disbursements for the period from January 26 to April 24, 2019, totalling \$74,832.34 inclusive of HST. Attached as **Appendix “J”** is the affidavit of Jerry Henechowicz sworn July 5, 2019 describing the aforementioned fees and disbursements of the Receiver. To date, the Receiver has made an interim draw of \$22,600.
35. On the assumption that there are no delays, disputes or unforeseen developments in connection with the Receiver’s discharge motion, the Receiver estimates additional fees of up to \$10,000 plus disbursements and HST to complete the administration of these proceedings.
36. The Receiver submits that the hourly rates charged by the Receiver and its staff are commensurate with commercially reasonable rates for mid-market insolvency firms in the Southwestern Ontario region.
37. The Receiver respectfully requests that this Court approve the Receiver’s fees and disbursements as described above.

#### **Legal Fees and Disbursements of Miller Thomson**

38. Miller Thomson has issued two invoices covering its fees and disbursements for the period February 25, 2019 through to June 26, 2019 totalling \$77,033.25 inclusive of HST. Attached as **Appendix “K”** is the affidavit of Tony Van Klink sworn July 11, 2019 describing the aforementioned fees and disbursements of Miller Thomson. The Miller Thomson invoices remain unpaid.
39. It is the Receiver’s opinion that the fees and disbursements of Miller Thomson as described in the affidavit of Tony Van Klink are fair and reasonable and justified in the circumstances, and accurately reflect the work done on behalf of the Receiver by Miller Thomson.
40. On the assumption that there are no delays, disputes or unforeseen developments in connection with the Receiver’s discharge motion, Miller Thomson estimates that it will charge additional fees of up to \$7,000 plus disbursements and HST until the completion of the administration of these proceedings.

## **Legal Fees and Disbursements of Kaufman**

41. Kaufman has issued one invoice covering its fees and disbursements for the period January 1, 2019 through to March 31, 2019 totalling \$29,161.53 inclusive of GST and QST. Attached as **Appendix “L”** is the affidavit of Michael Schacter sworn July 11, 2019 describing the aforementioned fees and disbursements of Kaufman. The Kaufman invoice remains unpaid.
42. It is the Receiver’s opinion that the fees and disbursements of Kaufman as described in the affidavit of Michael Schacter are fair and reasonable and justified in the circumstances, and accurately reflect the work done on behalf of the Receiver by Kaufman.
43. Upon approval by the Court of the Professional Fees, the Receiver will seek payment of the balance of the Professional Fees to complete the administration of this proceeding directly from TD Bank.

## **PRIORITY OBLIGATIONS**

### **Employee Claims**

44. At the date of the Receiver’s appointment, Tomlin and 952 Inc. were the only entities that had employees. As noted above, pursuant to the terms of the Transaction, the Receiver paid all of 952 Inc.’s outstanding wages and vacation pay (other than any employee that was a related party to the Companies) to the Closing Date. All of 952 Inc.’s employees were offered employment by the Purchasers and it is the Receiver’s understanding that each employee accepted employment by the Purchasers. The 3 remaining employees of Tomlin were only offered temporary employment by the Purchasers which we understand was terminated by April 12, 2019.
45. Tomlin had 3 remaining employees on March 12, 2019 the date of the Receiver’s appointment. As noted above, pursuant to the terms of the Transaction, the Receiver paid all of Tomlin’s outstanding wages and vacation pay (other than any employee that was a related party to the Companies) to the Closing Date of March 15, 2019. Only the employees of Tomlin would have a claim for unpaid termination pay and the Receiver has begun

processing their claims under the WEPPA. These amounts represent ordinary unsecured claims and do not have priority over the claims of BDC and TD Bank.

### Employee Source Deductions

46. 952 Inc.'s payroll was prepared and paid through Desjardin commercial payroll service, including payment of all related employee source deductions and employer contributions. There are no unremitted employee source deductions in respect of 952 Inc.
47. Tomlin's payroll was prepared in house without the assistance of a payroll service. Canada Revenue Agency ("CRA") completed a trust examination of Tomlin and 952 Inc's payroll records on April 25, 2019. On May 22, 2019, CRA submitted its property claim for Tomlin's unremitted employee source deductions totalling \$68,180.45.

### HST and GST

48. Based on a review of proofs of claim submitted by CRA for unremitted HST and GST dated March 28, 2019 and a review of the Companies' records, the Companies' estimated liability for unremitted HST and GST excluding penalties and interest totals approximately \$55,000 as at March 12, 2019 as summarized below:

	<b>Estimated Unremitted HST/GST</b>
Tomlin	\$ 8,000
952 Inc.	36,000
Caml	3,000
987 Inc.	8,000
<b>Total</b>	<b><u>\$ 55,000</u></b>

49. The Companies were assigned into bankruptcy and MNP was appointed as trustee in bankruptcy on June 20, 2019. Upon bankruptcy, CRA now has an unsecured claim in relation to the unremitted HST and GST. Attached collectively as **Appendix "M"** are copies of Certificates of Appointment for each of Tomlin, Caml, 952 Inc. and 987 Inc.



## SECURED CREDITORS

### BDC

50. The Receiver obtained an independent legal opinion from Litwack Alain Notaries (“**LAN**”) regarding the security that BDC holds over the Quebec Property in the form of a first and second hypothec in the amount of \$700,000 and \$225,000, respectively. LAN has opined that BDC’s security is valid and enforceable as against the Quebec Property. Attached as **Appendix “N”** is a copy of the LAN opinion dated March 20, 2019.
51. By letter dated July 5, 2019, BDC provided the Receiver with a statement of account that indicates as at July 7, 2019, the indebtedness of 987 Inc., secured by the hypothec on the Quebec Property, totals \$657,933.65 plus accruing interest at \$130.87 per day. Attached as **Appendix “O”** is a copy of the BDC letter dated July 5, 2019.

### Toronto Dominion Bank

52. As set out in the Pre-filing Report, an independent opinion was obtained regarding the TD Bank’s security over the Companies’ assets that confirmed subject to the usual assumptions and qualifications, that TD Bank holds valid and enforceable security over all of the Companies’ personal property. Attached as **Appendix “P”** is a copy of the opinion of Miller Thomson in respect to the personal property of the Companies in Quebec. Attached as **Appendix “Q”** is a copy of the opinion of Miller Thomson in respect to the personal property of the Companies in Ontario. Attached as **Appendix “R”** is a copy of the opinion of Miller Thomson in respect to the personal property of the Companies in Alberta.
53. TD Bank provided the Receiver with a statement of account that indicates as at May 5, 2019, the indebtedness of the Tomlin Group totals \$1,416,932.66 plus accruing interest and legal costs of \$59,631.87. Attached as **Appendix “S”** is a copy of the Counsel to TD Bank’s email dated May 6, 2019.

## DISTRIBUTION OF FUNDS

54. Although the Appointment Order provides for the Receiver’s Charge for the fees and disbursements of the Receiver and its legal counsel in respect of this proceeding, TD Bank

has advised the Receiver that it intends to pay the accounts of the Receiver and its counsel directly.

55. The Receiver intends to maintain reserves totalling \$78,180 in connection with the priority statutory obligations for unremitted source deductions and \$10,000 for other potential costs (the “**Reserves**”).

56. Based on the foregoing, the Receiver recommends that the Court issue an order authorizing and directing the Receiver to make a distribution from the remaining funds in its possession to:

- a. BDC in the amount of \$657,933.65 plus any accrued interest after July 7, 2019;
- b. the Receiver, Miller Thomson and Kaufman for the Professional Fees to the extent that the Professional Fees are not paid by TD Bank directly; and
- c. all other amounts available to TD Bank, subject to maintaining the Reserves, without further order of the Court.

## **DISCHARGE OF THE RECEIVER**

57. Other than the completion of accounts receivable collections, making final distribution of funds to BDC, the Receiver, Miller Thomson, Kaufman and TD Bank and other administrative matters, the administration of this proceeding is substantially complete.

58. In order to avoid the costs related with bringing another motion to discharge the Receiver, the Receiver recommends that it be discharged along with the standard release, upon the filing of a certificate with the Court confirming that the administration of this proceeding has been completed.

## **CONCLUSION AND RECOMMENDATION**

59. Based on the foregoing, the Receiver respectfully recommends that the Court make an order granting the relief detailed in paragraph 15.f. of this Report.



All of which is respectfully submitted this 11th day of July, 2019

**MNP LTD.** in its capacity as the Court-appointed Receiver of certain property of Tomlin Industries (2000) Inc., Caml North America Ltd., 7949952 Canada Inc. and 7949987 Canada Inc. and not in its personal or corporate capacities  
Per:



Jerry Henechowicz, CPA CA, CIRP, LIT  
Senior Vice President

**TAB "A"**

Court File No. 35-2214905T

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)

THE TORONTO-DOMINION BANK

Plaintiff

- and -

TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD.,  
7949952 CANADA INC. and 7949987 CANADA INC.

Defendants

PRE-FILING REPORT OF THE PROPOSED RECEIVER  
MARCH 11, 2019

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Lawyers for the Proposed Receiver, MNP Ltd.

Court File No. 35-2214905T

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

**THE TORONTO-DOMINION BANK**

**Plaintiff**

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD.,  
7949952 CANADA INC. and 7949987 CANADA INC.**

**Defendants**

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Appendix 1	Tomlin Group's corporate organization and ownership chart
Appendix 2	Redacted signed copy of the Purchase Agreement
Appendix 3	Tomlin Ontario PPSA search
Appendix 4	Tomlin Alberta PPSA search
Appendix 5	Tomlin Quebec RPMRR search
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Appendix 7	Caml Alberta PPSA search
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Appendix 14	987 Inc. Quebec RPMRR search
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TAB "A"



Court File No. 35-2214905T

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)

THE TORONTO-DOMINION BANK

Plaintiff

- and -

TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD.,  
7949952 CANADA INC. and 7949987 CANADA INC.

Defendants

PRE-FILING REPORT OF THE PROPOSED RECEIVER  
MARCH 11, 2019

INTRODUCTION AND PURPOSE OF REPORT

1. On November 1, 2018, the Toronto-Dominion Bank (“**TD Bank**”) served demand letters and Notices of Intention to Enforce Security pursuant to Section 243 of the *Bankruptcy and Insolvency Act* (the “**NITES**”) to each of Tomlin Industries (2000) Inc. (“**Tomlin**”), Caml North America Ltd. (“**Caml**”), 7949952 Canada Inc. o/a Acryline (“**952 Inc.**”), and 7949987 Canada Inc. (“**987 Inc.**” and together with Tomlin, Caml and 952 Inc., hereinafter referred collectively as the “**Companies**”, “**Debtors**” or the “**Tomlin Group**”).
2. Effective November 4, 2018, MNP Ltd. (“**MNP**”) was engaged by the Debtors as its advisor (the “**Advisor**”) to assist with:
  - a. evaluating alternatives to address its on-going operating loss and cash flow shortfalls and in particular to consider options to address the Debtors’ illiquidity;



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- b. its options in respect of future financing and operations changes in connection with a going-concern sale process for the business;
  - c. the Companies' sale process (the "**Sale Process**") for its assets and business on a going concern basis; and
  - d. liaising with TD Bank following TD Bank's issuance of the NITES.
3. Shortly thereafter, attempts were made to negotiate a forbearance agreement between TD Bank and the Companies to allow for a potential financial and operational restructuring of the Companies and/or a sale of the Companies' assets and business on a going concern basis. A principal condition of the forbearance by TD Bank was an equity injection or other external investment of funds to provide the Companies' with much needed liquidity and to reduce TD Bank's exposure to an acceptable level. This additional funding was not obtained nor was a formal forbearance agreement ever finalized or executed.
4. TD Bank has brought a motion (the "**Motion**") seeking the appointment of MNP as the Proposed Receiver of certain assets of the Debtors (the "**Proposed Receiver**") and to authorize the Proposed Receiver to complete a sale transaction (the "**Transaction**") with Zitta Immobilier Inc. and Les Produits Zitta Inc./Zitta Products Inc. (collectively, the "**Purchasers**") for substantially all of the Debtors' assets, save and except accounts receivable. TD Bank has filed with their motion the affidavit of Vitaly Kormakov sworn March 4, 2019 (the "**Kormakov Affidavit**").
5. MNP is a licensed trustee under the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") and has consented to act as Receiver. The Debtors have also consented to MNP's appointment as Receiver.
6. This report is filed by MNP in its capacity as the Proposed Receiver under the BIA and section 101 of the *Courts of Justice Act* (Ontario).
7. The purpose of this Report is to:
  - a. provide the Court with relevant information pertaining to the Debtors in addition to that provided in the Kormakov Affidavit, including the urgency of the relief sought;



- b. provide information to the Court regarding the Sale Process leading to the Transaction; and
- c. to provide the Court with information regarding the Transaction and the Proposed Receiver's recommendation regarding same.

#### **TERMS OF REFERENCE**

- 8. In preparing this Report, the Proposed Receiver has relied on information provided by parties who had knowledge of the affairs of the Debtors, including the Debtors and their directors, management and legal counsel, TD Bank and its legal counsel and Business Development Bank of Canada ("**BDC**").
- 9. This Report should be read in conjunction with the Kormakov Affidavit.
- 10. Except as described in this Report, the Proposed Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada. Accordingly, the Proposed Receiver expresses no opinion or other form of assurance with respect to such information.
- 11. This report has been prepared for the use of this Court and the Debtors' stakeholders as general information relating to the Debtors and to assist the Court in making a determination of whether to approve the relief sought. Accordingly, the reader is cautioned that this Report may not be appropriate for any other purpose. The Proposed Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Report contrary to the provisions of this paragraph.
- 12. All references to currency in this Report are in Canadian Dollars.

## BACKGROUND

### Business Operations

13. The Tomlin Group is a manufacturer, importer and distributor of bathtubs, shower enclosures and related accessories sold through retailers, home improvement centres and contractors across North America.
14. The Tomlin Group's head office is located at 608 Weber Street N, Unit 3, Waterloo, Ontario (the "**Head Office**"). All sales, marketing, administration, accounting and finance activities are carried out from the Head Office. A showroom and warehouse are also located at the Head Office.
15. Tomlin operates from the Head Office. It primarily acts as an importer of higher end freestanding cast iron bathtubs under the "SLIK" brand that are manufactured in China. Tomlin currently has 10 employees.
16. 952 Inc. manufactures moulded acrylic bathtubs, shower bases as well as specialty designed shower and bath enclosures for the senior's housing and commercial markets from an approximate 30,000 sq. ft. factory located at 2015 (Rue) Bécancour Street, Lyster, Quebec (the "**Quebec Property**"). 952 Inc. currently has 14 employees.
17. Caml was in the business of distributing glass shower enclosures from a single source supplier. It has been inactive since mid-2017 when its single supplier changed ownership resulting in significant quality issues and the loss of substantially all of its customers.
18. 987 Inc. owns the Quebec Property that houses 952 Inc.'s manufacturing and distribution operations. The Quebec Property is 987 Inc.'s sole asset.
19. Tomlin, 952 Inc. and Caml (collectively, the "**Operating Companies**") also have inventory stored at two third party warehouses located in Ontario and Alberta.
20. A copy of the Tomlin Group's corporate organization and ownership chart is attached as **Appendix "1"**.

### Deteriorating Financial Situation

21. The Debtors have experienced increasing operating losses and cash flow shortfalls. The Debtors' recent operating results are summarized below:

Tomlin Group Operating Results								
	11 mths		Year Ended		Year Ended		Year Ended	
	Sep-30-18		Oct-31-17		Oct-31-16		Oct-31 -15	
------(S000's)-----								
Unaudited								
Sales	5,542	100.0%	8,089	100.0%	8,760	100.0%	8,470	100.0%
Cost of Goods Sold	4,215	76.1%	5,906	73.0%	5,578	63.7%	5,598	66.1%
Gross Profit	<b>1,327</b>	<b>23.9%</b>	<b>2,183</b>	<b>27.0%</b>	<b>3,182</b>	<b>36.3%</b>	<b>2,872</b>	<b>33.9%</b>
Selling and administrative expenses								
Commissions & sales salaries	710	12.8%	799	9.9%	1,075	12.3%	995	11.7%
Office salaries	601	10.8%	670	8.3%	806	9.2%	826	9.8%
Interest and bank charges	206	3.7%	205	2.5%	236	2.7%	207	2.4%
Amortization & depreciation	124	2.2%	192	2.4%	105	1.2%	98	1.2%
Professional fees	152	2.7%	112	1.4%	74	0.8%	115	1.4%
Other	382	6.9%	562	6.9%	854	9.7%	908	10.7%
	<b>2,175</b>	<b>39.2%</b>	<b>2,540</b>	<b>31.4%</b>	<b>3,150</b>	<b>36.0%</b>	<b>3,149</b>	<b>37.2%</b>
Net income (loss) before income taxes	<b>(848)</b>	<b>-15.3%</b>	<b>(357)</b>	<b>-4.4%</b>	<b>32</b>	<b>0.4%</b>	<b>(277)</b>	<b>-3.3%</b>

22. Management attributes the deteriorating financial situation to, among other things:

- a. commencing in 2015, consumer demand for moulded acrylic bath enclosures declined rapidly. In that time period, the Operating Companies did not reduce their cost structure and head counts to reflect the reduction of 952 Inc.'s business;
- b. the Companies shifted their business to concentrate on the less profitable distribution of cast iron and stone higher end free standing bathtubs. Significant time and resources were spent developing contemporary online marketing strategies for the "Slik" brand;
- c. Tomlin's off shore manufacturers require payment in advance of delivery further impinging on the Companies' liquidity;
- d. the Companies were further hampered by:



- i. the expenditure of approximately \$250,000 defending a patent infringement claim;
- ii. the expenditure of approximately \$300,000 developing and registering the Patents; and
- e. the loss of the Caml business due to quality issues.

23. Additional funding is required imminently in order to maintain a going concern business.

As of the date of this Report:

- a. the Debtors' credit facilities are fully utilized;
- b. critical suppliers are withholding shipments;
- c. there is limited ability to satisfy customer orders;
- d. customers are beginning to cancel orders due to late delivery and seeking new supply sources;
- e. there is a strong possibility that the Operating Companies will not have sufficient funding to meet payroll obligations; and
- f. the Proposed Receiver understands that TD Bank is no longer willing to support the Debtors by the extension of further credit.

24. The Purchasers have advised the Proposed Receiver that they are only interested in purchasing a going concern business. If the Transaction is not approved and closed quickly, it is likely that the Debtors' business operations will cease and a going concern sale will not be possible to the detriment of the stakeholders.

### **Sales Process**

#### **Assets**

25. The estimated net book value of the Debtors' assets as at February 28, 2019 is summarized in the table below:

	TOMLIN	ACRYLINE	CAML	REALTYCO	TOTAL
	(S000's)				
Accounts Receivable	185	301			486
Inventory	630	489	184		1,302
Machinery & Equipment	40	374		-	414
Prepays	16				16
Office Furniture & Equipment	18	2		-	19
Patents				300	300
Land & Building				452	452
	<b>889</b>	<b>1,165</b>	<b>184</b>	<b>752</b>	<b>2,989</b>

26. Attached as **Confidential Appendices “1”, “2” and “3”** are an opinion of value of the Quebec Property as of November 29, 2018, an appraisal of the Gross Forced Liquidation Value (“**GFLV**”) of substantially all of the Operating Companies’ inventories, machinery and equipment, respectively.
27. Attached as **Confidential Appendix “4”** is the Proposed Receiver’s estimate of the net realizations which would be available for distribution to creditors on a liquidation basis, excluding estimated professional fees that are likely to be incurred. Attached as **Confidential Appendix “5”** is an analysis of the estimated funds which will be available for distribution to creditors if the Transaction is approved by the Court and completed. As set out in the Confidential Appendices, it is anticipated that the funds available for distribution to creditors will be greater if the Transaction is completed than would be the case in a liquidation.

### Sale Process

28. Commencing in early November 2018, the Debtors conducted a limited sale process for its business and assets with the assistance of MNP and a third-party financial consultant, Phoenix Business Systems Inc.
29. MNP assisted in the negotiation of a Letter of Intent (as described below) and the Purchase and Sale Agreement (the “**Purchase Agreement**”) between the Proposed Receiver and the Purchasers. Throughout this process MNP liaised with TD Bank and its counsel.
30. In light of the Debtors’ financial situation and the significant indebtedness to TD Bank, the Debtors determined that a going-concern sale of the business and assets would provide the greatest opportunity to maximize recoveries and benefits for their stakeholders.

31. The exceptional circumstances that necessitated a very limited sales process were as follows:

- a. due to the Debtors' financial situation and a lack of additional funding from TD Bank and others, in order to maintain operations, a protracted and extensive sales process was not possible;
- b. due to the nature of the industry and the location of the manufacturing facility and business that the Debtors operate in, the Sale Process only targeted the Operating Companies' regional competitors who the Debtors' believed could benefit from the acquisition of the Operating Companies' business and who had the financial resources to consummate a transaction within the required timeline. The number of potential purchasers with the above characteristics was extremely limited; and
- c. the realizable value of the Debtors' assets on a liquidation basis would not have maximized realizations and would have negatively impacted certain stakeholders, particularly the employees.

32. No offer deadline was set for the Sale Process, but given the Debtors' lack of financial resources and access to credit, the Debtors' goal was to secure an acceptable letter of intent as soon as possible.

33. MNP assisted the Debtors with the Sale Process by:

- a. assisting in development of due diligence materials;
- b. co-ordinating the development of non-disclosure agreements;
- c. discussing with prospective purchasers the likely format and structure of an ultimate sale transaction; and
- d. negotiating the salient business terms of the Letter of Intent (the "LOI") with the Zitta Group.

34. During the period from early November 2018 to February 10, 2019, the Debtors spoke with five (5) prospective purchasers and/or investors who participated in more than ten (10)



meetings and/or site visits of the operations in Waterloo, Ontario and Lyster, Quebec. A summary of the parties who were contacted and the site visits conducted is attached hereto as **Confidential Appendix “6”**.

35. In the end, the Debtors received only a LOI from the Purchasers, accompanied with a deposit of \$200,000. A copy of the LOI is attached hereto as **Confidential Appendix “7”**.
36. The LOI contemplated the Purchasers purchasing all of the Debtors’ business and assets on a going-concern basis except for accounts receivable.
37. During the period from the date of the LOI (February 8, 2019) and February 15, 2019, the Purchasers completed their due diligence. On February 15, 2019, the Purchasers sent an email to MNP with a revised offer based on the results of its due diligence, together with an explanation for the revised offer (the **“Revised Offer”**). A copy of Revised Offer is attached hereto as **Confidential Appendix “8”**.
38. Following further discussion and negotiations with the Purchasers regarding the Revised Offer, on February 18, 2019 an increased revised offer was submitted by the Purchasers (the **“2nd Revised Offer”**), which was accepted in principal by the Debtors and supported by TD Bank. The 2<sup>nd</sup> Revised Offer formed the basis of the Transaction provided for in the Purchase Agreement. A copy of the 2<sup>nd</sup> Revised Offer is attached hereto as **Confidential Appendix “9”**.

### **The Transaction**

39. The Purchase Agreement contemplates Zitta Immobilier Inc. purchasing 987 Inc.’s right, title and interest in and to the Quebec Property and Les Produits Zitta Inc./Zitta Products Inc. purchasing the right, title and interest of the Debtors’ to the personal/immovable property, other than accounts receivable.
40. A redacted copy of the signed Purchase Agreement is attached hereto as **Appendix “2”** and a full unredacted copy of the signed Purchased Agreement is attached as **Confidential Appendix “10”**.
41. The Purchase Agreement contemplates the following key points:



- a. closing to occur as soon as practically possible following Court approval of the Transaction and the Court's issuance of an Approval and Vesting Order;
- b. purchase price being paid, in cash, in full at closing;
- c. the Purchasers will for a period of 120 days following closing use commercially reasonable efforts to collect the accounts receivable, with 90% of the amount collected to be remitted to the Proposed Receiver and 10% retained by the Purchasers as a collection fee;
- d. the Purchasers to offer employment to substantially all employees that are non-related to the Companies or their principals; and
- e. the Purchasers to pay all non-related employees assumed by the Purchasers all outstanding wages and vacation pay as at the closing date with an adjustment to be made as of the closing for such amounts paid by the Purchasers.

## SECURED CREDITORS

### The Debtors' Personal /Movable Property

#### Tomlin

42. Pursuant to a search under the *Personal Property Security Act* (Ontario) (the "Ontario PPSA") with a file currency date of February 28, 2019, the following creditors have registered financing statements against Tomlin:

	Registration Date	Secured Party	Collateral Classification
1	December 5, 2000	TD Bank	Consumer goods, Inventory, Equipment, Accounts, Other
2	March 3, 2009	TD Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle
3	April 5, 2011	TD Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle

4	April 5, 2011	TD Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle
5	April 18, 2011	TD Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle
6	August 20, 2013	BDC	Inventory, Equipment, Accounts, Other, Motor Vehicle
7	December 7, 2018	Royal Bank of Canada	Equipment, Other, Motor Vehicle
8	December 21, 2018	Canadian Dealer Lease Services Inc. and Bank of Nova Scotia	Consumer Goods, Other, Motor Vehicle
9	December 21, 2018	Jean-Louis Cloutier and Melanie A. Shewchuk	Accounts, Other

43. Attached hereto as **Appendix “3”** is a copy of the Tomlin Ontario PPSA search.

44. Pursuant to a search under the *Personal Property Security Act* (Alberta) (the “**Alberta PPSA**”) with a file currency date of March 4, 2019, the following creditors have registered financing statements against Tomlin

	Registration Date	Secured Party	Collateral Classification
1	March 4, 2019	TD Bank	All present and after-acquired personal property of each of the debtors along with any proceeds thereof.

45. Attached hereto as **Appendix “4”** is a copy of the Tomlin Alberta PPSA search.

46. Pursuant to a search conducted in the Register of Personal and Movable Real Rights (Quebec) (the “**RPMRR**”) on March 1, 2019, the following creditors have registered against 987 Inc.:

	Registration Date	Secured Party	Collateral Classification
1	November 21, 2013	TD Bank	The universality of movable assets

47. Attached hereto as **Appendix “5”** is a copy of the Tomlin Quebec RPMRR search.

#### Caml

48. Pursuant to a search under the Ontario PPSA with a file currency date of February 28, 2019, the following creditors have registered financing statements against Caml:

	Registration Date	Secured Party	Collateral Classification
1	April 18, 2011	TD Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle
2	August 20, 2013	BDC	Inventory, Equipment, Accounts, Other, Motor Vehicle
3	December 21, 2018	Jean-Louis Cloutier and Melanie A. Shewchuk	Accounts, Other

49. Attached hereto as **Appendix “6”** is a copy of the Caml Ontario PPSA search.

50. Pursuant to a search under the Alberta PPSA with a file currency date of March 4, 2019, the following creditors have registered financing statements against Caml:

	Registration Date	Secured Party	Collateral Classification
1	March 4, 2019	TD Bank	All present and after-acquired personal property of each of the debtors along with any proceeds thereof.

51. Attached hereto as **Appendix “7”** is a copy of the Caml Alberta PPSA search.

52. Pursuant to a search conducted in the RPMRR on March 1, 2019, the following creditors have registered against Caml:



	Registration Date	Secured Party	Collateral Classification
1	November 21, 2013	TD Bank	The universality of movable assets

53. Attached hereto as **Appendix “8”** is a copy of the Caml Quebec RPMRR search.

952 Inc.

54. Pursuant to a search under the Ontario PPSA with a file currency date of February 28, 2019, the following creditors have registered financing statements against 952 Inc.:

	Registration Date	Secured Party	Collateral Classification
1	October 19, 2011	TD Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle
2	August 20, 2013	BDC	Inventory, Equipment, Accounts, Other, Motor Vehicle
3	December 21, 2018	Jean-Louis Cloutier and Melanie A. Shewchuk	Accounts, Other

55. Attached hereto as **Appendix “9”** is a copy of the 952 Inc. Ontario PPSA search.

56. Pursuant to a search under the Alberta PPSA with a file currency date of March 4, 2019, the following creditors have registered financing statements against 952 Inc.

	Registration Date	Secured Party	Collateral Classification
1	March 4, 2019	TD Bank	All present and after-acquired personal property of each of the debtors along with any proceeds thereof.

57. Attached hereto as **Appendix “10”** is a copy of the 952 Inc. Alberta PPSA search.

58. Pursuant to a search conducted in RPMRR on March 1, 2019, the following creditors have registered against 952 Inc.:

	Registration Date	Secured Party	Collateral Classification
1	October 24, 2011	TD Bank	The universality of movable assets
2	August 30, 2013	BDC	All present and future immovable and movable property for an amount of \$700,000

59. Attached hereto as **Appendix “11”** is a copy of the 952 Inc. Quebec RPMRR search.

987 Inc.

60. Pursuant to a search under the Ontario PPSA with a file currency date of February 28, 2019, the following creditors have registered financing statements against 987 Inc.:

	Registration Date	Secured Party	Collateral Classification
1	October 19, 2011	TD Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle
2	August 20, 2013	BDC	Inventory, Equipment, Accounts, Other, Motor Vehicle
3	February 3, 2017	BDC	Inventory, Equipment, Accounts, Other, Motor Vehicle
4	December 21, 2018	Jean-Louis Cloutier and Melanie A. Shewchuk	Accounts, Other

61. Attached hereto as **Appendix “12”** is a copy of the 987 Inc. Ontario PPSA search.

62. Pursuant to a search under the Alberta PPSA with a file currency date of March 4, 2019, the following creditors have registered financing statements against 987 Inc.

	Registration Date	Secured Party	Collateral Classification
1	March 4, 2019	TD Bank	All present and after-acquired personal property of each of the debtors along with any proceeds thereof.

63. Attached hereto as **Appendix “13”** is a copy of the 987 Inc. Alberta PPSA search.
64. Pursuant to a search conducted in the RPMRR on March 1, 2019, the following creditors have registered against 987 Inc.:

	Registration Date	Secured Party	Collateral Classification
1	October 24, 2011	TD Bank	The universality of movable assets
2	August 30, 2013	BDC	All present and future immovable and movable property for an amount of \$700,000
3	January 27, 2017	BDC	All present and future immovable and movable property for an amount of \$270,000

65. Attached hereto as **Appendix “14”** is a copy of the 987 Inc. Quebec RPMRR search.

### **The Quebec Property**

66. BDC, Caisse Populaire de Lyster and Revenu Quebec have registered hypothecs against the Quebec Property.

### **TD Bank**

67. TD Bank provided Tomlin with a revolving operating loan, Caml with a reducing term loan and 952 Inc. with a revolving operating loan. TD Bank also provided the Operating Companies with corporate credit cards. 987 Inc. is not directly indebted to TD Bank but is obligated to TD Bank on various guarantees.
68. According to the Kormakov Affidavit, the Debtors are indebted to TD Bank in the amount of \$1,908,136.68 as of March 1, 2019 (the “**TD Debt**”). The Debtors each provided a general security agreement in favour of TD Bank as security for the TD Debt.
69. The Proposed Receiver has engaged Miller Thomson LLP (“**MT**”) to provide an independent legal opinion in respect to the validity and enforceability of TD Bank’s personal/movable property security in Ontario, Quebec and Alberta. Subject to the usual



assumptions and qualifications contained in the MT opinions, MT is of the opinion that TD Bank's security is valid and enforceable and has priority over all other registered security interests in the personal/movable property of the Debtors in Ontario, Quebec and Alberta, save and except for purchase money security interests.

## **BDC**

70. BDC's statement of account as at March 5, 2019 indicates a balance due of \$ 660,148.62 plus accruing interest and costs. A copy of BDC's statement of account is attached as **Appendix "15"**.
71. If the Transaction is approved and completed, it is anticipated that BDC will be paid in full on completion of the Transaction.
72. The Proposed Receiver has engaged Kaufman LLP to provide an independent legal opinion in respect to the validity and enforceability of BDC's security over the Quebec Property. As of the date of this Report, the Proposed Receiver has not received this opinion. However, the other parties who have registered hypothecs against the Quebec Property, Caisse Populaire de Lyster and Revenu Quebec, have been served with TD Bank's motion record. As noted below, Caisse Populaire de Lyster has confirmed that nothing is owing to it. The net proceeds from the Transaction, if approved, will stand in the place and stead of the Purchased Assets and any encumbrances will attach to the net proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the Transaction. The distribution of the net proceeds will be the subject of a future distribution motion.

## **Other Secured Creditors**

### **Royal Bank of Canada**

73. Royal Bank of Canada has a PPSA registration against Tomlin in respect of a motor vehicle which it financed. That motor vehicle is excluded from the scope of the anticipated Receivership Order and the Transaction.

**Canadian Dealer Lease Services/Bank of Nova Scotia**

74. Canadian Dealer Lease Services/Bank of Nova Scotia have a PPSA registration against Tomlin in respect of a motor vehicle which they financed. That motor vehicle is excluded from the scope of the anticipated Receivership Order and the Transaction.

**Jean-Louis Cloutier and Melanie A. Shewchuk**

75. Jean-Louis Cloutier and Melanie A. Shewchuk have Ontario PPSA registrations against the Debtors and were served with TD Bank's motion record.

**Caisse Populaire de Lyster**

76. Caisse Populaire de Lyster has two registrations affecting the Quebec Property. A declaration from Melanie Bourgeois, a representative of Desjardins Enterprises, Centre du Quebec, the successor to Caisse Populaire de Lyster, is being filed with the Court in support of TD Bank's motion confirming that no monies remain owing by the Debtors to Caisse Populaire de Lyster.

**Unsecured Creditors**

77. The Debtors' liabilities to unsecured creditors total approximately \$1,560,000 as at March 8, 2019 comprised of:

- a. Tomlin suppliers and other service providers totalling approximately \$410,000;
- b. 952 Inc. suppliers and other service providers totalling approximately \$480,000;  
and
- c. shareholder advances totalling approximately \$670,000.

**Canada Revenue Agency**

78. According to the books and records of the Debtors, the following amounts are owed to Canada Revenue Agency ("CRA") and Revenue Quebec ("RQ") for unpaid source deductions, HST, GST and QST arrears.

	<b>Source Deductions</b>	<b>HST/GST/QST</b>	<b>Total</b>
Tomlin	31,000	6,000	37,000
Acryline	-	23,000	23,000
	<b>31,000</b>	<b>29,000</b>	<b>60,000</b>

### **Employee Claims**

79. According to the books and records of the Debtors, Tomlin and 952 Inc. have combined vacation pay liabilities of approximately \$28,000. The Purchase Agreement provides for an adjustment to the Purchase Price for any outstanding salaries, wages and vacation pay to employees paid by the Purchases for employees to be assumed by the Purchasers in the Transaction. The potential liability for wages and vacation pay for those employees not assumed by the Purchasers will be dealt with through their potential claims under the *Wage Earner Protection Program Act (WEPPA)*.

### **SEALING ORDER**

80. In the Proposed Receiver's opinion, the Confidential Appendices contain sensitive commercial information about the value of the Debtor's assets, the release of which could negatively affect any future efforts to market those assets should the Transaction not close.

81. The Proposed Receiver requests an Order sealing the Confidential Appendices from the general public until the Transaction is completed or further Order of the Court.

### **PROPOSED RECEIVER'S RECOMMENDATION**

82. The Proposed Receiver is of the view that the Transaction should be approved for the following reasons:

- a. the Sale Process leading to the Transaction was reasonable in the circumstances;
- b. the Transaction would result in a fair and reasonable price for the purchased assets in the circumstances;
- c. if the Transaction is not completed, there is a significant risk that the Debtors' business will cease operating and the assets liquidated for a price substantially less than the purchase price contained within the Purchase Agreement. In addition,



substantial professional fees and liquidation costs will be avoided. The Transaction also provides with Stakeholders with a much higher level of certainty of the final recoveries;

- d. the Purchasers are only interested in the purchase of a going concern business. If approval of the Transaction is delayed, there is a high likelihood that the Debtors may cease to operate as a going concern and the Purchasers will no longer be interested in the Transaction;
- e. the Purchasers have indicated that they are prepared to close the Transaction as soon as possible following court approval;
- f. the Purchasers have provided the Proposed Receiver with a deposit of \$200,000 and, therefore, appear motivated with the resources to close the Transaction;
- g. BDC, the first secured creditor over the Quebec Property, is expected to be paid in full on the completion of the Transaction;
- h. TD Bank, the first secured creditor over the Debtors' personal and immovable property, is expected to suffer a significant shortfall on its security and has consented to the Transaction;
- i. the Transaction will save jobs and employment for approximately 20 employees in Ontario and Quebec; and
- j. the Transaction will preserve business opportunities for the Debtors' customers and suppliers in the future.

83. In the event that the Court appoints MNP as the Receiver in respect to the Debtors, the Proposed Receiver respectfully requests that the Court grant:

- a. the Approval and Vesting Orders sought on the motion;
- b. the Sealing Order; and
- c. such further and other relief as the Proposed Receiver may advise and this Court may permit.

All of which is respectfully submitted this 11th day of March, 2019

**MNP LTD.,**  
in its capacity as the  
Proposed Court-appointed Receiver of  
Tomlin Industries (2000) Inc., Caml North America Ltd.,  
7949952 Canada Inc. and 7949987 Canada Inc.  
and not in its personal or corporate capacities  
Per:



Jerry Henechowicz, CPA CA, CIRP, LIT  
Senior Vice President



**TAB "B"**



Court File No. 35-2214905T

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

THE HONOURABLE	)	TUESDAY, THE
	)	
MR. JUSTICE ASTON	)	12th OF MARCH, 2019

B E T W E N:

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD., 7949952  
 CANADA INC. AND 7949987 CANADA INC.**

Defendants

**APPOINTMENT ORDER**

THIS motion made by the Plaintiff, The Toronto-Dominion Bank (the "**Bank**") for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing MNP Ltd. as receiver (in such capacities, the "**Receiver**") without security, to exercise the powers and duties specifically set out in this Order with respect to the Purchased Assets and Business Receivables (as defined in the agreement of purchase and sale between the Receiver and Zitta Immobilier Inc. and Les Produits Zitta Inc./Zitta Products Inc. dated March 11, 2019 (the "**Sale Agreement**")) of the Defendants, Tomlin Industries (2000) Inc., Caml North America Ltd., 7949952 Canada Inc. and 7949987 Canada Inc. (collectively hereinafter referred to

as the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 80 Dundas Street, London, Ontario.

ON READING the affidavit of Vitaly Kormakov sworn March 4, 2019 and the Exhibits thereto; the pre-filing report of MNP Ltd. dated March 11, 2019 and on hearing the submissions of counsel for the Bank, counsel for the Receiver and no one else appearing although duly served as appears from the affidavit of service of Cathy Coleiro sworn March 5, 2019 and on reading the consent of MNP Ltd. to act as the Receiver,

#### **SERVICE**

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

#### **APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, MNP Ltd. is hereby appointed Receiver, without security, of all of the Purchased Assets and Business Receivables as defined in the Sale Agreement of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

3. THIS COURT ORDERS that subject to further Order of this Court, the Debtor shall remain in possession and control of the Property and the Receiver shall not be or be deemed to be in possession and control of the Property, subject to paragraph 5 (d) and (g) below.

4. THIS COURT ORDERS that subject to further Order of this Court, the Debtor shall carry on its business and shall only pay expenses that it is authorized and directed in writing by the Receiver to pay, except to the extent that the Receiver exercises the powers granted pursuant to paragraph five (5) hereof the Receiver shall not interfere with the carrying on of the business of the Debtor.

#### **RECEIVER'S POWERS**

5. 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:

- (a) subject to paragraphs 5 (d) and (g) below and to either (i) further agreement between the Debtor and the Receiver; or, (ii) further Order of the Court, to take possession of and exercise control over any and all proceeds or receipts arising out of or from the Property;
- (b) to, cease to carry on all or any part of the business, or cease to perform or terminate any contracts of the Debtor;
- (c) 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;
- (d) to receive and collect the Business Receivable as defined in the Sale Agreement 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;
- (e) to settle, extend or compromise any indebtedness owing to the Debtor;
- (f) 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;
- (g) with respect to the Business Receivables as defined in the Sale Agreement, 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;
- (h) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,



with the approval of this Court 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, or any other like statutory sale notice provisions, shall not be required, 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;

- (i) 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 and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (j) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (k) 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;
- (l) to enter into agreements with any 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; and,
- (m) 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**

6. 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.

7. 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 of the Debtor, 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 5 or in paragraph 6 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.

8. 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**

9. 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**

10. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property 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 are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

11. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, 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**

12. 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.

**CONTINUATION OF SERVICES**

13. 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 Debtor or the Receiver, and that the Debtor and 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 Debtor or 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 Debtor or Receiver, or as may be ordered by this Court.

#### **RECEIVER TO HOLD FUNDS**

14. 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.

#### **EMPLOYEES**

15. 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**

16. 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**

17. THIS COURT ORDERS that nothing herein contained shall require the Receiver to 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*, the *Quebec Environment Quality 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 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.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

18. 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 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

19. 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.

20. 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 Ontario Superior Court of Justice – In Bankruptcy and Insolvency.

21. 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.

## SERVICE AND NOTICE

22. 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/sci/practice/practice-directions/toronto/eservice-commercial/>) 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.

23. 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.

#### **BANKRUPTCY OF DEBTOR**

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

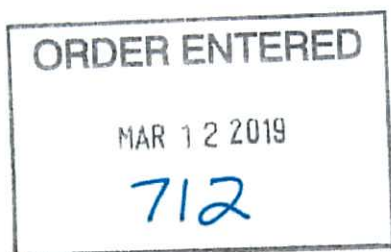
#### **GENERAL**

25. 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.

26. 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.

27. 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.

28. 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.



A handwritten signature in blue ink, appearing to be "R. King".

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Justice – Ontario Court of Justice  
In Bankruptcy and Insolvency



THE TORONTO-DOMINION BANK

v.

TOMLIN INDUSTRIES (2000) INC., et al

Plaintiff

Defendants

Court File No. 35-2214905T

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY**

PROCEEDING COMMENCED AT LONDON

**APPOINTMENT ORDER**

**HARRISON PENZA LLP**  
Barristers & Solicitors  
450 Talbot Street  
London, Ontario  
N6A 5J6

Timothy C. Hogan  
LSUC#36553S  
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Fax: (519) 667-3362  
Lawyers for the Plaintiff

TCH/176008

TAB "C"



Court File No. 35-2214905T

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

THE HONOURABLE )  
 JUSTICE *ASTON* )

TUESDAY, THE 12TH  
 DAY OF MARCH, 2019

BETWEEN:

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD., 7949952  
 CANADA INC. AND 7949987 CANADA INC.**

Defendants

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by The Toronto-Dominion Bank (the "Bank") to appoint MNP Ltd. as the Court-appointed receiver (the "Receiver") of certain assets of Tomlin Industries (2000) Inc. ("Tomlin"), Caml North America Ltd. ("Caml"), 7949952 Canada Inc. ("794 Canada") and 7949987 Canada Inc. (collectively hereinafter referred to as the "Debtor") and for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and Zitta Immobilier Inc. and Les Produits Zitta Inc./Zitta Products Inc. ("Zitta Products") (collectively hereinafter referred to as the "Purchaser") dated March 11, 2019 and appended to the Pre-Filing Report of MNP Ltd. as Proposed Receiver dated March 11, 2019 (the "Report"), and vesting in the Purchaser the

Debtor's right, title and interest in and to the Personal Property as described and defined in the Sale Agreement, was heard this day at 80 Dundas Street, London, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver and the Bank, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Cathy Coleiro sworn March 5, 2019, filed:

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, as described and defined in the Sale Agreement, to the Purchaser.

#### **VESTING THE PERSONAL PROPERTY IN ZITTA PRODUCTS**

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to Zitta Products substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of Tomlin, Caml and 794 Canada's right, title and interest, if any, in and to the Personal Property described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in Zitta Products, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), claims, liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, hypothecs, mortgages, pledges, title retention agreements, options to buy, rights of first refusal, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, assignments, judgments, executions, writs of seizure or execution, notices of sale, adverse claims, charges, or other pre-emptive rights in favour of third parties, restrictions on transfer of title, or other claims or other financial or monetary claims, whether or not they have attached or been perfected, published, 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) and all charges, or security evidenced by registration, publication or filing pursuant to the *Civil Code of Québec* or any other personal property registry system (all of which are collectively referred to



as the "Encumbrances"); and, for greater certainty, this Court orders that the Encumbrances affecting or relating to the Personal Property are hereby expunged and discharged as against the Personal Property, in each case effective as of the applicable time and date of the Receiver's Certificate.

**CANCELLATION AND REDUCTION OF SECURITY REGISTRATIONS**

3. THIS COURT ORDERS the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Receiver's Certificate, to strike the registrations numbered:

**For 7949952 Canada Inc**

- Conventional hypothec without delivery on an universality of claims, receivables, inventory and movable property in an amount of \$700 000, registered in favour of Business Development Bank of Canada on August 30, 2013 under number 13-0768891-0002;

**For 7949987 Canada Inc**

- Conventional hypothec without delivery on an universality of movable property in an amount of \$700 000, registered in favour of Business Development Bank of Canada on August 30, 2013 under number 13-0768891-0001;
- Conventional hypothec without delivery on an universality of movable and immovable property in an amount of \$270 000, registered in favour of Business Development Bank of Canada on January 27<sup>th</sup>, 2017 under number 17-0075761-0001;

3.1 THIS COURT ORDERS the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Receiver's Certificate, to reduce the scope of the following registration numbers so that those hypothecs will only continue to affect the Excluded Assets detailed at Schedule "D":

**For 7949952 Canada Inc**

- Conventional hypothec without delivery on an universality of property, and movable property in an amount of \$2 400 000, registered in favour of The Toronto-Dominion Bank on October 24, 2011 under number 11-0813869-0001;

**For 7949987 Canada Inc**

- Conventional hypothec without delivery on an universality of movable property, and movable property in an amount of \$2 400 000, registered in favour of The Toronto-Dominion Bank on October 24, 2011 under number 11-0813874-0001;

**For CAML North America Ltd.**

- Conventional hypothec without delivery on an universality of all movable property in an amount of \$5 100 000, registered in favour of The Toronto-Dominion Bank on November 21, 2013 under number 13-1038149-0001 and renewed on September 19, 2018 under number 18-1032223-0001;

**Tomlin Industries (2000) Inc.**

- Conventional hypothec without delivery on an universality of all movable property in an amount of \$5 100 000, registered in favour of The Toronto-Dominion Bank on November 21, 2013 under number 13-1038149-0002 and renewed on September 19, 2018 under number 18-1032223-0002;

**LIMITATION OF LIABILITY**

4. THIS COURT DECLARES that, subject to other orders of this Court, nothing herein contained shall require the Receiver to occupy or to take control, or to otherwise manage all or any part of the Personal Property. The Receiver shall not, as a result of this order, be deemed to be in possession of any of the Personal Property within the meaning of environmental legislation, the whole pursuant to the terms of the *Bankruptcy and Insolvency Act*.

5. THIS COURT DECLARES that no action lies against the Receiver by reason of this order or the performance of any act authorized by this order, except by leave of the Court. The entities related to the Receiver or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph.

**GENERAL**

6. 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.

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 the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "D" 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. 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;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any 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 shall it 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) or any other applicable federal or

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provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. 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.

11. THIS COURT ORDERS that the Purchaser and the Receiver shall be authorized to take all steps as may be necessary to effect the reduction of the Encumbrances referred to in section 3.1 hereinabove, to the extent specified therein, and to effect the discharge of any other Encumbrances.

12. THIS COURT DECLARES that this Order shall have full force and effect in all provinces and territories in Canada.

13. THIS COURT ORDERS the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

  
\_\_\_\_\_



**Schedule A – Form of Receiver’s Certificate**

Court File No. 35-2214905T

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

BETWEEN:

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD., 7949952  
CANADA INC. AND 7949987 CANADA INC.**

Defendants

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice In Bankruptcy and Insolvency (the "Court") dated March 12, 2019, MNP Ltd. was appointed as the receiver (the "Receiver") of certain assets of Tomlin Industries (2000) Inc. ("Tomlin"), Caml North America Ltd. ("Caml"), 7949952 Canada Inc. ("794 Canada") and 7949987 Canada Inc.

D. Pursuant to an Order of the Court dated March 12, 2019, the Court approved the agreement of purchase and sale dated March 11, 2019 (the "Sale Agreement") between the Receiver and Zitta Immobilier Inc. ("Zitta Holdco") and Les Produits Zitta Inc./Zitta Products Inc. ("Zitta Products") (collectively hereinafter referred to as the "Purchaser") and provided for the vesting in Zitta Products of Tomlin, Caml and 794 Canada’s right, title and interest, if any, in and to the Personal Property, which vesting is to be effective upon the delivery by the Receiver



- 2 -

to the Purchaser of a 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 article four (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. 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 Personal Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in article four (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.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**MNP Ltd., in its capacity as Receiver of  
certain assets of Tomlin Industries (2000)  
Inc., Caml North America Ltd., 7949952  
Canada Inc. and 7949987 Canada Inc., and  
not in its personal capacity**

Per: \_\_\_\_\_

Name:

Title:

### Schedule B – Purchased Assets

*(Subject to defined terms in the Sale Agreement)*

- all Business Inventory. “Business Inventory” means all inventories of the Operating Companies, which means Tomlin Industries (2000) Inc., Caml North America Ltd., 7949952 Canada Inc. collectively, on the Closing Date related to the Business of every kind and nature including all finished goods, work in progress, raw materials, ingredients, packaging materials, production, new and unused production and shipping supplies, spare parts, maintenance items and advertising materials, and all other materials and supplies on hand to be used or consumed in the production of the products of the Business, in each case on hand, in transit, ordered and paid for, but not delivered, warehoused or wherever situated, including at a customer’s premises. “Closing Date” means, subject to any other closing conditions, as soon as practically possible following the issuance of the Approval and Vesting Order, or the dismissal of any appeal in respect of the Approval and Vesting Order, provided the Approval and Vesting Order has not been stayed prior to the Closing Time, or such other date agreed to by the parties hereto in writing for the completion of the Transaction; or such other time as the parties may mutually agree;
- all prepaid expenses as of the Closing Time. “Closing Time” means a time agreed to between the parties on the Closing Date;
- all machinery, tools, chattels, movables, furniture, furnishings, forklifts, racking, office furniture, removable tenant’s fixtures, manufacturing equipment, moulds, artwork, equipment and tangible personal property used or held for use in the conduct of the Business as of the Inventory Date wherever located, subject to any changes made by the Companies in the ordinary course of business after the Execution Date. “Inventory Date” means February 11, 2019. “Execution Date” means the date upon which this Agreement has been executed and accepted by the Vendor;
- all computer hardware;
- all Business Information. “Business Information” means financial and operating data, Books and Records and other business information relating to the Business including, without limitation, supplier information, sales data, operating procedures, practices and customer list, accounting systems, vendor’s lists, price books, catalogues, sales and purchase history, files, data and information relating to customers and prospective customers including, without limitation, the customer list which has been delivered by the Companies to the Purchaser prior to the date hereof, current outstanding customer order lists, issued customer quotations,

practices and all such other Business Information related to the Purchased Assets which may be requested from the Purchaser prior to the Closing Date, acting reasonably. Books and Records means all books, records, files and documents relating to the Business, including without limitation, books of account, ledgers, journals, sales and purchase records, lists of suppliers, credit information, cost pricing information, business reports, plans and projections and all other correspondence, data and information, financial or otherwise, in any format and media whatsoever, related to the Business;

- all Assumed Contracts. "Assumed Contracts" means those contracts which the Purchaser has elected by providing written notice to the Vendor, at its sole discretion, to assume on Closing;
- all Intellectual Property. "Intellectual Property" means all rights arising out of or associated therewith, in any jurisdiction, whether registered or not, including any or all: (i) Patents, patent applications and patent rights, and the subject matter thereof; (ii) Trade-marks, trade-mark applications, trade names, service marks, brand names, certification marks, trade dress and other indications of origin, whether registered or not and the goodwill associated therewith; (iii) copyrights, whether registered or not, and the subject matter thereof, including computer programs, source codes, databases and the documentation therefore; (iv) trade secrets and other confidential or non-public innovation including inventions, discoveries, formulae, compositions, inventor's notes, discoveries and improvements, know-how, manufacturing and production processes and techniques (including for scale-up), research and development innovation, drawings, schematics, specifications, plans, proposals, technical data technical products drawings, specification sheets, products renderings, product images, marketing materials and sources files; (vi) any similar intellectual or industrial property or proprietary rights including industrial designs; (vii) registrations of, and applications to register any of the foregoing, and any renewal, extension, reissue, division, continuation, continuation in part, patent of addition, re-examination, derivation or modification thereof;
- the Trade-marks. "Trade-marks" mean the following Application/Registrations;
  - 1158976 / TMA639846
  - 1173384 / TMA629002
  - 1377618 / TMA742316
  - 1670525 / TMA919544
  - 1191493 / TMA631537/

- 1191492 / MA631539
- 1191494 / TMA631542
- 1191491 / TMA626141
- the Patents. “Patents” means the following:
  - Canadian Patent No. CA2490372C;
  - US Patent No. US7454802B2;
  - Canadian Patent No. CA2976189C; and
  - US Patent No. Pending – Application # 15/674,996 (Publication No.: US2018/0045344A1);
- all Permits. “Permits” mean to the extent transferable, all franchises, certifications, licences, registrations, consents, permits, registrations, exemptions, waivers, filings, privileges, and other approvals, qualifications for the conduct of the Business as may be required by any Governmental Authority or third parties;
- all domain names, email accounts, websites and social media accounts used in or relating to the Business including, without limitation the following:
- Websites:
  - <http://www.tomlingroup.ca/>
  - <http://slikportfolio.com/>
  - <http://camltomlin.com/>
  - <http://acryline.ca/>
  - <http://www.acrylineusa.com/>

- Facebook:  
Caml Tomlin, The Tomlin Group (Tomlin Group), Acryline
- LinkedIn:  
Tomlin Group, CAML Tomlin, Acryline, Slik Portfolio
- Twitter:  
@thetomlingroup; @slikoutdoor; @slikportfolio
- all telephone numbers, fax numbers, computers, cellular phones and cellular numbers used in or relating to the Business; and
- all access rights to the Personal Property, including passwords, systems, codes, links and keys;



**Schedule C – Claims to be deleted and expunged from title to Real Property**

Not Applicable

The Toronto-Dominion Bank  
Plaintiff and  
Tomlin Industries (2000) Inc., et al.  
Defendants

Court File No.: 35-2214905T

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

**APPROVAL AND VESTING ORDER**

**HARRISON PENSA LLP**  
Barristers & Solicitors  
450 Talbot Street  
London, ON N6A 5J6

**Timothy C. Hogan** LSO#: 36553S  
Tel: (519) 679-9660  
Fax: (519) 667-3362  
thogan@harrisonpensa.com

Solicitors for the Plaintiff

**TAB “D”**

Court File No. 35-2214905T



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

THE HONOURABLE	)	TUESDAY, THE 12TH
JUSTICE <i>ASTON</i>	)	DAY OF MARCH, 2019
	)	

BETWEEN:

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD., 7949952  
 CANADA INC. AND 7949987 CANADA INC.**

Defendants

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by The Toronto-Dominion Bank (the "Bank") to appoint MNP Ltd. as the Court-appointed receiver (the "Receiver") of certain assets of 7949987 Canada Inc. (the "Debtor"), and others, and for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and Zitta Immobilier Inc. (the "Purchaser"), and others, dated March 11, 2019 and appended to the Pre-Filing Report of MNP Ltd. as Proposed Receiver dated March 11, 2019 (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the immovable property described in paragraph 1 of this Order, was heard this day at 80 Dundas Street, London, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver and the Bank, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Cathy Coleiro sworn March 5, 2019, filed:

**VESTING THE IMMOVABLE PROPERTY IN ZITTA HOLDCO**

1. THIS COURT ORDERS AND DECLARES that upon the delivery of the Receiver's Certificate 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, if any, in and to the Immovable Property herein below described (the "**Immovable Property**") shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, charges, hypothecs, deemed trusts, judgments, writs of seizure or execution, notices of sale, contractual rights relating to the Immovable Property, encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**"), including without limiting the generality of the foregoing all Encumbrances created by the Order of the Honourable Justice [NAME] dated [DATE] and all charges, or security evidenced by registration, publication or filing pursuant to the *Civil Code of Québec* in immovable property and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Immovable Property be cancelled and discharged as against the Immovable Property, in each case effective as of the applicable time and date of the Certificate.

**LEGAL DESCRIPTION OF IMMOVABLE PROPERTY**

An immovable known and designated as lot number FIVE MILLION EIGHT HUNDRED THIRTY-FIVE THOUSAND THIRTY-FIVE (5 835 035) of the Quebec Land Registry (*Cadastre du Québec*), Registration Division of Arthabaska.

With building erected thereon bearing civic address 2005-2015 rue Bécancour, Lyster, Quebec, G0S 1V0.

As the property now subsists with all of its rights, members and appurtenances, without exception or reserve of any kind.

2. THIS COURT ORDERS the Land Registrar of the Quebec Land Registry Office for the Registry Division of Arthabaska upon presentation of the Receiver's Certificate and a certified



copy of this Order accompanied by the required application for registration and upon payment of the prescribed fees, to publish this Order and (i) to make an entry on the Land Register showing the Purchaser as the owner of the Immovable Property and (ii) to cancel any and all Encumbrances on Immovable Property, including, without limitation, the following registrations published at the said Land Registry Office:

- **An hypothec registered on August 30, 2013 at the Quebec Land Registry Office** for the Registry Division of Arthabaska, under number 20 228 439, in favor of Business Development Bank of Canada;
- **An hypothec registered on January 20, 2017 at the Quebec Land Registry Office** for the Registry Division of Arthabaska, under number 22 857 780, in favor of Business Development Bank of Canada;
- **A legal hypothec registered on April 10, 2018 at the Quebec Land Registry Office** for the Registry Division of Arthabaska, under number 23 751 304, in favor of Ministre du revenu du Québec.

#### **LIMITATION OF LIABILITY**

3. THIS COURT DECLARES that, subject to other orders of this Court, nothing herein contained shall require the Receiver to occupy or to take control, or to otherwise manage all or any part of the Immovable Property. The Receiver shall not, as a result of this order, be deemed to be in possession of any of the Immovable Property within the meaning of environmental legislation, the whole pursuant to the terms of the *Bankruptcy and Insolvency Act*.

4. THIS COURT DECLARES that no action lies against the Receiver by reason of this order or the performance of any act authorized by this order, except by leave of the Court. The entities related to the Receiver or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph.

#### **GENERAL**

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Encumbrances, the net proceeds from the sale of the Immovable Property shall stand in the place and stead of the Immovable Property, and that from and after the delivery of the Receiver's Certificate all Encumbrances shall attach to the net proceeds from the sale of the Immovable Property with the same priority as they had with respect to the Immovable Property immediately

prior to the sale, as if the Immovable Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

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;

the vesting of the Immovable Property in the Purchaser pursuant to this Order shall be binding on any 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 shall it 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) 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 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.

9. THIS COURT ORDERS that the Purchaser or Receiver shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.

- 5 -

10. THIS COURT DECLARES that this Order shall have full force and effect in all provinces and territories in Canada.

11. THIS COURT ORDERS the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.



A handwritten signature in blue ink, written over a horizontal line. The signature is stylized and appears to be "R. B. J."

**Schedule A – Form of Receiver’s Certificate**

Court File No. 35-2214905T

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

**B E T W E E N:**

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD., 7949952  
CANADA INC. AND 7949987 CANADA INC.**

Defendants

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice In Bankruptcy and Insolvency (the "Court") dated March 12, 2019, MNP Ltd. was appointed as the receiver (the "Receiver") of certain assets of 7949987 Canada Inc., and others.

D. Pursuant to an Order of the Court dated March 12, 2019, the Court approved the agreement of purchase and sale dated March 11, 2019 (the "Sale Agreement") between the Receiver and Zitta Immobilier Inc. (the "Purchaser"), and others, and provided for the vesting in the Purchaser of 7949987 Canada Inc.’s right, title and interest, if any, in and to the Immovable Property, which vesting is to be effective upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Immovable Property; (ii) that the conditions to Closing as set out in article four (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. 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.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**MNP Ltd., in its capacity as Receiver of  
certain assets of Tomlin Industries (2000)  
Inc., Caml North America Ltd., 7949952  
Canada Inc. and 7949987 Canada Inc., and  
not in its personal capacity**

Per: \_\_\_\_\_

Name:

Title:

The Toronto-Dominion Bank  
Plaintiff and

Tomlin Industries (2000) Inc., et al.  
Defendants

Court File No.: 35-2214905T

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

**APPROVAL AND VESTING ORDER**

**HARRISON PENZA LLP**  
Barristers & Solicitors  
450 Talbot Street  
London, ON N6A 5J6

**Timothy C. Hogan** LSO#: 365538  
Tel: (519) 679-9660  
Fax: (519) 667-3362  
thogan@harrisonpenza.com

Solicitors for the Plaintiff



**TAB "E"**



Court File No.: 35-2214905T

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

<p><b>THE HONOURABLE</b></p> <p><b>JUSTICE ASTON</b></p>	<p>)</p> <p>)</p> <p>)</p>	<p><b>TUESDAY THE 12<sup>TH</sup> DAY</b></p> <p><b>OF MARCH, 2019</b></p>
--	----------------------------	--

**BETWEEN:**

THE TORONTO-DOMINION BANK

Plaintiff

-and-

TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD., 7949952 CANADA  
INC., AND 7949987 CANADA INC.

Defendants

**ANCILLARY ORDER**

**THIS MOTION**, made by the Plaintiff, The Toronto-Dominion Bank, for, *inter alia*:

- a) An Order that the time for service, filing and confirmation of the Notice of Motion and the Motion Record be abridged so that this motion is properly returnable today and hereby dispensing with further service and confirmation hereof;
- b) An Order that the Confidential Appendices to the Report of MNP Ltd. as proposed Receiver (the "**Proposed Receiver's Report**" and the "**Confidential Appendices**", respectively) be sealed until such a time as the Transaction (as defined in the Notice of Motion) is complete and funds are received by the Receiver; and,

- c) Such further and other relief as counsel may request and this honourable court may permit.

was heard this day at the Court House, 80 Dundas Street, London, Ontario.

**ON READING** the Notice of Motion, the Affidavit of Vitaly Kormakov sworn March 4, 2019 and the Exhibits thereto, the Proposed Receiver's Report and the Confidential Appendices thereto, the Affidavit of Service of Cathy Coleiro sworn March 5, 2019 and on hearing submissions from all counsel in attendance:

1. **THIS COURT ORDERS** that the time for service, filing and confirmation of the Notice of Motion and Motion Record is abridged so that this motion is properly returnable today and hereby dispenses with further service and confirmation hereof; and,
2. **THIS COURT ORDERS** that the Confidential Appendices be sealed until such a time as the Transaction, subject to the Orders of the Court dated March 12, 2019, is complete and funds are received by the Receiver.

  
Justice, Ontario Superior Court of Justice



THE TORONTO-DOMINION BANK

v.

TOMLIN INDUSTRIES (2000) INC. et al

Plaintiff

Defendants

Court File No. 35-2214905T

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**  
  
PROCEEDING COMMENCED AT LONDON

**ANCILLARY ORDER**

**HARRISON PENZA LLP**  
Barristers & Solicitors  
450 Talbot Street  
London, Ontario  
N6A 5J6

Timothy C. Hogan  
LSUC#36553S  
Tel : (519) 661-6725  
Fax: (519) 667-3362  
Lawyers for the Plaintiff

TCH/176008

TAB "F"

**PURCHASE AND SALE AGREEMENT**

between

**MNP LTD.,**  
solely in its capacity as Court appointed Receiver  
of certain of the assets, undertakings and properties of Tomlin Industries (2000) Inc., Caml  
North America Ltd., 7949952 Canada Inc., and 7949987 Canada Inc. and not in its  
personal or corporate capacities

as Vendor,

and

**Zitta Immobilier Inc. and Les Produits Zitta Inc./Zitta Products Inc.**

collectively, as Purchaser,

dated as of March 11, 2019



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**PURCHASE AND SALE AGREEMENT**

THIS AGREEMENT dated as of the 11<sup>th</sup> day of March, 2019,

**B E T W E E N:**

**MNP LTD.,**  
solely in its capacity as Court appointed Receiver  
certain of the assets, undertakings and properties of Tomlin Industries (2000) Inc., Caml  
North America Ltd., 7949952 Canada Inc., and 7949987 Canada Inc. and not in its  
personal or corporate capacities

as "Vendor",

and

**Zitta Immobilier Inc. and Les Produits Zitta Inc./Zitta Products Inc.**

collectively, as "Purchaser",

**Recitals**

**WHEREAS** the Vendor wishes to sell and Zitta Holdco wishes to purchase 7949987 Canada's right, title and interest, if any, in and to the Immovable Property subject to the terms and conditions hereof;

**AND WHEREAS** the Vendor wishes to sell and Zitta Products wishes to purchase the Operating Companies' right, title and interest in and to the Personal Property subject to the terms and conditions hereof;

**AND WHEREAS** the purchase and sale of the Purchased Assets is subject, amongst other conditions, to the appointment by the Court of the Vendor as receiver of the assets, undertakings and properties of the Companies, which shall include the Purchased Assets, and to the approval by the Court of this Agreement;

**NOW THEREFORE THIS AGREEMENT WITNESSES THAT**, in consideration of the agreements contained in this Agreement and other good and valuable consideration (the

receipt and sufficiency of which are hereby acknowledged by each of the parties), the parties agree as follows:

**ARTICLE 1**  
**INTERPRETATION**

**1.01 Definitions**

In addition to any terms in the text of this Agreement, including the recitals and Schedules to this Agreement, the following capitalized terms are defined herein as follows:

- (a) **"7949987 Canada"** means 7949987 Canada Inc.;
- (b) **"Adjustments"** means the adjustments to the Purchase Price provided for and determined pursuant to Section 2.08;
- (c) **"Agreement"** means this agreement and all amendments made to this agreement by written agreement between the parties;
- (d) **"Approval and Vesting Order"** means Orders of the Court substantially in the form of Schedule "A" and Schedule "B" hereto;
- (e) **"Assignment of Contracts"** means an assignment and assumption of the right, title, interest and obligations of the Companies in the Assumed Contracts to the Purchaser in the form mutually agreed upon between the Vendor and the Purchaser, each acting reasonably;
- (f) **"Assumed Contracts"** has the meaning set out in Section 2.02;
- (g) **"Assumed Employees"** has the meaning set out in Section 3.04(b);
- (h) **"Books and Records"** means all books, records, files and documents relating to the Business, including without limitation, books of account, ledgers, journals, sales and purchase records, lists of suppliers, credit information, cost pricing information, business reports, plans and projections and all other correspondence, data and information, financial or otherwise, in any format and media whatsoever, related to the Business;
- (i) **"Business"** means the business of the manufacturer, importer and distributor of bathroom fixtures and related products and the sale of same from leased premises municipally known as 608-3 Weber Street North, Waterloo, Ontario and from the Immovable Property;
- (j) **"Business Day"** means a day other than a Saturday, Sunday or statutory holiday in Ontario;
- (k) **"Business Information"** means financial and operating data, Books and Records and other business information relating to the Business including, without limitation, supplier information, sales data, operating procedures, practices and customer list, accounting

systems, vendor's lists, price books, catalogues, sales and purchase history, files, data and information relating to customers and prospective customers including, without limitation, the customer list which has been delivered by the Companies to the Purchaser prior to the date hereof, current outstanding customer order lists, issued customer quotations, practices and all such other Business Information related to the Purchased Assets which may be requested from the Purchaser prior to the Closing Date, acting reasonably;

- (l) **"Business Inventory"** means all inventories of the Operating Companies on the Closing Date related to the Business of every kind and nature including all finished goods, work in progress, raw materials, ingredients, packaging materials, production, new and unused production and shipping supplies, spare parts, maintenance items and advertising materials, and all other materials and supplies on hand to be used or consumed in the production of the products of the Business, in each case on hand, in transit, ordered and paid for, but not delivered, warehoused or wherever situated, including at a customer's premises;
- (m) **"Business Receivables"** means all accounts receivable resulting from the sale of the Companies' goods and services and other debts due to the Companies, or either of them, outstanding on the Closing Date, and including all books and records to evidence same;
- (n) **"Claim"** means any claims, demands, accusations, notices, investigations, proceedings, complaints, actions, suits, liabilities, expenses, costs, damages or losses, legal fees, professional fees, extrajudicial costs and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing;
- (o) **"Closing"** means the completion of the transactions contemplated hereunder in accordance with the provisions of Article 5;
- (p) **"Closing Date"** means, subject to any other closing conditions, as soon as practically possible following the issuance of the Approval and Vesting Order, or the dismissal of any appeal in respect of the Approval and Vesting Order, provided the Approval and Vesting Order has not been stayed prior to the Closing Time, or such other date agreed to by the parties hereto in writing for the completion of the Transaction;
- (q) **"Closing Time"** means a time agreed to between the parties on the Closing Date, or such other time as the parties may mutually agree; **"Contaminant"** means any substance, material, matter or thing defined or regulated by any Environmental Law, including petroleum hydrocarbons or their derivatives, radon and radon daughters, asbestos, mould, UFFI, chlorinated hydrocarbons, pollutants,
  - (r) dangerous, toxic or hazardous substances or waste of any description whatsoever,
  - (s) including any of the foregoing as defined in any Environmental Law;
- (t) **"Companies"** means 7949987 Canada Inc. and the Operating Companies collectively;

- (u) “**Court**” means the Ontario Superior Court of Justice, in Bankruptcy and Insolvency;
- (v) “**Deposit**” has the meaning set out in Section 2.06;
- (w) “**Employees**” means the employees of the Companies employed at the Business as at the Execution Date;
- (x) “**Encumbrance**” means pledges, liens (statutory or otherwise), charges, security interests, leases, offers to lease, pledges, privileges, license agreements, title retention agreements, mortgages, hypothecs, trust deeds, trust or deemed trust (whether contractual, statutory or otherwise arising), assignments by way of security, security interests, conditional sales contracts or other title retention agreements, or other similar interests or instruments charging, or creating a security interest in, or against title, restrictions, development or similar agreements, easements, servitudes, rights-of-way (registered or unregistered), restrictive covenants, contamination notice, title defects, restrictions, executions, tax arrears, permissions, options or adverse claims, ownership interest, right to acquire an ownership interest encroachments or burden or any other right or claim or encumbrances of any kind or character whatsoever or however arising, or any agreement to enter into or create any of the foregoing, on or affecting all or any part of any of the Purchased Assets or any interest therein, or any direct or indirect interest in such Purchased Assets, including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, the filing of any financing statement, encumbrances of mechanics, labourers, workmen, builders, contractors, suppliers of material or architects or other similar encumbrances incidental to construction, maintenance or repair operations and other similar liens, legal hypothecs and encumbrances;
- (y) “**Environmental Activity**” means any past or present activity, event or circumstance in respect of a Contaminant, including its storage, use, holding, collection, purchase, accumulation, assessment, generation, manufacture, construction, processing, treatment, stabilization, disposition, handling or transportation or its release, escape, leaching, dispersal, emission, discharge or migration into the natural environment, including movement through or in the air, soil, subsoil, surface water or ground water, or in indoor spaces;
- (z) “**Environmental Laws**” means any and all federal, provincial, municipal and local statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, codes, permits, licenses, agreements or other governmental restrictions having the force of law relating to the environment, occupational health and safety, health protection or any Environmental Activity;
- (aa) “**Equipment Leases**” means all leases for equipment between the Operating Companies and third parties, save for those that shall be Assumed Contracts;
- (bb) “**ETA**” means the *Excise Tax Act*, R.S.C. 1985, c.E-15, as amended;



- (cc) **“Excluded Assets”** means the following assets, property, rights and interests of the Companies:
- (i) all Business Receivables, subject to Section 2.04(b) hereof;
  - (ii) all Equipment Leases;
  - (iii) all cash, bank balances, moneys in the possession of banks and other depositories, term or time deposits, guaranteed investment certificates, treasury bills, other securities and other similar cash or cash equivalent items;
  - (iv) income tax refunds and other tax refunds receivable by the Companies;
  - (v) all corporate and income tax records; and,
  - (vi) the benefit of insurance policies on the life of any shareholder of the Companies, and any insurance policies held by the Companies in connection with the Business, Employees and Personal Property;
- (dd) **“Execution Date”** means the date upon which this Agreement has been executed and accepted by the Vendor;
- (ee) **“Existing Contracts”** means any and all written or verbal contracts and agreements (including quotations, orders and rebates), work in progress, derivative contracts, leases, insurance policies, deeds, indentures, instruments, entitlements, warranties and warranty rights, commitments, indemnities, guarantees, undertakings and orders made by or to which the Companies are a party or by which the Companies, as the context requires, is bound or under which the Companies, as the context requires, have, or will have, any rights or obligations existing on the Execution Date which relate to the Business;
- (ff) **“Governmental Authority”** means (i) any government, legislature, municipality, regional county municipality, ministry, regulatory authority, agency, commission, department, board or court or other law, regulation or rule-making entity with authority to legally bind (including a Minister of the Crown); (ii) any subdivision or authority of any of the above; and (iii) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the above;
- (gg) **“GST”** means all taxes, interest, penalties and fines imposed under the ETA and the regulations made thereunder, and any reference to a specific provision of the ETA shall refer to any successor provision thereto of like or similar effect;
- (hh) **“Immovable Property”** means the immovable property in the province of Quebec legally described in Schedule “C” attached hereto together with all buildings and improvements thereon;
- (ii) **“Intellectual Property”** means all rights arising out of or associated therewith, in any jurisdiction, whether registered or not, including any or all: (i) Patents, patent applications and patent rights, and the subject matter thereof; (ii) Trade-marks, trade-

mark applications, trade names, service marks, brand names, certification marks, trade dress and other indications of origin, whether registered or not and the goodwill associated therewith; (iii) copyrights, whether registered or not, and the subject matter thereof, including computer programs, source codes, databases and the documentation therefore; (iv) trade secrets and other confidential or non-public innovation including inventions, discoveries, formulae, compositions, inventor's notes, discoveries and improvements, know-how, manufacturing and production processes and techniques (including for scale-up), research and development innovation, drawings, schematics, specifications, plans, proposals, technical data technical products drawings, specification sheets, products renderings, product images, marketing materials and sources files; (vi) any similar intellectual or industrial property or proprietary rights including industrial designs; (vii) registrations of, and applications to register any of the foregoing, and any renewal, extension, reissue, division, continuation, continuation in part, patent of addition, re-examination, derivation or modification thereof;

- (jj) **"Interim Period"** means the period of time commencing on the date of execution by the parties to this Agreement, up to and including the Closing Date;
- (kk) **"Inventory Date"** means February 11, 2019;
- (ll) **"Non-Assumed Employees"** means any Employee who is not an Assumed Employee and is not listed on Schedule "D";
- (mm) **"Operating Companies"** means Tomlin Industries (2000) Inc., Caml North America Ltd., 7949952 Canada Inc. collectively;
- (nn) **"Patent"** means the following:
  - (i) Canadian Patent No. CA2490372C;
  - (ii) US Patent No. US7454802B2;
  - (iii) Canadian Patent No. CA2976189C; and
  - (iv) US Patent No. Pending – Application # 15/674,996 (Publication No.: US2018/0045344A1);
- (oo) **"Permits"** means to the extent transferable, all franchises, certifications, licences, registrations, consents, permits, registrations, exemptions, waivers, filings, privileges, and other approvals, qualifications for the conduct of the Business as may be required by any Governmental Authority or third parties;
- (pp) **"Permitted Assignee"** means a company to be incorporated by the Purchaser for the object of acquiring the Purchased Assets;
- (qq) **"Person"** means and includes any individual, corporation, partnership, firm, joint venture, syndicate, association, trust, unincorporated organization, the Crown, any

government authority, governmental agency or board or commission or authority, and any other form of entity or organization recognized by law;

(II) “**Personal Property**” means, collectively, all movable property in the province of Quebec and Ontario including those listed in Schedule “F” of this Agreement and all property, assets, rights, title and interests of the Companies in the items enumerated below and except for the Excluded Assets:

- (i) all Business Inventory;
- (ii) all prepaid expenses as of the Closing Time;
- (iii) all machinery, tools, chattels, movables, furniture, furnishings, forklifts, racking, office furniture, removable tenant’s fixtures, manufacturing equipment, moulds, artwork, equipment and tangible personal property used or held for use in the conduct of the Business as of the Inventory Date wherever located, subject to any changes made by the Companies in the ordinary course of business after the Execution Date;
- (iv) all computer hardware;
- (v) all Business Information;
- (vi) all Assumed Contracts;
- (vii) all Intellectual Property;
- (viii) the Trade-marks;
- (ix) the Patent;
- (x) all Permits;
- (xi) all domain names, email accounts, websites and social media accounts used in or relating to the Business including, without limitation the following:

(1) *Websites:*

<http://www.tomlingroup.ca/>

<http://slikportfolio.com/>

<http://camltomlin.com/>

<http://acryline.ca/>

<http://www.acrylineusa.com/>

(2) *Facebook:*

Caml Tomlin, The Tomlin Group (Tomlin Group), Acryline

- (3) *Linkedin:*  
Tomlin Group, CAML Tomlin, Acryline, Slik Portfolio
- (4) *Twitter:*  
@thetomlingroup; @slikoutdoor; @slikportfolio
- (xii) all telephone numbers, fax numbers, computers, cellular phones and cellular numbers used in or relating to the Business; and
- (xiii) all access rights to the Personal Property, including passwords, systems, codes, links and keys;
- (ss) “**Prepaid Revenues**” has the meaning set out in Section 2.08 (a)(ii);
- (tt) “**Purchased Assets**” means the Personal Property and the Immovable Property collectively;
- (uu) “**Purchase Documents**” means, collectively, this Agreement and all other agreements executed and delivered by one or both of the parties and ancillary to this Agreement;
- (vv) “**Purchase Price**” has the meaning set out in Section 2.05;
- (ww) “**QST**” means taxes, interest, penalties and fines imposed under the QSTA and the regulations made thereunder, and any reference to a specific provision of the QSTA shall refer to any successor provision thereto of like or similar effect;
- (xx) “**QSTA**” means An Act Respecting the Quebec Sales Tax (CQLR, chapter T-0.1), as amended from time to time;
- (yy) “**Receivership Order**” means an Order of the Court appointing the Vendor as receiver of the Purchased Assets and the Business Receivables of the Companies;
- (zz) “**Statement of Adjustments**” has the meaning set out in Section 2.08(b);
- (aaa) “**Sunset Date**” means March 29, 2019;
- (bbb) “**Trade-marks**” means the trademarks listed in Schedule “E” hereof;
- (ccc) “**Transaction**” means the purchase and sale of the Purchased Assets pursuant to this Agreement;
- (ddd) “**Zitta Holdco**” means Zitta Immobilier Inc;
- (eee) “**Zitta Products**” means Les Produits Zitta Inc./Zitta Products Inc.

## **1.02 Headings**

The division of this Agreement into recitals, articles, sections, subsections and schedules and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms “**this Agreement**”, “**herein**”, “**hereof**”, “**hereunder**”, “**hereto**” and similar expressions refer to this Agreement and not to any particular recital, article, sections, subsection or schedule or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to recitals, articles, sections and subsections and schedules are to recitals, articles, sections, subsections and schedules of this Agreement.

## **1.03 Extended Meanings**

In this Agreement, words importing the singular number only will include the plural and vice versa, words importing the masculine gender will include the feminine and neuter genders and vice versa, and words importing persons will include individuals, partnerships, limited partnerships, associations, trusts, unincorporated organizations, governments, governmental authorities, companies and corporations. The term “**including**” means “including, without limiting the generality of the foregoing,” and the term “**include**” has a corresponding meaning.

## **1.04 Statutory References**

In this Agreement, unless something in the subject matter or context is inconsistent therewith, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

## **1.05 Vendor’s Capacity**

The Vendor is acting solely in its capacity as receiver of the assets, undertakings and properties of the Companies and shall have no personal or corporate liability under this Agreement. Any claim against the Vendor shall be limited to, and only enforceable against the property and assets of the Companies then held by or available to the Vendor in its capacity as receiver and shall not apply to the Vendor’s personal property and assets held by it in any other capacity. The Vendor shall have no personal or corporate liability of any kind, whether in equity, contract, tort or otherwise. The Vendor at no time shall be in possession of the Purchased Assets.

## **1.06 Schedules**

The following schedules are attached to this Agreement and incorporated by reference and deemed to be part of this Agreement:

Schedule “**A**” – Form of Approval and Vesting Order (Personal Property);

Schedule “**B**” – Form of Approval and Vesting Order (Immovable);

Schedule “**C**” – Legal Description of Immovable Property;

Schedule “**D**” – Assumed Employees

Schedule "E" – Trademarks

Schedule "F" – List of Equipment & Inventory

**ARTICLE 2**  
**PURCHASE AND SALE**

**2.01 Purchased Assets**

- (a) Upon and subject to the provisions hereof, the Vendor shall sell to Zitta Holdco and Zitta Holdco shall purchase from the Vendor on Closing, all of the right, title and interest of 7949987 Canada in the Immovable Property.
- (b) Upon and subject to the provisions hereof, the Vendor shall sell to Zitta Products and Zitta Products shall purchase from the Vendor on Closing, all of the right, title and interest of the Operating Companies to the Personal Property.
- (c) This Agreement is for the purchase and sale on the terms and conditions hereof of the Purchased Assets, collectively. For greater certainty, Zitta Holdco may not purchase the Immovable Property nor be obliged to do so without Zitta Products also purchasing and being able to purchase the Personal Property, and vice versa.

**2.02 Assumed Contracts & Permits**

- (a) During the Interim Period and as soon as practicable prior to the Closing Date, the Purchaser shall provide written notice to the Vendor setting out those contracts which the Purchaser has elected, at its sole discretion, to assume on Closing, if any (individually, an "Assumed Contract" and collectively, the "Assumed Contracts"), and such notice shall be deemed to be a provision contained in this Agreement. For greater certainty, the Purchaser shall not assume any rebate program of the Operating Companies to customers.
- (b) On the terms and subject to the fulfillment of the conditions hereof, the Vendor shall assign to the Purchaser all of the Companies' right, title, interest and obligations in and to the Assumed Contracts on Closing pursuant to the Assignment of Contracts and the Purchaser shall assume and indemnify and save harmless the Vendor from and against the obligations and liabilities under the Assumed Contracts arising after Closing, provided that the Purchaser shall have no obligation to save and indemnify the Vendor from and against any obligations and liabilities for the period prior to Closing.
- (c) This Agreement and any document delivered under this Agreement shall not constitute an assignment or attempted assignment of any Assumed Contract contemplated to be assigned to the Purchaser under this Agreement which is not assignable without the consent of a third party and if such consent has not been obtained such assignment or attempted assignment would constitute a breach of such Assumed Contract.
- (d) The Vendor shall be under no obligation for any costs or payments to effect the assignment of any Assumed Contract other than arrears (cure costs) as of Closing.



- (e) The Vendor shall be under no obligation for any costs or payments to effect the assignment of any Permits other than any amount owed, or arrears, with respect to such Permits as of Closing.

### **2.03 Obligations Excluded**

- (a) The Purchaser is not assuming and shall not be responsible for any liabilities, indebtedness, obligations, commitments, expenses, deficiencies or guarantees of the Companies other than those obligations, if any, arising from the Purchased Assets and the Assumed Contracts.

### **2.04 Excluded Assets**

- (a) For certainty, it is hereby confirmed that the Vendor is not selling and the Purchaser is not purchasing any of the Excluded Assets, all of which are excluded from the purchase and sale hereunder.
- (b) For a period of one hundred and twenty (120) days after the Closing Date, the Purchaser shall use commercially reasonable efforts to collect the Business Receivables on behalf of the Vendor. The Purchaser shall provide an accounting of the Business Receivables collected from time to time and at a minimum on a weekly basis and shall promptly remit to the Vendor all amounts so collected, less a 10% collection fee. "Commercially reasonable efforts" shall not include engaging any fees, legal counsel or commencing legal action. Without the prior written consent of the Vendor, the Purchaser (a) shall not refer any of the Business Receivables to an outside collection agency, or (b) compromise or settle any of the Business Receivables for less than 90% of the amount owed thereon without the prior written consent of the Vendor. After the first sixty (60) days, the Vendor shall have the right to take steps to directly collect the Business Receivables that are in default of payment as per their respective term of payments, provided that the Vendor shall provide the Purchaser 7 days' notice prior to taking such steps. After one hundred and twenty (120) days, the Vendor shall have the right to take steps to directly collect any Business Receivables, provided that the Vendor shall provide the Purchaser 7 days' notice prior to taking such steps.
- (c) If any of the Excluded Assets or any proceeds in respect thereof shall at any time come into the possession of or under the control of the Purchaser, the Permitted Assignee, or any of their employees, officers or agents, such assets and/or proceeds, as applicable, shall be held by the Purchaser or the Permitted Assignee, as applicable, in trust for the benefit of the Vendor. Within five (5) business days (or 10 calendar days in the case of Business Receivables) from the date on which the Purchaser, the Permitted Assignee, or any of their employees, officers or agents becomes aware that it has come into possession of or has obtained control over any of such assets and/or proceeds, as applicable, the Purchaser or the Permitted Assignee, as applicable, shall:
  - (i) by notice in writing delivered to the Vendor, in accordance with the provisions hereof, so advise the Vendor; and

- (ii) forthwith account and deliver over to the Vendor at the Vendor's cost, any such assets and/or proceeds if so requested by the Vendor.
- (d) For greater certainty, an express trust shall exist over the Excluded Assets received or collected by the Purchaser or the Permitted Assignee, and any of their employees, officers or agents, and the Vendor shall be the sole beneficiary of such trust.

#### **2.05 Purchase Price and Allocation of Purchase Price**

- (a) The purchase price payable by the Purchaser to the Vendor for the Purchased Assets shall be the sum of One Million Three Hundred and Forty Eight Thousand dollars (\$1,348,000.00) (the “**Purchase Price**”).
- (b) The Purchase Price shall be allocated as follows:
  - (i) with respect to the Personal Property, the sum of Six Hundred Sixty-Eight Thousand dollars (\$668,000), and
  - (ii) with respect to the Immovable Property, the sum of Six Hundred Eighty Thousand dollars (\$680,000.00).

#### **2.06 Deposit**

- (a) The Vendor acknowledges receipt from the Purchaser prior to the date of this Agreement of a deposit in the principal amount of \$200,000 (the “**Deposit**”) to be held in trust by the Vendor pending completion of the Transaction in accordance with this Agreement.
- (b) If the Transaction fails to close for any reason, the Purchaser shall be entitled to the immediate return of the Deposit forthwith from the Vendor together with any accrued interest thereon without any deduction or set off whatsoever. Notwithstanding the foregoing:
  - (i) if the Transaction is not completed solely by reason of the failure of the Purchaser to perform any of the covenants and agreements on the Purchaser's part to be performed hereunder, then, the Deposit shall be paid to the Vendor, or as it may otherwise direct in writing;
  - (ii) if the Transaction is not completed solely by reason of the failure of the Vendor to perform any of the covenants and agreements on the Vendor's part to be performed hereunder, then the Deposit shall be returned to the Purchaser by the Vendor, or as it may otherwise direct in writing.
- (c) The payment of the Deposit is a condition precedent to this Agreement. In the event that the Deposit is not paid as and when required, this Agreement shall be of no force or effect and neither party shall have any liability to the other hereunder or by virtue hereof.

**2.07 Payment of Purchase Price**

- (a) At or prior to the Closing Time on the Closing Date the Purchaser shall satisfy the Purchase Price as follows:
- (i) the amount of the Deposit, with accrued interest thereon, shall be retained by the Vendor and credited toward the Purchase Price; and
  - (ii) the balance of the Purchase Price by wire transfer, certified cheque or bank draft.

**2.08 Adjustments**

- (a) The Purchase Price shall only be adjusted as set out in this Section (such adjustments being referred to, collectively, as the “**Adjustments**”). Except as otherwise expressly provided for in this Agreement, all revenues, expenses, liabilities and obligations with respect to the Purchased Assets and the Business and accrued by the Business prior to the Closing shall belong to, and be for the account of, the Vendor and all revenues, receivables, expenses, liabilities and obligations with respect to the Purchased Assets and the Business and accrued by the Business after the Closing shall belong to, and be for the account of, the Purchaser. Without limiting the foregoing, the Adjustments to be made as of the Closing shall include:
- (i) **Taxes.** All real estate taxes, mutation taxes, school taxes, personal property taxes, local improvement charges, levies, taxes, rates, business taxes, retail sales taxes and other assessments and similar taxes, rates or charges levied or assessed by a municipal or other Governmental Authority, whether special or general, (including water and sewer service charges and other charges for governmental services) in respect of the Purchased Assets and the Business for the period prior to the Closing shall be the responsibility of the Vendor and all of those for the period from and including the Closing Time shall be the responsibility of the Purchaser;
  - (ii) **Prepaid Revenues.** Prepaid amounts received by the Vendor in respect of the Immovable Property and the Business including security deposits, any prepaid raw material funded by customers of the Business, and any other amounts paid in advance in respect of contracts, and all other prepaid amounts for services to be provided or products to be sold or delivered, on or after, and pro-rated as of, Closing (the “**Prepaid Revenues**”) shall be credited to the Purchaser. This Section 2.08(a)(ii) shall survive Closing and shall remain in effect until the earlier of (a) all liability in respect of the Prepaid Revenues being extinguished and (b) the discharge of the Vendor as Receiver by the Court.
  - (iii) **Prepaid Expenses.** The amount pre-paid by the Operating Companies in respect of any Business Inventory, without deduction to a maximum amount of \$8,000.

- (iv) **Utilities.** Any water and sewer charges, hydro, gas, oil and charges for all other utilities or governmental services (if any) shall be adjusted as of the Closing Time. To the extent possible, all meters in respect of the Business will be read on the Closing Date. To the extent meters in respect of utilities cannot be read as at the Closing Date, then such utility shall be estimated for the Adjustments and re-adjusted post-Closing;
  - (v) **Business Inventory.** 35% of the change in the book value of Business Inventory as recorded in the Books and Records of the Operating Companies as well as any transactions not reflected in such Books and Records, with no physical inventory count to be completed, between the Inventory Date and the Closing Date, provided that the Companies shall not pursue a liquidation or bulk sale of products and inventory unless such sales are made at a price at least equal to the value of the costs of such product or inventory; and
  - (vi) **Employees.** The amount of salaries, wages and vacation pay owing to the Assumed Employees by the Companies as at the Closing Date and paid by the Purchaser, excluding any Assumed Employees that are related to the shareholders, directors and officers of the Companies, in addition to any amounts owed by the Companies to Governmental Authority as of the Closing Date regarding the Assumed Employees and paid by the Purchaser.
- (b) The Vendor shall deliver a Statement of Adjustments to the Purchaser as soon as practically feasible prior to Closing in accordance with this Section 2.08 ("**Statement of Adjustments**"), being understood that the Purchaser shall have the right to review and comment on same prior to Closing.
  - (c) The provisions of this Section 2.08 shall survive Closing.
  - (d) The Receiver covenants not to (a) serve notice to the Purchaser of a discharge application as court-appointed Receiver and/or (b) release the Purchase Price to any third parties following Closing, before a period of forty-five (45) days after Closing. For clarity, the purpose and intent of this section is to allow sufficient time for any amount referred to in this Section 2.08 to be uncovered before the Purchase Price is released in favour of third parties.

## 2.09 Taxes

- (a) The Purchaser shall pay, on Closing, in addition to the Purchase Price, all applicable federal and provincial taxes exigible in connection with the completion of the Transaction including, without limitation, harmonized sales tax ("**HST**"), GST and QST (collectively, the "**Sales Taxes**").
- (b) The Purchase Price excludes HST, GST and QST. The Purchaser agrees and confirms that the Purchaser is, or will be at the Closing Time, a registrant under Part 9 of the ETA

and under Division I of Chapter VIII of Title I of the QSTA. The Vendor and Purchaser acknowledge that the purchase by the Purchaser of the Purchased Assets is governed by the provisions of Section 221(2)(b) and 228(4)(a) of the ETA. Accordingly, the Vendor has no obligation to collect HST on the Purchase Price and the Purchaser shall self-assess the HST owing in respect of the Transaction. If available, the Vendor agrees to execute an election (the “**ETA Election**”) pursuant to Section 167(1) of the ETA to have the sale of the Purchased Assets take place without the requirement for the collection or remittance of HST to the extent possible. In such case, the Purchaser agrees to file such election in accordance with the provisions of the ETA.

- (c) The Purchaser agrees to indemnify and save harmless the Vendor from and against all demands or claims for payment of Sales Taxes, including any liability or costs incurred as a result of any failure by the Purchaser to pay such taxes when due.

#### **2.10 Immovable Property**

- (a) The Vendor and Zitta Holdco shall, at or prior to the Closing Time, execute a deed of sale with respect to the Immovable Property before a Notary in the province of Quebec, which deed shall incorporate the representations and warranties set forth within this agreement, as they apply to the Immovable Property, and which deed shall immediately thereafter be published at the Quebec Land Registry, Registration Division of Arthabaska.
- (b) The Purchaser shall pay all of the Notary’s reasonable professional fees and disbursements, charges and taxes, in connection with the proposed sale including the cost of the drafting, execution and registration of the deed of sale and related documents. The Purchaser shall be responsible for the payment of any municipal transfer taxes or mutation duties which will be payable after registration of the deed of sale.

#### **2.11 Risk**

- (a) The Purchased Assets shall be and remain at the risk of the Vendor until the Closing.
- (b) If, prior to the Closing, the Purchased Assets are substantially damaged or destroyed by fire or other casualty, or if a substantial portion of the Purchased Assets are lost due to theft, then the Purchaser shall have the option of terminating this Agreement and not completing the Transaction. Such option shall be exercised within two (5) Business Days after written notification to the Purchaser by the Vendor of the occurrence of the loss or damage accompanied by all relevant information for the Purchaser to make its decision, including the detail of insurance proceeds payable and, upon such exercise, this Agreement shall be terminated automatically and the Purchaser shall be entitled to the return of the Deposit (with accrued interest), which shall be returned to the Purchaser forthwith, without deduction or set-off and the Purchaser shall not be entitled to any other compensation of any kind whatsoever with respect to the failure to close as a result of such loss or damage. If such option is not exercised by the Purchaser, the parties shall complete the Transaction and the proceeds of insurance, if any, referable to such loss or damage shall be vested in the Purchaser on the Closing, and the Vendor shall (i) pay over to the Purchaser after the Closing any proceeds of insurance received by the Vendor

forthwith after the Vendor's receipt thereof and (ii) use its best efforts to assist the Purchaser in the collection of such insurance proceeds, provided that the Vendor shall not be required to expend any moneys in such efforts.

- (c) Where any loss or damage prior to the Closing is not substantial, then the Transaction shall be completed and the proceeds of insurance, if any, referable to such loss or damage shall be vested in the Purchaser on the Closing, and the Vendor shall (i) pay over to the Purchaser after the Closing any proceeds of insurance received by the Vendor forthwith after the Vendor's receipt thereof and (ii) use its best efforts to assist the Purchaser in the collection of such insurance proceeds, provided that the Vendor shall not be required to expend any moneys in such efforts.
- (d) For these purposes, the terms "substantially" and "substantial" mean a loss or damage to any portion of the Purchased Assets with a replacement cost in excess of \$50,000, such cost to be determined by an independent, arm's length expert.
- (e) The Purchaser shall arrange its own insurance in respect of the Purchased Assets on Closing and the Vendor shall not assign any insurance policies to the Purchaser.

### **ARTICLE 3** **ADDITIONAL BUSINESS TERMS**

#### **3.01 Representations and Warranties of the Vendor**

The Vendor hereby makes the following representations and warranties to the Purchaser, subject to being appointed by the Court as receiver, and the issue by the Court of the Approval and Vesting Order, and acknowledges that the Purchaser is relying on such representations and warranties in entering into this Agreement and completing the Transaction:

- (a) Residency. The Vendor is not a non-resident person within the meaning of Section 116 of the Income Tax Act (Canada).
- (b) HST and GST Registration. The Vendor shall be registered for the purposes of the ETA prior to the Closing and shall provide its registration number to the Purchaser on or prior to the Closing.
- (c) QST Registration. The Vendor shall be registered for the purposes of the QSTA prior to the Closing and shall provide its registration number to the Purchaser on or prior to the Closing.
- (d) Authority of the Vendor. At the time the Approval and Vesting Order is obtained, the Vendor shall have been appointed as receiver of the Purchased Assets.

#### **3.02 Representations and Warranties of the Purchaser**

The Purchaser hereby makes the following representations and warranties to the Vendor and acknowledges that the Vendor is relying on such representations and warranties in entering into this Agreement and completing the Transaction:

- (a) Corporate Existence. Zitta Immobilier Inc. is a corporation incorporated and existing under the laws of Quebec and Zitta Products Inc. is a corporation incorporated and existing under the laws of Canada;
- (b) Capacity and Due Authorization. The Purchaser has all necessary corporate power, authority and capacity to enter into this Agreement and perform its obligations and the execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary corporate action on the part of the Purchaser;
- (c) Binding Agreement. This Agreement and any other agreements entered into pursuant to this Agreement to which the Purchaser is a party constitute legal, valid and binding obligations of the Purchaser;
- (d) Brokers. The Purchaser has not engaged any broker or other agent in connection with the Transaction or this Agreement and, accordingly, there is no commission, fee or other remuneration payable to any broker or agent who purports or may purport to have acted for the Purchaser; and
- (e) HST and GST Registration. The Purchaser shall be registered for the purposes of the ETA prior to the Closing and shall provide its registration number to the Vendor on or prior to the Closing.
- (f) OST Registration. The Purchaser shall be registered for the purposes of the QSTA prior to the Closing and shall provide its registration number to the Vendor on or prior to the Closing.

In the event of an assignment by the Purchaser to the Permitted Assignee, the Permitted Assignee shall represent to and in favour of the Vendor that each of the following statements is, and will at the Closing Time be, true and correct:

- (i) the Permitted Assignee is a corporation duly incorporated and subsisting corporation; and
- (ii) the Permitted Assignee has all necessary corporate power, authority and capacity to enter into this Agreement and to perform its obligations and the execution and delivery of this Agreement and the consummation of the transactions contemplated have been duly authorized by all necessary corporate action on the part of the Purchaser.

### **3.03 As Is, Where Is**

The Purchased Assets are being sold on an “as is, where is” basis, without legal warranty and at the risk and peril of the Purchaser. The Purchaser has entered into this Agreement on the basis that the Vendor does not guarantee title to the Purchased Assets. The Purchaser has conducted such inspections and investigations concerning the Purchased Assets as the Purchaser considered appropriate and has satisfied itself concerning all matters affecting the Purchased Assets. No warranty or condition, either express or implied, statutory or non-statutory, oral or written has



been or will be given by the Vendor as to the title, Encumbrances, description, condition, quality, value, cost, size, quantity, fitness for any present or intended purpose or use, merchantability, state of repair, degree of maintenance, durability, marketability, transferability, compliance or non-compliance with Environmental Laws or otherwise concerning the Purchased Assets save and except for the express warranties given in Section 3.01. The Purchaser acknowledges that it has already or will satisfy itself with respect to all such matters. All conditions and warranties expressed or implied pursuant to the provisions of the *Sale of Goods Act* of Ontario or other similar provincial legislation, do not apply hereto and have been waived by the Purchaser.

- (a) For greater certainty, the Vendor has not made and will not make any representation or warranty whatsoever as to (i) the existence or non-existence of Contaminants on the Immovable Property, (ii) the compliance of the Immovable Property with any Environmental Laws, (iii) the discharge of Contaminants or Environmental Activity from, on, or in relation to the Immovable Property, and (iv) the existence, state, nature, identity, extent or effect of any investigations, administrative orders, control orders, stop orders, compliance orders or any other orders proceedings or actions under any Environmental Laws in relation to the Immovable Property. The Purchaser acknowledges that it shall have no recourse against the Vendor with respect to the environmental condition of the Immovable Property and has satisfied itself with respect to same.
- (b) Any documentation, materials or information provided by the Vendor to the Purchaser regarding the Purchased Assets, or any part thereof, was provided solely for the convenience of the Purchaser and is not warranted or represented to be complete or accurate by the Vendor. The Purchaser shall and shall be deemed to rely entirely in its own inspections and investigations concerning the Purchased Assets.
- (c) The Purchaser shall indemnify and hold the Vendor harmless from any and all Claims suffered or incurred by the Vendor as a result of or in connection with any of the following brought by a third party:
  - (i) the presence or release of any Hazardous Material, on or under the Immovable Property or the threat of a release;
  - (ii) any Environmental Activity relating to the Immovable Property;
  - (iii) a breach by the Purchaser or those for whom the Purchaser is responsible of any
  - (iv) Environmental Laws applicable to the Immovable Property; or
  - (iv) the release or threatened release of any Contaminant owned, managed, generated,
- (d) In any event where the Purchaser has agreed to indemnify and save harmless the Vendor under this Section, the following shall apply. Within five (5) Business Days days of receipt of a notice of Claim by the Vendor, the Vendor shall provide a copy thereof to the

Purchaser along with all pertinent information and documents in the control and possession of the Vendor relating to such Claim. The Purchaser shall then have the right, at the Purchaser's expense, to hire legal counsel and other representatives of its choosing to conduct the defense of the Vendor. If the Purchaser is also a party to the Claim, or if the Purchaser or its counsel believe that the Purchaser shall intervene in any manner in the Claim, then the Purchaser shall have the right to retain the same counsel to defend both the Vendor and the Purchaser's interests, so long as their interests remain aligned. The Vendor shall, at no cost to the Purchaser, collaborate with the Purchaser to insure that the Purchaser has all the documents and information on hand to defend the Vendor. The Purchaser shall have the full control and the final choice as to the content and orientation of the defense, being understood however that the Purchaser shall not settle the Claim in any manner that recognizes the Vendor's liability prior to obtaining the Vendor's written consent to same. Subject to the foregoing, the Purchaser shall have the right, without reserve, to settle the Claim and do all things deemed useful or necessary by the Purchaser and the retained counsel and representatives in regards to the defense of the Claim.

### 3.04 Employees

- (a) The Vendor has not employed the Employees. The Employees will remain the employees of the Companies until the Closing Time.
- (b) On or before the Closing Date, conditional on Closing, the Purchaser may offer employment effective as of the Closing Date to any of the Employees on such terms and conditions as will be mutually agreed to by the Purchaser and the applicable employees as detailed on Schedule "D" (the "Assumed Employees").
- (c) The Purchaser will honour all statutory requirements pursuant to applicable employment laws pertaining to the Assumed Employees that accept employment with the Purchaser effective as of the Closing Date.
- (d) Pursuant to clause 7(3)(c) of the PIPEDA, the Vendor shall disclose and provide copies, to the Purchaser of all human resources and payroll information in the Companies records pertaining to the Assumed Employees (the "**Personal Information**"), including the Personal Information of those employees listed on Schedule "D". The Purchaser acknowledges and agrees to maintain and protect the privacy of the Personal Information and shall use the Personal Information in a manner which is in all material respects identical to the prior use of such information by the Companies. Further, the Purchaser acknowledges and agrees that any of the Personal Information not maintained or used in above manners, shall be returned immediately to the Vendor and with any copies, electronic or otherwise, destroyed, with proof thereof provided to the Vendor.
- (e) With respect of the Non-Assumed Employees, except as required by the *Employment Standards Act* (Ontario) or any applicable law, the Purchaser shall not assume any liability with respect to any actions by the Operating Companies for any period of employment of the Non-Assumed Employees with the Operating Companies prior to the Closing Date.

- (f) The Vendor shall be responsible for the payment of all salaries, wages and vacation pay owing to the Assumed Employees by the Companies as at the Closing Date and, for greater certainty.

**ARTICLE 4**  
**CONDITIONS OF CLOSING**

**4.01 Conditions for the Benefit of the Purchaser**

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being fulfilled or performed at or prior to the Closing Time:

- (a) Representations and Warranties: The representations and warranties of the Vendor made in or pursuant to this Agreement shall be true and accurate at the Closing Time with the same force and effect as though such representations and warranties had been made as of the Closing Time;
- (b) Fulfillment of Obligations: The Vendor shall have complied in all material respects with all agreements and obligations herein agreed to be performed or caused to be performed by it at or prior to the Closing Time; and
- (c) Insurance: The Operating Companies' agreement to maintain all insurances policies relating to the Purchased Assets which are customary for a prudent and diligent operator of the Business in full force and effect during the Interim Period.
- (d) SLIK Trademark and US Parent: The rights over the trademark "SLIK", currently owned by 2471030 Ontario inc. and registered under number LMC1004154 and the rights over the patents CA2490472 and US 7,454,802 B2 owned by Acryli ine USA, Inc., will have been transferred to the Purchaser;
- (e) Operation of Business: During the Interim Period, the Operating Companies shall continue to operate the Business in the ordinary course and, the Operating Companies shall not proceed with the sale or shipping of any of the Business Inventory during the Interim Period without the prior written consent of the Purchaser.

The conditions contained in this Section 4.01 are inserted for the exclusive benefit of the Purchaser and may be waived in whole or in part by the Purchaser at any time without prejudice to any of its rights of termination in the event of non-performance of any other condition in whole or in part. If any of the conditions contained in Section 4.01 is not fulfilled or complied with at or prior to the time for the fulfillment of same, the Purchaser may terminate this Agreement by notice in writing to the Vendor.

**4.02 Conditions for the Benefit of the Vendor**

The obligation of the Vendor to complete the Transaction is subject to the following conditions being fulfilled or performed at or prior to the Closing Time:

- (a) Representations and Warranties: The representations and warranties of the Purchaser made in or pursuant to this Agreement shall be true and accurate at the Closing Time with the same force and effect as though such representations and warranties had been made as of the Closing Time;
- (b) Fulfillment of Obligations: The Purchaser shall have complied in all material respects with all agreements and obligations herein agreed to be performed or caused to be performed by it at or prior to the Closing Time; and
- (c) No Redemption or Loss of Control: The Vendor shall not have lost its ability to convey the Purchased Assets or any part thereof.

The conditions contained in this Section 4.02 hereof are inserted for the exclusive benefit of the Vendor and may be waived in whole or in part by the Vendor at any time without prejudice to any of the Vendor's rights of termination in the event of non-performance of any other condition in whole or in part. If any of the conditions contained in Section 4.02 hereof are not fulfilled or complied with at or prior to the Closing Time, the Vendor may terminate this Agreement by notice in writing to the Purchaser.

#### 4.03 Mutual Conditions

- (a) The obligations of each of the Vendor and the Purchaser to complete the Transaction is subject to the satisfaction of the following conditions precedent, which are for the mutual benefit of the Vendor and Purchaser:
  - (i) No Legal Action: No action or proceeding shall be pending or threatened by any person to enjoin, restrict or prohibit the completion of the Transaction or the right of the Purchaser to own the Purchased Assets after the Closing Time;
  - (ii) Receivership Order: The Receivership Order shall be obtained on or before the Sunset Date;
  - (iii) Approval Order and Vesting Order: The Approval Order and Vesting Order shall be obtained on or before the Sunset Date;
  - (iv) No Stay or Appeal: At the Closing Time, the Receivership Order and Approval Order and Vesting Order shall not be stayed or vacated and no appeal of the Receivership Order or Approval Order and Vesting Order shall have been commenced and be outstanding.
- (b) The conditions contained in this Section 4.03 are inserted for the mutual benefit of the Vendor and the Purchaser and may be waived in whole or in part by the Vendor and the Purchaser. If any of the conditions contained in this Section 4.03 are not fulfilled or complied with at or prior to the Closing Time, the Vendor and the Purchaser may each terminate this Agreement by notice in writing to the other.
- (c) In the event that the Approval and Vesting Order is issued by the Court, but stayed by the Court prior to the completion of the Transaction, the Transaction is enjoined by the Court

or the Vendor is unable to provide the Purchaser with possession of the Purchased Assets as required by this Agreement, the Purchaser shall be entitled, at the Purchaser's option, on written notice to the Vendor, either to terminate its obligations under this Agreement or to extend the Closing Date up to the Sunset Date in order to provide the Purchaser and the Vendor with additional time to effect the lifting of such stay and otherwise remove the impediments to the completion of the Transaction.

#### **4.04 Effect of Termination**

In the event of termination of this Agreement at or prior to the Closing Time pursuant to Sections 4.01, 4.02 or 4.03, all obligations of the Parties pursuant to this Agreement shall be at an end, the Deposit, with accrued interest, shall be returned to the Purchaser, without set-off or deduction, and neither party shall have any further liability or obligation to the other by virtue of or under this Agreement.

### **ARTICLE 5** **CLOSING ARRANGEMENTS**

#### **5.01 Date, Place and Closing Time**

Unless otherwise agreed by the parties in writing, the Closing shall take place at the Closing Time on the Closing Date at the offices of the Vendor's solicitor or as otherwise determined by mutual agreement of the parties in writing. The Vendor and the Purchaser acknowledge that the Transaction insofar as it relates to the Immovable Property will be completed by its registration at the Index of Immovables.

#### **5.02 Deliveries at Closing**

- (a) At or prior to the Closing, the Vendor shall deliver to the Purchaser the following:
- (i) a Statutory Declaration of the Vendor that it is not a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada);
  - (ii) a notarial copy of the Receivership Order, Approval and Vesting Order and such documents as necessary to register same against title to the Immovable Property;
  - (iii) all keys, security cards, alarm codes and access codes for the Immovable Property in the Vendor's possession;
  - (iv) the ETA Election, if applicable;
  - (v) a Certificate of the Vendor certifying that, except as disclosed in the Certificate, the Vendor has not been served with any Notice of Appeal with respect to the Receivership Order, Approval and Vesting Order, or any notice of any application, motion or proceeding seeking to set aside or vary the Receivership Order, Approval and Vesting Order or to enjoin, restrict or prohibit the Transaction;

- (vi) a Certificate, dated the Closing Date, confirming that all representations and warranties of the Vendor contained in this Agreement are true as of the Closing Time, with the same effect as though made on and as of the Closing Time;
  - (vii) an Acknowledgment, dated the Closing Date, that each of the conditions precedent in Section 4.02 of this Agreement have been fulfilled, performed or waived as of the Closing Time;
  - (viii) the Receiver's Certificate;
  - (ix) a Statement of Adjustments;
  - (x) an undertaking by the Vendor to readjust the adjustments set out in Section 2.08 until such time as the Vendor is discharged as Receiver;
  - (xi) the Vendor's non-merger Certificate relating to Section 6.11 in form and substance satisfactory to the Purchaser, acting reasonably;
  - (xii) possession of the Immovable Property;
  - (xiii) receipt from the Vendor of the Purchase Price;
  - (xiv) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement insofar as it relates to the completion of the Transaction.
- (b) At or prior to the Closing, the Purchaser shall deliver to the Vendor the following, each of which shall be in form and substance satisfactory to the Vendor, acting reasonably:
- (i) payment of balance of the Purchase Price payable to the Vendor by certified cheque, bank draft or wire transfer;
  - (ii) an undertaking by the Purchaser to readjust the Adjustments set out in Section 2.08;
  - (iii) a Certificate, dated the Closing Date, confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true as of the Closing Time, with the same effect as though made on and as of the Closing Time;
  - (iv) an Acknowledgment dated the Closing Date, that each of the conditions precedent in Section 4.01 have been fulfilled, performed or waived as of the Closing Time;
  - (v) the Purchaser's non-merger certificate relating to Section 6.11 in form and substance satisfactory to the Vendor, acting reasonably;
  - (vi) such directions, acknowledgments and other documents as may be necessary or desirable to ensure that the benefit of any reduction in the property taxes payable

with respect to the Immovable Property for the period prior to the Closing Date is received by the Vendor;

- (vii) payment or evidence of payment of applicable federal and provincial taxes or alternatively, appropriate exemption certificates, including the ETA Election; and
- (viii) such further and other documentation as is referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement insofar as it relates to the completion of the Transaction.

### **5.03 Possession of Assets**

- (a) The Companies shall remain in possession of the Purchased Assets until the Closing Time. Upon the completion of the Transaction, the Purchaser shall take possession of the Purchased Assets where situate. Title to the Purchased Assets shall not pass to the Purchaser until the completion of the Transaction and the Receiver's Certificate has been delivered to the Purchaser.

## **ARTICLE 6 GENERAL**

### **6.01 Further Assurances**

Each of the parties will from time to time execute and deliver all such further documents and instruments and do all such acts and things as the other party may, either before or after the Closing Date, reasonably required to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement. Provided that upon the discharge of the Vendor as receiver, the Vendor's obligations under this paragraph shall be at an end and the Vendor shall have no continuing obligation under this paragraph.

### **6.02 Time of the Essence**

Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by the parties or by their respective solicitors who may be specifically authorized in that regard.

### **6.03 Benefit of the Agreement**

This Agreement will enure to the benefit of and be binding on the respective successors (including any successor by amalgamation or operation of law) and permitted assigns of the parties.

### **6.04 Entire Agreement**

This Agreement, together with the other Purchase Documents, constitute the entire agreement among the parties with respect to the subject matter hereof and supersede any prior understandings and agreements among the parties with respect thereto. There are no terms,



conditions or collateral agreements, representations and warranties, express, implied or statutory, between the parties other than as expressly set out in this Agreement and the other Purchase Documents.

#### **6.05 Amendments and Waiver**

No modification of or amendment to this Agreement will be valid or binding unless in writing and duly executed by the parties. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.

#### **6.06 Assignment**

Except as provided in this Section, the Purchaser shall not, without the prior written consent of the Vendor, which consent may be arbitrarily withheld, assign all or any portion of its rights and/or obligations under this Agreement or direct that title be vested on Closing in any Person other than the Purchaser or Permitted Assignee.

Prior to Closing, the Purchaser shall be entitled on five (5) Business Days prior written notice to the Vendor to assign all or any portion of its interest to the Permitted Assignee.

- (i) In the event of an assignment to the Permitted Assignee, as a condition precedent thereto, the Permitted Assignee shall enter into an assumption with the Vendor in form satisfactory to the parties, each acting reasonably. Upon the execution of the assumption agreement, and provided that such assignment shall not relieve the Purchaser of any of its obligations or liabilities under this Agreement, including without limitation, the payment of the Purchase Price. In addition, the Permitted Assignee shall comply with the provisions of Section 221(2)(b) and 228(4)(a) of the ETA. The Purchaser, together with any party to which the Purchaser assigns this Agreement or any portion thereof, shall be jointly and severally liable for all obligations and liabilities of the Purchaser under this Agreement, including any obligations and liabilities arising from the failure to complete the Transaction.

Any assignment of this Agreement by the Purchaser shall also be deemed to assign the Deposit.

#### **6.07 Legal and Accounting Fees**

Each of the parties will pay its own legal, accounting and other fees and expenses incurred in connection with the preparation, execution and delivery of this Agreement and the other Purchase Documents and the completion of the Transaction, as well as any other costs and expenses whatsoever and howsoever incurred.

#### **6.08 Public Announcements and Confidentiality**

Neither party hereto shall make any public announcement with respect to the Transaction unless the other party approves the contents of such announcement in writing. Without limitation to the

foregoing, the Purchaser shall maintain all information and other matters relating to employees referred to herein in confidence in accordance with applicable law. The parties shall develop a communication strategy to disclose the proposed purchase and sale to all applicable employees.

#### **6.09 Non-Business Day**

If any amount required to be paid under this Agreement is due on a day which is not a Business Day, such amount will be paid on the next following Business Day.

#### **6.10 Notices**

Any demand, notice, objection or other communication to be given in connection with this Agreement or any of the Purchase Documents shall be given in writing and shall be delivered in person, transmitted by confirmed facsimile or sent by prepaid courier with tracking facilities addressed as follows:

To the Purchaser: Zitta Immobilier inc. and Zitta Products inc.

81 rue Théodore-Viau  
Terrebonne Québec J6Y0J8 Canada  
Email : [mdesmarais@zitta.ca](mailto:mdesmarais@zitta.ca)  
Attention : Martin Desmarais

with a copy to:  
(which copy shall be  
required)

Langlois Lawyers LLP  
1250 René Levesque West, 20  
Montreal, QC  
Attention: Gerry Apostolatos  
Email: [gerry.apostolatos@langlois.ca](mailto:gerry.apostolatos@langlois.ca)

To the Vendor : MNP Ltd.

111 Richmond St. W. Suite 300  
Toronto, ON M5H 2G4  
Fax No.: (416) 323-5242  
Email: [jerry.henechowicz@mnp.ca](mailto:jerry.henechowicz@mnp.ca)  
Attn: Jerry Henechowicz

with a copy to:  
(which copy shall be  
required)

Miller Thomson LLP  
2010-255 Queens Avenue  
London, ON N6A 5R8  
Fax No.: (519) 858-8511  
Email: [tvanklink@millerthomson.com](mailto:tvanklink@millerthomson.com)  
Attn: Tony Van Klink

Any such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a Business Day, on the next following Business Day). Any party may at any time change its address for service from time to time by giving notice to the other party in accordance with this Section 6.10.

**6.11 Survival Following Completion**

Notwithstanding any other provision of this Agreement, Section 2.08 and Article 3 shall survive the termination of this Agreement and the completion of the Transaction. Provided that upon the discharge of the Vendor as receiver, the Vendor's obligations by reason of same shall be at an end and the Vendor shall have no continuing obligations by reason thereof.

In the event that either party shall become aware of any material breach of representation or warranty prior to the Closing, it shall forthwith advise the other party in writing and the sole right and remedy of the other party with respect thereto shall be the termination of this Agreement pursuant to the representations in favour of the other party contained in Section 3.01 or 3.02, as applicable. Notwithstanding any of the provisions contained in this Agreement to the contrary, the Vendors liability with respect to any breach of a representation, warranty or covenant contained in this Agreement shall be limited to the amount of the Deposit and the Vendor shall not be liable for any loss of profits, loss of revenue, loss of contract, loss of business opportunity or any consequential loss or indirect loss or damages of any nature or kind.

**6.12 Currency**

All dollar amounts referred to in this Agreement are denominated in Canadian currency.

**6.13 Rights Cumulative**

The rights and remedies of the parties hereunder are cumulative and not alternative.

**6.14 Vendor's Capacity**

The Vendor is acting solely in its capacity as receiver of the Companies and shall have no personal or corporate liability under this Agreement.

**6.15 Governing Law**

This Agreement and the other Purchase Documents shall be governed by and construed in accordance with the laws of the province of Quebec and the federal laws applicable therein without any regard to conflict of law principles.

**6.16 Severability**

If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect.

**6.17 Electronic Execution**

Delivery of this Agreement may be effected by a party by facsimile or other electronic transmission of the execution page hereof to the other party. A party so delivering this Agreement shall thereafter forthwith deliver to the other party an original execution page hereof

with its original signature thereon, provided that any failure by a party to so deliver such original execution page shall not affect the validity or enforceability of this Agreement against that party.

#### **6.18 Tender**

Any tender of notices, documents or monies hereunder may be made on the Vendor or the Purchaser or their respective solicitors. Any monies may be tendered by a negotiable cheque certified by a Canadian chartered bank or by a bank draft drawn on one of Canada's five largest chartered banks.

#### **6.19 Counterparts**

This Agreement may be executed in counterparts. Each executed counterpart shall be deemed to be an original. Both executed counterparts taken together shall constitute one agreement.

#### **6.20 Access to Books and Records**

For a period of one (1) year from the Closing Date, the Purchaser covenants and agrees to retain all original Books and Records relating to the Purchased Assets for the period prior to the Closing Date. During said one (1) year period, the Receiver shall have the right to inspect and to make copies of the same at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser. The Purchaser shall have the right to have its representatives present during any such investigations.

#### **6.21 Irrevocable Offer**

The Purchaser covenants and agrees that the offer to purchase constituted by the delivery of a copy of this Agreement executed by the Purchaser shall be irrevocable and open for acceptance until 12:00 p.m. on the first Business Day after the Receivership Order is obtained and shall become null and void in the event the Receivership Order is not obtained at the latest the fifth (5<sup>th</sup>) Business Day after its execution by the Purchaser.

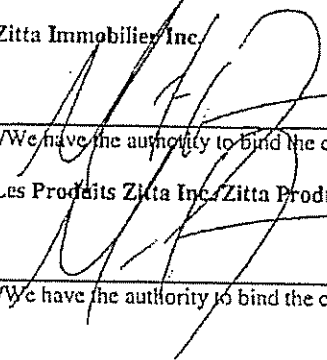
This Agreement may be accepted by giving a copy thereof to the Purchaser with the Vendor's acceptance endorsed thereon. If so accepted prior to the expiration hereof, this Agreement shall constitute a binding contract between the parties to purchase and sell the Purchased Assets on the terms and conditions herein set forth.

[signature page follows]

DATED the 11 day of March, 2019.

Zitta Immobilier Inc.

\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
I/We have the authority to bind the corporation

Les Produits Zitta Inc./Zitta Products Inc.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
I/We have the authority to bind the corporation

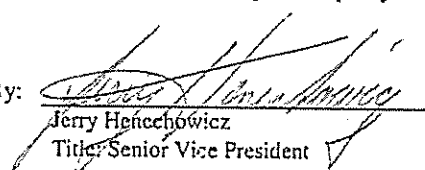
DATED this 16 day of March 2019.

**ACCEPTANCE**

The Vendor hereby accepts this Agreements and covenants and agrees to sell the Purchased Assets to the Purchaser subject to and in accordance with the provisions and conditions hereof

MNP Ltd., solely in its capacity as Court appointed receiver of certain of the assets, undertakings and properties of the Companies and not in its personal or corporate capacity

By:

  
Jerry Henchowicz  
Title: Senior Vice President

I/We have the authority to bind the corporation

SCHEDULE "A"

FORM OF APPROVAL AND VESTING ORDER (PERSONAL PROPERTY)

See attached.

Court File No. 35-2214905T

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

THE HONOURABLE	)	TUESDAY, THE 12TH
	)	
JUSTICE	)	DAY OF MARCH, 2019

BETWEEN:

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD., 7949952  
CANADA INC. AND 7949987 CANADA INC.**

Defendants

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by The Toronto-Dominion Bank (the "Bank") to appoint MNP Ltd. as the Court-appointed receiver (the "Receiver") of certain assets of Tomlin Industries (2000) Inc. ("Tomlin"), Caml North America Ltd. ("Caml"), 7949952 Canada Inc. ("794 Canada") and 7949987 Canada Inc. (collectively hereinafter referred to as the "Debtor") and for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and Zitta Immobilier Inc. and Les Produits Zitta Inc./Zitta Products Inc. ("Zitta Products") (collectively hereinafter referred to as the "Purchaser") dated March 11, 2019 and appended to the Pre-Filing Report of MNP Ltd. as Proposed Receiver dated March 11, 2019 (the "Report"), and vesting in the Purchaser the



Debtor's right, title and interest in and to the Personal Property as described and defined in the Sale Agreement, was heard this day at 80 Dundas Street, London, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver and the Bank, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Cathy Coleiro sworn March 5, 2019, filed:

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, as described and defined in the Sale Agreement, to the Purchaser.

#### **VESTING THE PERSONAL PROPERTY IN ZITTA PRODUCTS**

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to Zitta Products substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of Tomlin, Caml and 794 Canada's right, title and interest, if any, in and to the Personal Property described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in Zitta Products, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), claims, liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, hypothecs, mortgages, pledges, title retention agreements, options to buy, rights of first refusal, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, assignments, judgments, executions, writs of seizure or execution, notices of sale, adverse claims, charges, or other pre-emptive rights in favour of third parties, restrictions on transfer of title, or other claims or other financial or monetary claims, whether or not they have attached or been perfected, published, 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) and all charges, or security evidenced by registration, publication or filing pursuant to the *Civil Code of Québec* or any other personal property registry system (all of which are collectively referred to

as the "Encumbrances"); and, for greater certainty, this Court orders that the Encumbrances affecting or relating to the Personal Property are hereby expunged and discharged as against the Personal Property, in each case effective as of the applicable time and date of the Receiver's Certificate.

### **CANCELLATION AND REDUCTION OF SECURITY REGISTRATIONS**

3. THIS COURT ORDERS the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Receiver's Certificate, to strike the registrations numbered:

#### **For 7949952 Canada Inc**

- Conventional hypothec without delivery on an universality of claims, receivables, inventory and movable property in an amount of \$700 000, registered in favour of Business Development Bank of Canada on August 30, 2013 under number 13-07688091-0002;

#### **For 7949987 Canada Inc**

- Conventional hypothec without delivery on an universality of movable property in an amount of \$700 000, registered in favour of Business Development Bank of Canada on August 30, 2013 under number 13-07688091-0001;
- Conventional hypothec without delivery on an universality of movable and immovable property in an amount of \$270 000, registered in favour of Business Development Bank of Canada on January 27<sup>th</sup>, 2017 under number 17-0075761-0001;

3.1 THIS COURT ORDERS the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Receiver's Certificate, to reduce the scope of the following registration numbers so that those hypothecs will only continue to affect the Excluded Assets detailed at Schedule "D":

#### **For 7949952 Canada Inc**

- Conventional hypothec without delivery on an universality of property, and movable property in an amount of \$2 400 000, registered in favour of The Toronto-Dominion Bank on October 24, 2011 under number 11-0813869-0001;

**For 7949987 Canada Inc**

- Conventional hypothec without delivery on an universality of movable property, and movable property in an amount of \$2 400 000, registered in favour of The Toronto-Dominion Bank on October 24, 2011 under number 11-0813874-0001;

**For CAML North America Ltd.**

- Conventional hypothec without delivery on an universality of all movable property in an amount of \$5 100 000, registered in favour of The Toronto-Dominion Bank on November 21, 2013 under number 13-1038149-0001 and renewed on September 19, 2018 under number 18-1032223-0001;

**Tomlin Industries (2000) Inc.**

- Conventional hypothec without delivery on an universality of all movable property in an amount of \$5 100 000, registered in favour of The Toronto-Dominion Bank on November 21, 2013 under number 13-1038149-0002 and renewed on September 19, 2018 under number 18-1032223-0002;

**LIMITATION OF LIABILITY**

4. THIS COURT DECLARES that, subject to other orders of this Court, nothing herein contained shall require the Receiver to occupy or to take control, or to otherwise manage all or any part of the Personal Property. The Receiver shall not, as a result of this order, be deemed to be in possession of any of the Personal Property within the meaning of environmental legislation, the whole pursuant to the terms of the *Bankruptcy and Insolvency Act*.

5. THIS COURT DECLARES that no action lies against the Receiver by reason of this order or the performance of any act authorized by this order, except by leave of the Court. The entities related to the Receiver or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph.

**GENERAL**

6. 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.

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 the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "D" 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. 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;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any 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 shall it 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) 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.

10. 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.

11. THIS COURT ORDERS that the Purchaser and the Receiver shall be authorized to take all steps as may be necessary to effect the reduction of the Encumbrances referred to in section 3.1 hereinabove, to the extent specified therein, and to effect the discharge of any other Encumbrances.

12. THIS COURT DECLARES that this Order shall have full force and effect in all provinces and territories in Canada.

13. THIS COURT ORDERS the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

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**Schedule A – Form of Receiver’s Certificate**

Court File No. 35-2214905T

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

BETWEEN:

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD., 7949952  
CANADA INC. AND 7949987 CANADA INC.**

Defendants

**RECEIVER’S CERTIFICATE****RECITALS**

A. Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice In Bankruptcy and Insolvency (the "Court") dated March 12, 2019, MNP Ltd. was appointed as the receiver (the "Receiver") of certain assets of Tomlin Industries (2000) Inc. ("Tomlin"), Caml North America Ltd. ("Caml"), 7949952 Canada Inc. ("794 Canada") and 7949987 Canada Inc.

D. Pursuant to an Order of the Court dated March 12, 2019, the Court approved the agreement of purchase and sale dated March 11, 2019 (the "Sale Agreement") between the Receiver and Zitta Immobilier Inc. ("Zitta Holdco") and Les Produits Zitta Inc./Zitta Products Inc. ("Zitta Products") (collectively hereinafter referred to as the "Purchaser") and provided for the vesting in Zitta Products of Tomlin, Caml and 794 Canada’s right, title and interest, if any, in and to the Personal Property, which vesting is to be effective upon the delivery by the Receiver

- 2 -

to the Purchaser of a 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 article four (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. 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 Personal Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in article four (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.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**MNP Ltd., in its capacity as Receiver of  
certain assets of Tomlin Industries (2000)  
Inc., Caml North America Ltd., 7949952  
Canada Inc. and 7949987 Canada Inc., and  
not in its personal capacity**

Per: \_\_\_\_\_  
Name:

Title:



### Schedule B – Purchased Assets

*(Subject to defined terms in the Sale Agreement)*

- all Business Inventory. “Business Inventory” means all inventories of the Operating Companies, which means Tomlin Industries (2000) Inc., Caml North America Ltd., 7949952 Canada Inc. collectively, on the Closing Date related to the Business of every kind and nature including all finished goods, work in progress, raw materials, ingredients, packaging materials, production, new and unused production and shipping supplies, spare parts, maintenance items and advertising materials, and all other materials and supplies on hand to be used or consumed in the production of the products of the Business, in each case on hand, in transit, ordered and paid for, but not delivered, warehoused or wherever situated, including at a customer’s premises. “Closing Date” means, subject to any other closing conditions, as soon as practically possible following the issuance of the Approval and Vesting Order, or the dismissal of any appeal in respect of the Approval and Vesting Order, provided the Approval and Vesting Order has not been stayed prior to the Closing Time, or such other date agreed to by the parties hereto in writing for the completion of the Transaction; or such other time as the parties may mutually agree;
- all prepaid expenses as of the Closing Time. “Closing Time” means a time agreed to between the parties on the Closing Date;
- all machinery, tools, chattels, movables, furniture, furnishings, forklifts, racking, office furniture, removable tenant’s fixtures, manufacturing equipment, moulds, artwork, equipment and tangible personal property used or held for use in the conduct of the Business as of the Inventory Date wherever located, subject to any changes made by the Companies in the ordinary course of business after the Execution Date. “Inventory Date” means February 11, 2019. “Execution Date” means the date upon which this Agreement has been executed and accepted by the Vendor;
- all computer hardware;
- all Business Information. “Business Information” means financial and operating data, Books and Records and other business information relating to the Business including, without limitation, supplier information, sales data, operating procedures, practices and customer list, accounting systems, vendor’s lists, price books, catalogues, sales and purchase history, files, data and information relating to customers and prospective customers including, without limitation, the customer list which has been delivered by the Companies to the Purchaser prior to the date hereof, current outstanding customer order lists, issued customer quotations,

practices and all such other Business Information related to the Purchased Assets which may be requested from the Purchaser prior to the Closing Date, acting reasonably. Books and Records means all books, records, files and documents relating to the Business, including without limitation, books of account, ledgers, journals, sales and purchase records, lists of suppliers, credit information, cost pricing information, business reports, plans and projections and all other correspondence, data and information, financial or otherwise, in any format and media whatsoever, related to the Business;

- all Assumed Contracts. “Assumed Contracts” means those contracts which the Purchaser has elected by providing written notice to the Vendor, at its sole discretion, to assume on Closing;
- all Intellectual Property. “Intellectual Property” means all rights arising out of or associated therewith, in any jurisdiction, whether registered or not, including any or all: (i) Patents, patent applications and patent rights, and the subject matter thereof; (ii) Trade-marks, trade-mark applications, trade names, service marks, brand names, certification marks, trade dress and other indications of origin, whether registered or not and the goodwill associated therewith; (iii) copyrights, whether registered or not, and the subject matter thereof, including computer programs, source codes, databases and the documentation therefore; (iv) trade secrets and other confidential or non-public innovation including inventions, discoveries, formulae, compositions, inventor's notes, discoveries and improvements, know-how, manufacturing and production processes and techniques (including for scale-up), research and development innovation, drawings, schematics, specifications, plans, proposals, technical data technical products drawings, specification sheets, products renderings, product images, marketing materials and sources files; (vi) any similar intellectual or industrial property or proprietary rights including industrial designs; (vii) registrations of, and applications to register any of the foregoing, and any renewal, extension, reissue, division, continuation, continuation in part, patent of addition, re-examination, derivation or modification thereof;
- the Trade-marks. “Trade-marks” mean the following Application/Registrations;
  - 1158976 / TMA639846
  - 1173384 / TMA629002
  - 1377618 / TMA742316
  - 1670525 / TMA919544
  - 1191493 / TMA631537/

- 1191492 / MA631539
- 1191494 / TMA631542
- 1191491 / TMA626141
- the Patents. “Patents” means the following:
  - Canadian Patent No. CA2490372C;
  - US Patent No. US7454802B2;
  - Canadian Patent No. CA2976189C; and
  - US Patent No. Pending – Application # 15/674,996 (Publication No.: US2018/0045344A1);
- all Permits. “Permits” mean to the extent transferable, all franchises, certifications, licences, registrations, consents, permits, registrations, exemptions, waivers, filings, privileges, and other approvals, qualifications for the conduct of the Business as may be required by any Governmental Authority or third parties;
- all domain names, email accounts, websites and social media accounts used in or relating to the Business including, without limitation the following:
- Websites:
  - <http://www.tomlingroup.ca/>
  - <http://slikportfolio.com/>
  - <http://camltomlin.com/>
  - <http://acryline.ca/>
  - <http://www.acrylineusa.com/>

- Facebook:  
Caml Tomlin, The Tomlin Group (Tomlin Group), Acryline
- LinkedIn:  
Tomlin Group, CAML Tomlin, Acryline, Slik Portfolio
- Twitter:  
@thetomlingroup; @slikoutdoor; @slikportfolio
- all telephone numbers, fax numbers, computers, cellular phones and cellular numbers used in or relating to the Business; and
- all access rights to the Personal Property, including passwords, systems, codes, links and keys;

**Schedule C – Claims to be deleted and expunged from title to Real Property**

Not Applicable

**Schedule D – Excluded Assets****(unaffected by the Vesting Order)***(Subject to defined terms in the Sale Agreement)*

- all Business Receivables. “Business Receivables” means all accounts receivable resulting from the sale of the Companies’ goods and services and other debts due to the Companies, or either of them, outstanding on the Closing Date, and including all books and records to evidence same;;
- all Equipment Leases. “Equipment Leases” means all leases for equipment between the Operating Companies and third parties, save for those that shall be Assumed Contracts;
- all cash, bank balances, moneys in the possession of banks and other depositories, term or time deposits, guaranteed investment certificates, treasury bills, other securities and other similar cash or cash equivalent items;
- income tax refunds and other tax refunds receivable by the Companies;
- all corporate and income tax records; and,
- the benefit of insurance policies on the life of any shareholder of the Companies, and any insurance policies held by the Companies in connection with the Business, Employees and Personal Property. “Employees” means the employees of the Companies employed at the Business as at the Execution Date.

The Toronto-Dominion Bank  
Plaintiff and  
Tomlin Industries (2000) Inc., et al.  
Defendants

Court File No.: 35-2214905T

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

**APPROVAL AND VESTING ORDER**

**HARRISON PENZA LLP**  
Barristers & Solicitors  
450 Talbot Street  
London, ON N6A 5J6

**Timothy C. Hogan** LSO#: 36553S  
Tel: (519) 679-9660  
Fax: (519) 667-3362  
thogan@harrisonpenza.com

Solicitors for the Plaintiff



SCHEDULE "B"

FORM OF APPROVAL AND VESTING ORDER (IMMOVABLE)

See attached.

Court File No. 35-2214905T

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

THE HONOURABLE	)	TUESDAY, THE 12TH
	)	
JUSTICE	)	DAY OF MARCH, 2019

BETWEEN:

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD., 7949952  
CANADA INC. AND 7949987 CANADA INC.**

Defendants

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by The Toronto-Dominion Bank (the "Bank") to appoint MNP Ltd. as the Court-appointed receiver (the "Receiver") of certain assets of 7949987 Canada Inc. (the "Debtor"), and others, and for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and Zitta Immobilier Inc. (the "Purchaser"), and others, dated March 11, 2019 and appended to the Pre-Filing Report of MNP Ltd. as Proposed Receiver dated March 11, 2019 (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the immovable property described in paragraph 1 of this Order, was heard this day at 80 Dundas Street, London, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver and the Bank, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Cathy Coleiro sworn March 5, 2019, filed:

**VESTING THE IMMOVABLE PROPERTY IN ZITTA HOLDCO**

1. THIS COURT ORDERS AND DECLARES that upon the delivery of the Receiver's Certificate 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, if any, in and to the Immovable Property herein below described (the "**Immovable Property**") shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, charges, hypothecs, deemed trusts, judgments, writs of seizure or execution, notices of sale, contractual rights relating to the Immovable Property, encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**"), including without limiting the generality of the foregoing all Encumbrances created by the Order of the Honourable Justice [NAME] dated [DATE] and all charges, or security evidenced by registration, publication or filing pursuant to the *Civil Code of Québec* in immovable property and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Immovable Property be cancelled and discharged as against the Immovable Property, in each case effective as of the applicable time and date of the Certificate.

**LEGAL DESCRIPTION OF IMMOVABLE PROPERTY**

An immovable known and designated as lot number FIVE MILLION EIGHT HUNDRED THIRTY-FIVE THOUSAND THIRTY-FIVE (5 835 035) of the Quebec Land Registry (*Cadastre du Québec*), Registration Division of Arthabaska.

With building erected thereon bearing civic address 2005-2015 rue Bécancour, Lyster, Quebec, G0S 1V0.

As the property now subsists with all of its rights, members and appurtenances, without exception or reserve of any kind.

2. THIS COURT ORDERS the Land Registrar of the Quebec Land Registry Office for the Registry Division of Arthabaska upon presentation of the Receiver's Certificate and a certified

copy of this Order accompanied by the required application for registration and upon payment of the prescribed fees, to publish this Order and (i) to make an entry on the Land Register showing the Purchaser as the owner of the Immovable Property and (ii) to cancel any and all Encumbrances on Immovable Property, including, without limitation, the following registrations published at the said Land Registry Office:

- **An hypothec registered on August 30, 2013 at the Quebec Land Registry Office for the Registry Division of Arthabaska, under number 20 228 439, in favor of Business Development Bank of Canada;**
- **An hypothec registered on January 20, 2017 at the Quebec Land Registry Office for the Registry Division of Arthabaska, under number 22 857 780, in favor of Business Development Bank of Canada;**
- **A legal hypothec registered on April 10, 2018 at the Quebec Land Registry Office for the Registry Division of Arthabaska, under number 23 751 304, in favor of Ministre du revenu du Québec.**

#### **LIMITATION OF LIABILITY**

3. THIS COURT DECLARES that, subject to other orders of this Court, nothing herein contained shall require the Receiver to occupy or to take control, or to otherwise manage all or any part of the Immovable Property. The Receiver shall not, as a result of this order, be deemed to be in possession of any of the Immovable Property within the meaning of environmental legislation, the whole pursuant to the terms of the *Bankruptcy and Insolvency Act*.

4. THIS COURT DECLARES that no action lies against the Receiver by reason of this order or the performance of any act authorized by this order, except by leave of the Court. The entities related to the Receiver or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph.

#### **GENERAL**

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Encumbrances, the net proceeds from the sale of the Immovable Property shall stand in the place and stead of the Immovable Property, and that from and after the delivery of the Receiver's Certificate all Encumbrances shall attach to the net proceeds from the sale of the Immovable Property with the same priority as they had with respect to the Immovable Property immediately

prior to the sale, as if the Immovable Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

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;

the vesting of the Immovable Property in the Purchaser pursuant to this Order shall be binding on any 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 shall it 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) 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 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.

9. THIS COURT ORDERS that the Purchaser or Receiver shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.

10. THIS COURT DECLARES that this Order shall have full force and effect in all provinces and territories in Canada.

11. THIS COURT ORDERS the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

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**Schedule A – Form of Receiver’s Certificate**

Court File No. 35-2214905T

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

BETWEEN:

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD., 7949952  
CANADA INC. AND 7949987 CANADA INC.**

Defendants

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice In Bankruptcy and Insolvency (the "Court") dated March 12, 2019, MNP Ltd. was appointed as the receiver (the "Receiver") of certain assets of 7949987 Canada Inc., and others.

D. Pursuant to an Order of the Court dated March 12, 2019, the Court approved the agreement of purchase and sale dated March 11, 2019 (the "Sale Agreement") between the Receiver and Zitta Immobilier Inc. (the "Purchaser"), and others, and provided for the vesting in the Purchaser of 7949987 Canada Inc.’s right, title and interest, if any, in and to the Immovable Property, which vesting is to be effective upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Immovable Property; (ii) that the conditions to Closing as set out in article four (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. 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.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**MNP Ltd., in its capacity as Receiver of  
certain assets of Tomlin Industries (2000)  
Inc., Caml North America Ltd., 7949952  
Canada Inc. and 7949987 Canada Inc., and  
not in its personal capacity**

Per: \_\_\_\_\_  
Name:

Title:



The Toronto-Dominion Bank  
Plaintiff and  
Tomlin Industries (2000) Inc., et al.  
Defendants

Court File No.: 35-2214905T

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

**APPROVAL AND VESTING ORDER**

**HARRISON FENSA LLP**  
Barristers & Solicitors  
450 Talbot Street  
London, ON N6A 5J6

**Timothy C. Hogan** LSO#: 36553S  
Tel: (519) 679-9660  
Fax: (519) 667-3362  
thogan@harrisonpensa.com

Solicitors for the Plaintiff

## SCHEDULE "C"

LEGAL DESCRIPTION OF IMMOVABLE PROPERTY

An immovable known and designated as lot number FIVE MILLION EIGHT HUNDRED THIRTY-FIVE THOUSAND THIRTY-FIVE (5 835 035) of the Quebec Land Registry (*Cadastre du Québec*), Registration Division of Arthabaska.

With building erected thereon bearing civic address 2005-2015 rue Bécancour, Lyster, Quebec, G0S 1V0.

As the property now subsists with all of its rights, members and appurtenances, without exception or reserve of any kind.

SCHEDULE "D"  
ASSUMED EMPLOYEES

Lauren Graham  
Craig Hyde

Claude Boivers  
Marco Boissenenault  
Joel Jacques  
Sonny Hinse Fillion  
Steve Brousseau  
Constant Roy  
Alain Jacques  
Renault berthelot  
Nancy Beaudoin  
Conrad Doirion  
Genevieve Coté  
France Poudrier  
Ginette Berthiaume  
Jason Kilganan

SCHEDULE "E"

TRADEMARKS

## TRADE-MARKS

#	Application/ Registration numbers	Status	Key Dates	Interested Parties	Descriptive Reference	Claims	Associated Goods
1.	1158976 TMA639846	Registered	<u>Filed:</u> 2002-11-14 <u>Registered:</u> 2005-05-13	<u>Registrant:</u> TOMLIN INDUSTRIES (2000) INC.  <u>Representative for service:</u> JOHN A. WEIR (MCCARTER GRESPAN BEYNON WEIR LLP)	SENSES COLLECTION  Word Mark Trade-mark	Used in Canada since April 22, 2005 on good (3) (11) (25)	<u>Goods</u> (1) A full line of acrylic and non-acrylic bathtubs, shower bases, shower tub surrounds and shower doors manufactured and distributed for consumer and commercial use
2.	1173384 TMA629002	Registered	<u>Filed:</u> 2003-04-02 <u>Registered:</u> 2004-12-22	<u>Registrant:</u> TOMLIN INDUSTRIES (2000) INC.  <u>Representative for service:</u> JOHN A. WEIR (MCCARTER GRESPAN BEYNON WEIR LLP)	BLISS  Word Mark Trade-mark	Used in Canada since November 30, 2004 on goods (20)	<u>Goods</u> (1) Bathroom vanities.
3.	1377618 TMA742316	Registered	<u>Filed:</u> 2007-12-28 <u>Registered:</u> 2009-06-19	<u>Registrant:</u> TOMLIN INDUSTRIES (2000) INC.  <u>Representative for service:</u> JOHN A. WEIR (MCCARTER GRESPAN BEYNON WEIR LLP)	ARTO  Word Mark Trade-mark	Used in Canada since January 01, 2005 On goods and services (11) (35) (39) (42)	<u>Goods</u> (1) Speciality designed bathtubs  <u>Services</u> (1) Sale and distribution of bathtubs and ancillary bathroom fixtures.
4.	1670525 TMA919544	Registered	<u>Filed:</u> 2014-03-31 <u>Registered:</u> 2015-11-05	<u>Registrant:</u> TOMLIN INDUSTRIES (2000) INC.  <u>Representative for service:</u>	MATRIX  Word Mark Trade-mark	Used in Canada since October 2010 on good (11)	<u>Goods</u> (1) shower doors; shower enclosure panels; parts and fittings for installation and operation of shower doors and shower enclosures; shower enclosure floor bases; and shower door and shower enclosure kits consisting of shower

				JOHN A. WEIR (MCCARTER GRESPLAN BEYNON WEIR LLP)					door panels, fixed panels, parts and fittings for installation and operation of shower doors and shower enclosures
5.	1191493 TMA631537	Registered	Filed: 2003-09-24 Registered: 2005-01-31	<u>Registrant:</u> ACRYLI J.R. INC. <u>Representative for service:</u> RICHARD TALBOT (TREMBLAY, BOIS, MIGNAULT & LEMAY) <u>Current owner:</u> 7949952 Canada inc. <u>Representative for service:</u> MCMILLAN LLP	ACRYLI JR  Word Mark Trade-mark	Used in Canada since January 10, 2005 on services (35) (40)	<u>Services</u> (1) Fabrication et la mise en marché de baignoires, enceintes de baignoires, composantes de baignoires, baignoires hydro-masseurs, baignoires-douches, enceintes de douches, douches, baignoires avec système d'air, cuves, baignoires à remous, baignoires thérapeutiques et spas.		
6.	1191492 TMA631539	Registered	Filed: 2003-09-24 Registered: 2005-01-31	<u>Registrant:</u> ACRYLI J.R. INC. <u>Representative for service:</u> RICHARD TALBOT (TREMBLAY, BOIS, MIGNAULT & LEMAY) <u>Current owner:</u> 7949952 Canada inc. <u>Representative for service:</u> MCMILLAN LLP	ACRYLINE ACRY LINE  Word Mark Trade-mark	Used in Canada since January 10, 2005 on services (35) (40)	<u>Services</u> (1) Fabrication et la mise en marché de baignoires, enceintes de baignoires, composantes de baignoires, baignoires hydro-masseurs, baignoires-douches, enceintes de douches, douches, baignoires avec système d'air, cuves, baignoires à remous, baignoires thérapeutiques et spas.		
7.	1191494 TMA631542	Registered	Filed: 2003-09-24 Registered: 2005-01-31	<u>Registrant:</u> ACRYLI J.R. INC. <u>Representative for service:</u> RICHARD TALBOT (TREMBLAY, BOIS,	L'ULTIME PLAISIR DU BAIN  Word Mark Trade-mark	Used in Canada since January 10, 2005 on services (35) (40)	<u>Services</u> (1) Fabrication et la mise en marché de baignoires, enceintes de baignoires, composantes de baignoires, baignoires hydro-masseurs, baignoires-douches, enceintes de douches, douches, baignoires avec système d'air, cuves,		

				<p>MIGNAULT &amp; LEMAY)  <u>Current owner:</u>          7949952 Canada Inc.  <u>Representative for service:</u>          MCMILLAN LLP</p>			<p>baignoires à remous, baignoires thérapeutiques et spas.</p>
<p>8. 1191491 TMA626141</p>	<p>Registered</p>	<p>Filed: 2003-09-24 Registered: 2004-11-22</p>	<p><u>Registrant:</u>          ACRYLI J.R. INC.  <u>Representative for service:</u>          RICHARD TALBOT          (TREMBLAY, BOIS,          MIGNAULT &amp; LEMAY)  <u>Current owner:</u>          7949952 Canada inc.  <u>Representative for service:</u>          MCMILLAN LLP</p>	<p>ACRYLI CANADA          Word Mark          Trade-mark</p>	<p>Used in Canada since January 10, 2005 on services (35) (40)</p>	<p><u>Services</u>          (1) Fabrication et la mise en marché de baignoires, enceintes de baignoires, composantes de baignoires, baignoires-hydro-masseurs, baignoires-douches, enceintes de douches, baignoires à remous, système d'air, cuves, baignoires thérapeutiques et spas.</p>	

SCHEDULE "F"  
PERSONAL PROPERTY LIST



No.	Qte.	Location
1	1	Bureau 1
2	3	Bureau 1
3	1	Bureau 1
4	1	Bureau 1
5	1	Bureau 1
6	1	Bureau 1
7	1	Bureau 2
8	1	Bureau 2
9	1	Bureau 2
10	1	Bureau 2
11	1	Bureau 2
12	5	Bureau 2
13	1	Bureau 2
14	5	Aire Cenrale
15	4	Aire Cenrale
16	1	Aire Cenrale
17	1	Aire Cenrale
18	1	Aire Cenrale
19	1	Aire Cenrale
20	1	Aire Cenrale
21	2	Aire Cenrale
22	1	Aire Cenrale
23	1	Aire Cenrale
24	1	Aire Cenrale
25	1	Aire Cenrale
26	1	Aire Cenrale
27	1	Bureau 3
28	1	Bureau 3
29	2	Bureau 3
30	1	Bureau 3
31	1	Bureau 4
32	1	Bureau 4
33	1	Salle De Serveur
34	1	Salle De Serveur
35	1	Salle De Serveur
36	1	Salle De Serveur
37	1	Salle De Serveur
38	1	Production
39	1	Production
40	1	Production
41	5	Production

42	1 Production
43	1 Production
44	1 Production
45	1 Production
46	10 Production
47	5 Production
48	35 Production
49	2 Production
50	1 Production
51	29 Production
52	1 Production
53	7 Production
54	3 Production
55	1 Production
56	1 Production
57	1 Production
58	1 Production
59	2 Production
60	1 Production
61	1 Production
62	4 Production
63	1 Production
64	1 Production

65 1 Production

66 1 Production

67 1 Production

68 1 Production

69 1 Production

70 49 Production

71 1 Production

72 1 Production

73 1 Production

74 2 Production

75 1 Production

76 1 Production

77 1 Production

78 1 Production

79 1 Production

80 1 Production

81 1 Production

82 1 Production

83 38 Production

84 1 Production

85 100 Production

86 15 Production

87 22 Production

88	1 Production
89	2 Production
90	1 Production
91	1 Production
92	1 Production
93	1 Production
94	1 Production
95	1 Production
96	1 Production
97	1 Production
98	1 Production
99	1 Production
100	1 Production
101	1 Production
102	1 Production
103	1 Production
104	1 Production
105	1 Production
106	2 Production
107	1 Production

## Listing of Machinery and Equipment

Description
Poste de travail en melamine
Fauteuils sur roues en tissu
Ordinateur avec ecran ACL
Imprimante multifonctions CANON Modele : IMAGECLASS MF4150
Filiere laterale, 5 tiroirs
Bureau en melamine
Poste de travail en melamine
Table pliante avec dessus en stratifie
Ordinateur avec &ran ACL
Filiere laterale, 2 tiroirs
Filiere laterale, 3 tiroirs
Fauteuils sur roues en tissu
Bibliotheque
Postes de travail en melamine
Ordinateurs avec ecran ACL
Imprimante HP Modele : LASERJET ENTERPRISE M605
Imprimante multifonctions BROTHER Modele : MFC-7360N
Imprimante multifonctions BROTHER Modele : MFC-7460DN
Filiere laterale, 2 tiroirs
Filiere laterale, 3 tiroirs
Filiere laterale, 4 tiroirs
Filiere laterale, 2 tiroirs et 2 portes
Imprimante multifonctions XEROX Modele : PHASER 6180 MFP
Credence en melamine
Imprimante multifonctions BROTHER Modele : MFC-L2720DW
Dechiqueteuse a papier SWINGLINE
Poste de travail en melamine
Ordinateur avec 2 ecrans ACL
Fauteuils sur roues, cuirette
Fauteuil visiteur en tissu
Poste de travail en melamine
Fauteuil sur roues en tissu
Routeur HP Modele : 1810G-24
Routeur CISCO Modele : SG-100-24
Batterie de secours
Systeme telephonique AVAYA avec 12 appareils Modele : IP OFFICE 500 V2
Coffre-fort FICOBEC
Armoire en metal, 2 portes
Machine a thermoformer PLASTI-VAC a 2 cotes avec 2 consoles et unite hydraulique Modele : 608 XTX-DE I
Chambre a peinture de 20' x 60' demontee avec fixtures neons et ventilateur d'extraction
Devidoirs avec boyau pneumatique

Système d'application de fibre de résine comprenant :

- 2 Réservoirs en acier avec mélangeur
  - 3 pompes à diaphragme
  - 2 Pompes à résine
  - Chauffe-résine MAGNUM VERSUS
  - Pistolet applicateur MVP avec coupe fibre
- Perceuse à colonne KING Modèle : KC-117FC
- Table de sablage avec aspiration (fabrication domestique)

Système d'application résine comprenant :

- Pompe a resine
- Pistolet applicateur MAGNUM
- Cabinet en metal

Étagères industrielles de 10'

Diabes

Chariots en acier assortis

Étagères en acier

Convoyeur à bande motorisé de 5' x 50'

Outils pneumatiques assortis

Conteneur basculant à déchets

Chariots assortis

Kiosques d'exposition de 20' x 20' (non vus, entreposés dans caisse)

Ensemble comprenant :

- 7 Chariots avec table élévatrice
- 3 Diabes
- 2 Transpalettes
- Dévidoir à sangle avec outils d'attache
- Dévidoir à ruban gommé
- Escabeau de 6'

Ensemble comprenant :

- 27 outils pneumatiques assortis
- 4 Tables de travail assorties
- 4 Dévidoirs avec boyau pneumatique

Transpalette KLETON avec balance

Scie à onglet HITACHI CIOFCH

Balayeuses d'atelier

Perceuse à colonne RYOBI

Sableuse combinée DELTA

Étagères industrielles de 8'

Machine à thermoformer PLASTI-VAC

(1 coté, non installé)

(modèle et no série non accessible)

Chariot élévateur DOOSAN-DAEWOO au propane, capacité 4,500 lbs, 2400 hrs

Modèle : G25 E-3

No série : KN-00760

Dépoussiéreur NEDERMAN

Modèle : E-PAR 500

No série : 20722

Chariot élévateur CATERPILLAR électrique, capacité 4,000 lbs avec chargeur

Modèle : NRR40

No série : 2BL03806

Emballeuse à palette

(sans marque ou modèle)

Ensemble comprenant :

- 4 Transpalettes
- 5 Diabes
- 2 Dévidoirs à sangle avec outils d'attache
- Conteneur basculant pour déchets
- Échelle de 24'

Élévateur à marchandise

(fabrication domestique avec pièce de chariot élévateur)

Étagères industrielles de 18'h

Ensemble comprenant :

·Scie à onglet HITACHI

Modèle : C10FCH2

·Scie à onglet DEWALT

Modèle : DW715

·Scie à ruban KING

Modèle : 614C

·9 Outils manuels électriques et manuels

·3 tables de travail

·Dépoussiéreur KING

Modèle : KC-5043C

·Banc de scie GENERAL INTERNATIONAL avec règle de coupe EXCALIBUR

·Conteneur basculant pour déchets

Ensemble comprenant :

- Table élévatrice pneumatique de 30" x 60"
- 3 Sections de convoyeurs à rouleaux de 10'
- 2 Dévidoirs à rallonge électrique
- 2 Dévidoirs à boyau pneumatique
- 2 Étagères en acier
- 2 Étagères industrielles de 8'
- 6 Tables de travail en métal
- 2 Sableuses combinées KING Modèle : KC705L
- Scie à onglet KING
- 20 Outils manuels pneumatiques assortis



Compresseur à vis ATLAS COPCO

50h.p, 36,210 hrs

Modèle : GA509

Avec assécheur d'air DOMINICK HUNTER

Modèle : RDM0485

Et réservoir vertical

Chauffe-tuyaux de 60"

Monorail suspendu de ± 400' linéaires avec chariots

Ensemble comprenant :

- 8 Étagères industrielles de 8'
- Armoire en métal, 2 portes
- Réservoir à résine avec mélangeur
- 27 Chariots assortis
- 2 Diabes

Ensemble comprenant :

· 2 Pompes à résine MAGNUM

· Chauffe-résine GRACO

Ensemble comprenant :

· Nettoyeur à pistolet

· Établi

· Coffre à outils avec contenu

· 2 Diabes

Compresseur d'air 30 h.p.

(non installé)

Recycleur d'acétone ECO

Modèle : SR30V

No série : T1-90X2-0256

Système d'application de fibre-résine comprenant :

· Pompe à résine MAGNUM

· Chauffe-résine GRACO

· Pompe à diaphragme

· Pistolet applicateur MVP avec coupe fibre

Machine à thermoformer SCHUMAN, 2

côtés avec consoles de contrôle et

pompes à vacuum

Modèle : DHXJ

No série : 1425

Chariots en métal assortis

Chariot élévateur CATERPILLAR électrique avec chargeur

Modèle : NRR40

No série : 2GL03841

Moules avec jig pour baignoire, douche, base de douche, etc.

(quantité approximative)

Étagères industrielles de 8'

Chariots assortis

Système de ventilation et échangeur d'air comprenant :

·4 Ventilateurs d'extraction COOK avec cheminée

·Fournaise/échangeur d'air BOUSQUET 2,500,000 BTU Modèle SDM 200-E-RH-THD-MP-C

Soudeuses MILLER

Modèle : MILLERMATIC 251

Tour à métal

(sans plaque signalétique)

(non conforme CSST)

Transpalette BLUE GIANT

Plieuse manuelle de 36"

Compresseur, 3 h.p.

Laveuse à pression MS

Modèle : LP2030CA240

Cric de transmission BLACK JACK

Trémie avec vis sans fin

Table élévatrice sur roues

Chariot élévateur TOYOTA au propane (non fonctionnel, pour pièces)

Souffleuse à neige ARIENS

Perceuse à colonne KING

Scie à ruban avec table

Perceuse à colonne DILTEC

Modèle : KTF-30

No série : 61775

Compresseur EAGLE 5 h.p.

Scie à ruban KING de 12" avec convoyeur

Modèle : KC712DS

Mobilier de bureau comprenant :

·6 Postes de travail en mélamine

·2 Classeurs verticaux

·2 Tables de conférence

·6 Fauteuils visiteur en tissu

·Fauteuil sur roues en cuirette

·Tableau mural, 2 portes

·Écran de projection

Réservoirs en acier inoxydable de 3,000 gallons

Remorque d'entreposage de 53' MANAC

Année : 1998

Plaque : V39735E

No série : 2M5931619W1056177



**TAB “G”**



**MILLER THOMSON**  
AVOCATS | LAWYERS

MILLER THOMSON LLP  
ONE LONDON PLACE  
255 QUEENS AVENUE, SUITE 2010  
LONDON, ON N6A 5R8  
CANADA

T 519 931.3500  
F 519 858.8511

MILLERTHOMSON.COM

May 15, 2019

**Sent via E-mail** (felix.bernard@langlois.ca)

Langlois Avocats/Lawyers  
1250 Rene-Levesque Blvd. West  
20<sup>th</sup> Floor  
Montreal (Quebec) H3B 4W8

**Sherry A. Kettle**  
Direct Line: 519.931.3534  
skettle@millerthomson.com

File: 0223176.0004

Attention: Félix Bernard

Dear Sir:

**Re: The Toronto-Dominion Bank v. Tomlin Industries (2000) Inc. et al.**  
**Court File No. 35-124515**  
**Agreement of Purchase and Sale dated March 11, 2019 (the "APS")**

We refer to your e-mail to Jerry Henechowicz of MNP Ltd. dated May 9, 2019 and the letter of Martin Desmarais (undated) to Jerry Henechowicz regarding post-closing adjustments under the APS.

Attached hereto as Schedule "A" are the Post-Closing Adjustments (the "**Adjustments**") that are acceptable to the Receiver and result in the sum due by your client to the Receiver of \$11,493.30.

The remaining post-closing adjustments proposed by the Purchasers are not included in the Schedule "A" Adjustments for the following reasons:

1. Prepaid revenues (USD \$10,040, CDN \$8,212.55 and USD \$9,062.50):

These represent raw material purchased by the Companies' customers. The respective products were shipped prior to the Receiver's appointment and will be deducted from the customers' payment.

2. Business Inventory

(a) bathtub drains (CDN\$29,202.20): This was an "as is, where is" sale and the Purchasers had time prior to closing to complete their due diligence. The Receiver disclosed the patent infringement claim and the Purchasers were aware of the claim and proceeded with the transaction in any event.

(b) inventory sales (CDN\$21,321.42 and \$21,185.87): The receiver's calculation of the business inventory adjustment was \$21,195.87 representing 35% of the change in the book value of the Business Inventory as recorded in the books and records between the Inventory Date and the Closing Date. The purchasers included \$21,185.87 in Part 2 and \$21,321.42 in Part 3 of their

adjustments schedule contained in Mr. Desmarais' undated letter. The Receiver has used the Purchasers' number (\$21,321.42) on the attached Schedule "A".

- (c) inventory on consignment (CDN\$23,040): This was an "as is, where is" sale and the Purchasers had time prior to closing to complete their due diligence. In any event, the Purchasers were aware of the consignment inventory and had an opportunity to determine its value before entering into and completing the transaction.
- (d) storage fees paid in excess (USD\$10,923 and CDN\$3,125): Storage fees for freight in transit do not fall under the 2.08(a)(v) business inventory adjustment clause or any other adjustment category.
- (e) Rackspace contract (CDN\$8,400): The cost of a one year contract for a cloud management system due to the Tomlin website being allegedly obsolete does not fall under the 2.08(a)(v) business inventory adjustment clause or any other adjustment category.

Please remit the balance owing by the Purchaser to the Receiver for the Adjustments forthwith, being the amount of \$11,493.30 as per Schedule "A" hereto.

The Adjustments on Schedule "A" do not include any amounts due to the Purchaser for accounts receivable collections as set out in section 2.04(b) of the APS. As such, the Purchaser must continue to remit payment of accounts receivable collections as required by the APS.

The Receiver now intends to proceed with a motion for an order, among other things, for the distribution of funds and for the discharge of the Receiver. You will receive notice of that motion.

Yours truly,

MILLER THOMSON LLP

Per:



Sherry A. Kettle  
SAK/sj  
c: client

39378203.1



**SCHEDULE "A"****Receivership of Tomlin Group  
Post-Closing Adjustments**

APS 2.08 (a)	Due To	
	Receiver	Purchaser
<b>(i) Taxes - 2005-2015 Rue Becancour, Lyset</b>		
Municipal Taxes	\$	\$ 1,598.94
School tax		\$ 1,849.01
<b>(ii) Prepaid Revenues</b>		
Pre-paid order on-hold to ship (USD \$445*1.35 + \$65)		\$ 665.75
<b>(iii) Prepaid Expenses</b>		
Inventory purchases prepaid by Tomlin	\$ 8,000.00	
<b>(iv) Utilities</b>		
None	-	-
<b>(v) Business Inventory</b>		
35% of the change in the book value of the Business Inventory as recorded in the books and records between the Inventory Date and the Closing Date		\$ 21,321.42
<b>(vi) Employees</b>		
None	-	-
<b>Other (As Agreed):</b>		
Property insurance extension to April 12, 2019	\$ 5,677.05	
Extended health care to April 30, 2019	\$ 257.17	
Xerox lease extension	\$ 830.63	
Sonic post appointment purchases	\$ 2,091.25	
Oricom Internet Inc. extended to April 30, 2019	\$ 72.32	
	<b>\$ 16,928.42</b>	<b>\$ 25,435.12</b>
Holdback	\$ 20,000.00	\$ -
Post-closing Adjustment due and owing to Receiver		\$ 11,493.30
	<b>\$ 36,928.42</b>	<b>\$ 36,928.42</b>

**TAB "H"**





**MILLER THOMSON**  
AVOCATS | LAWYERS

MILLER THOMSON LLP  
ONE LONDON PLACE  
255 QUEENS AVENUE, SUITE 2010  
LONDON, ON N6A 5R8  
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T 519.931.3500  
F 519.858.8511

MILLERTHOMSON.COM

July 3, 2019

**Sent via Purolator Courier / E-mail**  
(mdesmarais@zitta.ca)

**Sherry A. Kettle**  
Direct Line: 519.931.3534  
skettle@millerthomson.com

File: 0223176.0004

Zitta Immobilier inc. and Zitta Products inc.  
81 rue Théodore-Viau  
Terrebonne Québec J6Y 0J8

Attention: Martin Desmarais

Dear Sir:

**Re: The Toronto-Dominion Bank v. Tomlin Industries (2000) Inc. et al.  
Court File No. 35-124515  
Agreement of Purchase and Sale dated March 11, 2019 (the "APS") between  
MNP Ltd. (the "Receiver"), in its capacity as Court appointed receiver of  
certain of the assets of Tomlin Industries (2000) Inc., Caml North America Ltd.,  
7949952 Canada Inc. and 7949987 Canada Inc., as Vendor  
and Zitta Immobilier Inc. and Les Produits Zitta Inc./Zitta Products Inc., as  
Purchaser**

Pursuant to section 2.04(b) of the APS, after the first 60 days, the Receiver has the right to take steps to directly collect the Business Receivables, as defined in the APS, that are in default of payment as per their respective term of payments, provided that the Receiver provides the Purchaser 7 days' notice prior to taking such steps.

On behalf of the Receiver, we hereby give notice pursuant to section 2.04(b) of the APS that after 7 days from the date of this letter the Receiver intends to take steps to directly collect the Business Receivables that are in default of payment as per their respective term of payments.

Yours truly,  
MILLER THOMSON LLP

Per:

  
Sherry A. Kettle  
SAK/sj

c: Langlois Avocats/Lawyers  
Attn: Gerry Apostolatos (gerry.apostolatos@langlois.ca) /  
Félix Bernard (felix.bernard@langlois.ca)

c: client

**TAB "I"**

RECEIVERSHIP OF TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD.,  
7949952 CANADA INC. AND 7949987 CANADA INC.

INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

AS AT JUNE 30, 2019

	Note	
<b>Receipts</b>		
Sale of assets	\$	1,328,000.00
Accounts receivable collections	1.	80,424.46
Insurance refund		3,000.54
		<u>1,411,425.00</u>
<b>Disbursements</b>		
Payroll		58,988.54
Receiver's fees and costs		20,000.00
Insurance		6,438.98
Storage		3,887.87
HST on Receiver fees		2,600.00
Utilities		2,252.44
Computer back-ups		1,669.98
Other		1,654.50
HST/QST paid		1,266.90
Notices		840.00
Redirection		739.20
Occupation rent		498.16
Bank charges		325.60
Postage		262.52
Filing fees		70.00
		<u>101,494.69</u>
	<b>\$</b>	<b><u>1,309,930.31</u></b>

**Notes**

1. Excludes approximately \$61,000 deposited directly to the accounts of Tomlin Industries (2000) Inc. and 7949952 Canada Inc. at the Toronto Dominion Bank.

**TAB “J”**

Court File No. 35-124515

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)

THE TORONTO-DOMINION BANK

Plaintiff

- and -

TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD.,  
7949952 CANADA INC. and 7949987 CANADA INC.

Defendants

**AFFIDAVIT OF JERRY HENECHOWICZ**  
(Sworn July 5<sup>th</sup>, 2019)


I, Jerry Henechowicz, of the City of Markham, in the Province of Ontario,

**MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Senior Vice President and a Licensed Insolvency Trustee with MNP Ltd. the Court-appointed Receiver of Tomlin Industries (2000) Inc., CAML North America Ltd., 7949952 Canada Inc. o/a Acryline and 7949987 Canada Inc. (collectively the “Companies”) and as such have knowledge of the matters deposed to herein, except where such knowledge is stated to be based on information and belief, in which case I state the source of the information and verily believe such information to be true.
2. The Receiver was appointed, without security, of assets, property and undertaking of the Companies by Order of the Court dated March 12, 2019.
3. The Receiver has prepared a Statement of Account in connection with its appointment as Receiver detailing its services rendered and disbursements incurred for the period January 26 to April 24, 2019. Attached hereto and marked as Exhibit “A” to this my Affidavit is a summary of the Statement of Account.

4. Attached hereto and marked as Exhibit "B" are copies of the Statement of Account. The average hourly rate in respect of the account is \$362.83.
5. This Affidavit is made in support of a motion to, inter alia, approve the receipts and disbursements of the Receiver and its accounts.

SWORN before me at the City of )  
Toronto, in the Province of Ontario )  
this 5<sup>th</sup> day of July, 2019. )

  
\_\_\_\_\_  
A Commissioner, etc.

  
\_\_\_\_\_  
JERRY HENECHOWICZ

**MICHAEL BENJAMIN LITWACK,**  
a Commissioner, etc.,  
Province of Ontario,  
while a Barrister and Solicitor.

Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF JERRY HENECHOWICZ

Sworn before me

This 5<sup>th</sup> day of July, 2019



Commissioner for taking Affidavits, etc

**SUMMARY OF STATEMENTS OF ACCOUNT OF  
MNP LTD IN ITS CAPACITY AS COURT APPOINTED RECEIVER  
FOR THE PERIOD JANUARY 26 TO APRIL 24, 2019**

<b>MNP INVOICE</b>	<b>DATE</b>	<b>HOURS</b>	<b>FEES</b>	<b>DISBURSEMENTS</b>	<b>HST</b>	<b>TOTAL</b>
8824456	29-Apr-19	179.15	65,000.00	1,223.31	8,609.03	74,832.34
		<u>179.15</u>	<u>65,000.00</u>	<u>1,223.31</u>	<u>8,609.03</u>	<u>74,832.34</u>
Average Hourly Rate		<u>362.82</u>				



Attached is Exhibit "B"

Referred to in the

AFFIDAVIT OF JERRY HENECHOWICZ

Sworn before me

This 5<sup>th</sup> day of July, 2019



Commissioner for taking Affidavits, etc

**Invoice**

**Invoice Number :** 8824456                      **Client Number :** 0739678  
**Invoice Date :** Apr 29 2019                      **Invoice Terms :** Due Upon Receipt

Tomlin Industries (2000) Inc., Caml North America Ltd., 7949952 Canada  
 Inc. o/a Acryline and 7949987 Canada Inc.  
 c/o MNP Ltd.  
 Court Appointed Receiver  
 111 Richmond St. West, Suite 300  
 Toronto, ON  
 M5H 2G4

**For Professional Services Rendered :**

Professional Services as Court Appointed Receiver of Tomlin Industries (2000) Inc., Caml North America Ltd., 7949952 Canada Inc.o/a Acryline and 7949987 Canada Inc. for the period ended April 24, 2019 as set out on the attached time and fee summary	66,223.31
--	-----------

Harmonized Sales Tax :	8,609.03
------------------------	----------

<b>Total (CAD) :</b>	<b>74,832.34</b>
----------------------	------------------

HST Registration Number : 103697215 RT 0001

Invoices are due and payable upon receipt.

Thank you for your business. We sincerely appreciate your trust in us.

**Licensed Insolvency Trustees**  
**111 RICHMOND STREET WEST, SUITE 300;**  
**TORONTO ON; M5H 2G4**  
**P: (416) 596-1711 F: (416) 596-7894 www.MNPDebt.ca**

MNP LTD.  
COURT APPOINTED RECEIVER OF THE TOMLIN GROUP

FOR THE PERIOD ENDED APRIL 24, 2019

DATE	PROFESSIONAL	HOURS	DESCRIPTION
25-Jan-2019	Jerry Henechowicz	.60	Update call with TD and call with Jean Louis
28-Jan-2019	Jerry Henechowicz	.60	Initial review of Zitti LOI and email to Tomlin on information needs
29-Jan-2019	Jerry Henechowicz	1.50	Status and update meeting with Company and follow up to TD
30-Jan-2019	Jerry Henechowicz	.30	Update call with TD, information request to Company
31-Jan-2019	Jerry Henechowicz	1.30	Strategy and update with Company re next steps
01-Feb-2019	Jerry Henechowicz	.70	Preparation for and update call with TD
04-Feb-2019	Jerry Henechowicz	1.00	Call with prospective purchaser, follow up emails to confirm terms, update call with company, email to TD
05-Feb-2019	Jerry Henechowicz	1.50	Drafting and sending of LOI, emails with Luc Bertrand on Cash-flow to be presented
05-Feb-2019	Michael Litwack	2.20	Discussions w/ J Henechowicz re letter of intent for purchase of assets; Review and revisions to letter of intent.
06-Feb-2019	Jerry Henechowicz	1.50	Call with potential purchaser to update LOI, review of updated cash flow projections and forwarding same to TD for comments
07-Feb-2019	Jerry Henechowicz	1.30	Multiple calls and emails related to completion and execution of LOI, update to TD and review of likely format and completion of sale, calls from Zitta and Acyitec on next sales.
07-Feb-2019	Michael Litwack	.10	Revisions to cash flow forecast report
08-Feb-2019	Sheldon Tittle	.30	Discussion with Henechowicz on strategy re: sales approval
11-Feb-2019	Jerry Henechowicz	.60	Calls and emails from Company related to Zitta deposit, email from TD on likely process
12-Feb-2019	Jerry Henechowicz	1.00	Multiple calls and emails related to status and Zitta due diligence
13-Feb-2019	Jerry Henechowicz	1.00	Multiple calls and emails related to status and Zitta due diligence
14-Feb-2019	Jerry Henechowicz	1.00	Multiple calls and emails related to status and Zitta due diligence
15-Feb-2019	Jerry Henechowicz	2.00	Multiple calls and emails on revised offer from Zitta
15-Feb-2019	Matthew Lem	.90	Review of correspondence from Zitta re revised offer; conference call with HP and TD re Zitta's revised offer; provide comments on draft email.
19-Feb-2019	Matthew Lem	2.80	Discussion with R. Danter; discussion with V. Kormakov; attend to correspondence from TD re inventory changes; emails and discussion with JL Cloutier re same; discussion with C. Hyde re information required; review of inventory information received and prepare schedule re same; email o TD and HP re same.
20-Feb-2019	Jerry Henechowicz	.30	Review of Multiple emails related to sale transaction
20-Feb-2019	Matthew Lem	.90	Review of draft email to Zitta in response to revised offer; discussion with and mail to JL Cloutier re confirmation of support of transaction with Zitta; call with J. Henechowicz and E. Golden re Tomlin and Zitta.
20-Feb-2019	Michael Litwack	.20	Emails and discussions re closing of sale and referral for counsel.
21-Feb-2019	Jerry Henechowicz	.60	Review of Multiple emails related to sale transaction, update call with Matt Lem on next steps
21-Feb-2019	Matthew Lem	.30	Attend conference call with HP, TD, Kaufmans, Blaneys and Zitta
22-Feb-2019	Jerry Henechowicz	.80	Review of Multiple emails related to sale transaction

MNP LTD.  
COURT APPOINTED RECEIVER OF THE TOMLIN GROUP

FOR THE PERIOD ENDED APRIL 24, 2019

DATE	PROFESSIONAL	HOURS	DESCRIPTION
22-Feb-2019	Matthew Lem	3.60	Conference call with HP and Blaneys re counsel retained by Zitta; discussion with M. Desmarais re counsel being retained; update email re same; conference call with HP and Langlois re counsel retained by Zitta and next steps; attend to draft report to Court; various discussions with R. Thomson of BDC re contemplated receivership application; attend to correspondence and email exchanges with the Company re information required for report and APAs.
24-Feb-2019	Matthew Lem	2.50	Attend to preparation of draft report to Court for Proposed Receiver
25-Feb-2019	Jerry Henechowicz	2.20	Drafting and updating pre-filing report, call with Miller Thomson, update call with purchaser on closing logistics
25-Feb-2019	Matthew Lem	3.30	Update discussion with J. Henechowicz; attend to draft report to Court of Proposed Receiver.
26-Feb-2019	Jerry Henechowicz	2.20	Drafting of pre-filing report, emails to CFO on information needs, call with Harrison Pensa and Miller Thomson to review proposed appointment, review of first turn of APA.
27-Feb-2019	Jerry Henechowicz	2.50	Draft of pre-filing reports and review of receiver application materials
28-Feb-2019	Jerry Henechowicz	3.20	Preparation of pre-filing report and review of related receivership application records
28-Feb-2019	Matthew Lem	.20	Attend to call from JL Cloutier; discussion with J. Henechowicz re same and next steps.
01-Mar-2019	Jerry Henechowicz	2.90	Conference call with counsel to review APS, updates to counsel on process, drafting of pre-filing reports and sending same to Miller Thomson
03-Mar-2019	Jerry Henechowicz	2.00	Report drafting and related issues, logistics call with purchaser
04-Mar-2019	Jerry Henechowicz	1.90	Further drafting of pre-filing report, review of updated information from Tomlin, responding to email from Purchaser counsel
05-Mar-2019	Jerry Henechowicz	2.50	Multiple issues related to application materials, drafting of Receiver's report, information requests from purchaser's counsel and follow up with Company
05-Mar-2019	Michael Litwack	2.00	Review and revision to draft of report to court; Review of appraisal for preparation of schedule for asset purchase agreement; Conversion of appraisal report to Excel and export of data to convert in to table for asset purchase agreement.
06-Mar-2019	Jerry Henechowicz	2.00	Various matters related to sale transaction and report
06-Mar-2019	Eric Reikman	.50	Phone call and setup of PPE count for Tomlin Waterloo office
06-Mar-2019	Michael Litwack	1.00	Prepared list of assets as schedule for asset purchase agreement.
07-Mar-2019	Jerry Henechowicz	1.50	Report drafting and calls re status and updates to APA
07-Mar-2019	Eric Reikman	1.00	Completed PPE count at Tomlin Waterloo location, prepared document noting count items and descriptions of PPE, emailed to Jerry
08-Mar-2019	Jerry Henechowicz	4.50	Drafting of pre-filing, multiple calls related to APA and purchaser information needs and related emails
08-Mar-2019	Sheldon Title	.40	review of ERV schedule and provide comments to Jerry
11-Mar-2019	Jerry Henechowicz	6.00	Multiple drafts of pre-filing reports, conference calls with parties, multiple reviews and drafts of report, multiple reviews and drafts of APA and related documents
11-Mar-2019	Sheldon Title	1.30	review of pre-filing report; call with lawyers on environmental indemnity; review of appt order
12-Mar-2019	Jerry Henechowicz	3.50	Multiple emails and calls related to Court attendance and coordination of multiple matters re sale
13-Mar-2019	Kal Ruprai	1.00	call and ems w jerry re gst and qst election forms for sale of a business

MNP LTD.  
COURT APPOINTED RECEIVER OF THE TOMLIN GROUP

FOR THE PERIOD ENDED APRIL 24, 2019

DATE	PROFESSIONAL	HOURS	DESCRIPTION
13-Mar-2019	Jerry Henechowicz	4.00	Attendance at Tomlin to meet with staff and preparation for closing of sale and related Receivership issues
13-Mar-2019	Jessie Hue	.50	create receivership electronic file folder and save appointment orders, request for the email account and access and prepare website.
14-Mar-2019	Vida Faramarz	1.50	prepared the GST 44 (3 forms) saved all back up documents and communications
14-Mar-2019	Kal Ruprai	1.80	mtg w Jerry, review sale agreement, mtg w Vida, review Vida's work, em to jerry
14-Mar-2019	Jerry Henechowicz	3.80	Multiple emails and calls related to closing documents timing, correspondence to respective creditors and contract assignees, execution of closing documents
14-Mar-2019	Jessie Hue	.30	File admin, email set up.
14-Mar-2019	Angela Liu	.40	Email to Jerry re input creditors information to Ascend; contact TD for account information
15-Mar-2019	Jerry Henechowicz	2.50	Attending to calls with various service providers re proceedings and assignment issues, multiple emails and calls to complete closing requirements
15-Mar-2019	Sheldon Title	1.50	swearing of one document related to closing; series of emails with Sherry Kettle and Michael Schacter, including tracing of closing proceeds, HST related issues, call to Patrick at McMillan; continued emails dealing with need for corporate resolution being required by notary and series of exchanges dealing with same; call with Sheri Aberback, forward copy of board resolution to Schacter and Kettle; discussion with bank on opening of account
15-Mar-2019	Angela Liu	.30	Contact TD re status of new accounts and report to J. Henechowicz
18-Mar-2019	Jerry Henechowicz	2.50	Multiple emails, calls and correspondence dealing with sale closing and related transition issues
18-Mar-2019	Jessie Hue	.40	Create the website posting.
18-Mar-2019	Angela Liu	4.60	Prepare list of creditors and import to Ascend; input receivership information to Ascend; follow up with J. Henechowicz re missing information; draft notice of receiver; contact director for creditors information
18-Mar-2019	Sheila Ayer	6.00	Briefing with J. Henechowicz re: coordination of tasks; Collate and courier documentation to Mailing to Miller Thompson LLP; Contact Execulink re service interruption; compose receivership notification letter, email to Execulink billing; Facilitate RBC Leasing arrangements for recovery of Buick, compose notification letter and email, establish appropriate contact; Facilitate CDLSI arrangements for recovery of Range Rover, compose notification letter and email, establish appropriate contact for notification
19-Mar-2019	Jerry Henechowicz	1.00	Multi issues related to transition
19-Mar-2019	Jessie Hue	.70	Assist with the mailing and direction with Angela, correction to the website. Provide S. Ayer with Bell Canada contact. Provide J. Henechowicz confirmation of the incoming wires received in retainer account, posting of the funds in quicken and banking back up receipt voucher. Saved the confirmation of the incoming wire to the directory.
19-Mar-2019	Angela Liu	2.80	Finalize notice and statement of receiver and mailing list; prepare mailing of the notice; fax the notice and court order to the OSB; email to J. Henechowicz to update
19-Mar-2019	Sheila Ayer	3.00	Briefing with J. Henechowicz re status update; Facilitate Bell Mobility cancellation of cell phone contract, compose letter and email, establish appropriate contact for receivership
20-Mar-2019	Jerry Henechowicz	1.00	Multiple emails and correspondence related to transition of sale closing and related transition issues

MNP LTD.  
COURT APPOINTED RECEIVER OF THE TOMLIN GROUP

FOR THE PERIOD ENDED APRIL 24, 2019

DATE	PROFESSIONAL	HOURS	DESCRIPTION
20-Mar-2019	Jessie Hue	.90	Website update, request for friendly URL, direction and assist Angela re; AR postings and banking, Monitor email account and respond to inquiries.
20-Mar-2019	Angela Liu	1.20	Prepare accounting folders for two trust accounts; email to J. Henechowicz re deposits to trust accounts; set up 2nd file in Ascend and input bank account information for two files; prepare letter to CRA to open RT2 accounts; prepare affidavit of mailing for Branch Office Services to sign;
20-Mar-2019	Sheila Ayer	1.50	Briefing with J. Henechowicz; Empire Life Group Insurance Policy; establish appropriate contact for receivership notification
21-Mar-2019	Jerry Henechowicz	1.20	Calls and correspondence with Warehouse, review of March 15, 2019 payrolls and funding, emails to payroll funder, other emails related to on-going closing issues
21-Mar-2019	Angela Liu	1.10	Save certificate from the OSB; transfer files from initial interview to estate in Ascend; post receipts in Ascend; prepare cheque for OR fee; prepare cheque to vendor re storage
21-Mar-2019	Sheila Ayer	4.00	Empire Life/Northern Financial Group Insurance: Compose receivership notification letter, email; Follow-up for confirmation of receipt of notifications to RBC Leasing and CDLSI, resend documentation to additional contacts, provide status updates; Kumpfortzone storage contract : reconcile final statement, Compose receivership notification email, Assets Release Agreement arrangements letter and email, receive signed confirmation, facilitate final cheque for courier delivery to release assets to Ziffa, Gather info. to facilitate final payroll T4s
22-Mar-2019	Jerry Henechowicz	1.10	Emails related to closing transition issuing, review of final payroll, call to insurers
22-Mar-2019	Angela Liu	1.10	Efile OR fee and prepare mailing to Receiver General; post receipts based deposit on March 21 2019; prepare letter to open RP 0002 accounts; transfer funds from retainer account to trust accounts
24-Mar-2019	Jerry Henechowicz	1.60	Correspondence to insurers and arranging March 15, 2019 payroll
25-Mar-2019	Jerry Henechowicz	1.10	Multiple emails and correspondence related to insurance, payroll and other transition issues
25-Mar-2019	Jessie Hue	.60	Banking and prepare chq req, provide dual authorization for wire.
25-Mar-2019	Angela Liu	1.50	Contact director and bank for wire information; prepare wire payment to employees; prepare courier for letter to employees
25-Mar-2019	Sheila Ayer	1.00	Empire, Benecaid: Reach out phone calls, Prepare letters for notification of Receivership, instructions for policy administration - send emails
26-Mar-2019	Jerry Henechowicz	1.20	Review of assignment matters and related wind up issues
26-Mar-2019	Jessie Hue	.20	Dealing with creditor calls re; Notice of Receiver.
26-Mar-2019	Jessie Hue	.30	Provide Angela with the dual authorization and advise wire redirected and potential issue.
26-Mar-2019	Angela Liu	1.20	Respond to creditors inquiries; prepare cheque for Branch Office Services re mailing of notice and statement of receiver and mail the cheque to the vendor; revise wire transfers to employees and follow up with TD re redirections
26-Mar-2019	Sheila Ayer	.50	Xerox - Facilitate payment, return of leased equipment, compose letter for notice of receivership, email documentation. follow up call
27-Mar-2019	Jerry Henechowicz	1.50	Meeting on site to review status of transition and review of AR and related matters
27-Mar-2019	Jessie Hue	.80	Prepare wire template and EFT backing.
28-Mar-2019	Jerry Henechowicz	1.00	On going issues related to are collection, termination of contracts and issuance of Acryline payroll, call with CRA
28-Mar-2019	Angela Liu	.40	Respond to creditors inquiries; contact Waterloo Hydro to terminate the account on April 12 and provide MNP's contact information for Hydro bill;
29-Mar-2019	Jerry Henechowicz	.60	Update emails on AR collections, emails to insurers

MNP LTD.  
COURT APPOINTED RECEIVER OF THE TOMLIN GROUP

FOR THE PERIOD ENDED APRIL 24, 2019

DATE	PROFESSIONAL	HOURS	DESCRIPTION
29-Mar-2019	Angela Liu	1.30	Respond to creditors inquiries re outstanding payments and status of receivership; deal with emails in public folder
30-Mar-2019	Jerry Henechowicz	1.00	Follow up on insurance, arranging payment of prefilling contract amounts due
31-Mar-2019	Jerry Henechowicz	1.00	Follow up on insurance, arranging payment of prefilling contract amounts due
01-Apr-2019	Jerry Henechowicz	1.30	Multiple calls and emails with Zitta and former controller on transition and closing adjustment issues
02-Apr-2019	Jerry Henechowicz	1.30	Multiple calls and emails with Zitta and former controller on transition and closing adjustment issues
02-Apr-2019	Jessie Hue	1.50	Monitor email accounts and respond to creditors inquiries. Enter and save proof of claim. banking prepare cheque req.
03-Apr-2019	Jerry Henechowicz	1.30	Multiple calls and emails with Zitta and former controller on transition and closing adjustment issues
03-Apr-2019	Angela Liu	.80	Respond to creditors inquiries via email and phone call; post account receivables to Ascend; prepare cheque for receiver's fees
03-Apr-2019	Sheila Ayer	.50	Follow up RBC Leasing re: Buick recovery
04-Apr-2019	Jerry Henechowicz	1.30	Multiple calls and emails with Zitta and former controller on transition and closing adjustment issues
04-Apr-2019	Angela Liu	.80	Respond to creditors inquiries via email and phone call
04-Apr-2019	Sheila Ayer	.50	Investigate Auction options w/Premier Bailiff re: Buick, RBC response received - coordinate vehicle recovery
05-Apr-2019	Jerry Henechowicz	1.30	Multiple calls and emails with Zitta and former controller on transition and closing adjustment issues, follow up calls with service providers, review of AR collections, and closing adjustments
05-Apr-2019	Angela Liu	.40	Post receipts to Ascend; send notice of receiver to Revenue Quebec
08-Apr-2019	Jerry Henechowicz	1.00	Preparation of updated SRD, ERV and closing adjustments
08-Apr-2019	Jessie Hue	1.50	Prepare dual authorization for outgoing wire. breakdown the PST/HST and posting of disbursements and prepare chq reqs.
08-Apr-2019	Angela Liu	.90	Prepare wire transfer to Allstream; transfer wire fee from trust account to retainer account; contact TD for details re a returned wire; print GL for J. Henechowicz to review
08-Apr-2019	Sheila Ayer	2.20	Coordinate outstanding payment and transfer of ownership for Allstream
09-Apr-2019	Jerry Henechowicz	1.10	Update meeting with TD Bank on likely realizations
09-Apr-2019	Jessie Hue	.20	File admin, banking.
09-Apr-2019	Angela Liu	.50	Post receipts in Ascend; file accounting record; email correspondence with TD re returned wire and ask Jerry for direction
10-Apr-2019	Angela Liu	.30	Prepare cheque and cover letter to C. Hyde re payroll
10-Apr-2019	Jerry Henechowicz	.50	Calls with Craig Hyde on transition and vacating of waterloo offices including records to be transferred to MNP
10-Apr-2019	Angela Liu	.40	Respond to creditors inquiries by email and phone calls
11-Apr-2019	Jessie Hue	.30	Dealing with creditor call. Inquiry and follow up with Sheila.
11-Apr-2019	Angela Liu	.90	Respond to creditors inquiries by email and forward to J. Henechowicz for direction; contact Maddie at TD for updates re returned wire transfer; redirection of mail for three companies
11-Apr-2019	Sheila Ayer	.50	Coordinate Rackspace change of ownership, Buick Recovery arrangements

MNP LTD.  
COURT APPOINTED RECEIVER OF THE TOMLIN GROUP

FOR THE PERIOD ENDED APRIL 24, 2019

DATE	PROFESSIONAL	HOURS	DESCRIPTION
12-Apr-2019	Angela Liu	.40	Email correspondence with creditors re receivership
15-Apr-2019	Jessie Hue	.20	Photocopy cheque post receipt and banking at branch.
15-Apr-2019	Angela Liu	1.50	Prepare cheques and cover letters to Empire Life and Desjardins; prepare mailing for the same; prepare cheques to J. Henechowicz re redirection of mail; move file boxes
15-Apr-2019	Sheila Ayer	.25	Facilitate delivery of hard drive copies - Zitta and MNP
16-Apr-2019	Jerry Henechowicz	1.00	Drafting of Discharge Report
16-Apr-2019	Angela Liu	.80	Email correspondence with Maddie at TD re wire details and advise J. Henechowicz; respond to creditors inquiries by email and phone call; update list of creditors
17-Apr-2019	Jerry Henechowicz	.30	Preparation and sending of discharge order
17-Apr-2019	Jessie Hue	.40	Dealing with company records and moving to basement storage.
17-Apr-2019	Angela Liu	.40	Move estate files to basement storage
18-Apr-2019	Jerry Henechowicz	1.80	Drafting of discharge report, follow up with Craig Hyde on O/s items including insurance and AR, arranging HST/Source trust examiner
18-Apr-2019	Angela Liu	.60	Reconcile CRA liabilities based on notices and proofs of claim received
22-Apr-2019	Jerry Henechowicz	1.50	Report drafting, preparation for Trust Exam
23-Apr-2019	Jerry Henechowicz	1.00	Report drafting, responding to creditor enquiries, preparation for trust exams
24-Apr-2019	Jerry Henechowicz	1.00	Finalize report, emails with Zitta regarding post filing expenses
24-Apr-2019	Michael Litwack	.20	Discussion w/ J Henechowicz re CRA payroll audit

179.15

BILLING SUMMARY			
PROFESSIONAL	HOURS	HOURLY RATE	AMOUNT
Angela Liu	24.60	215.00	5,289.00
Eric Reikman	1.50	275.00	412.50
Jerry Henechowicz	96.30	575.00	55,372.50
Jessie Hue	8.80	215.00	1,892.00
Kal Ruprai	2.80	575.00	1,610.00
Matthew Lem	14.50	575.00	8,337.50
Michael Litwack	5.70	375.00	2,137.50
Sheila Ayer	19.95	215.00	4,289.25
Sheldon Title	3.50	575.00	2,012.50
Vida Famaraz	1.50	215.00	322.50
<b>Total</b>	<b>179.15</b>		<b>81,675.25</b>
Less: Courtesy discount			-16,675.25
			<u>65,000.00</u>
<b>DISBURSEMENTS</b>			
Property opinion of value			750.00
Travel and mileage			372.06
Printing & Copies			101.25
			<u>1,223.31</u>
			<u>66,223.31</u>



TAB "K"

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)

B E T W E E N:

THE TORONTO-DOMINION BANK

Plaintiff

- and -

TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD.,  
7949952 CANADA INC. and 7949987 CANADA INC.

Defendants

**AFFIDAVIT OF TONY VAN KLINK**

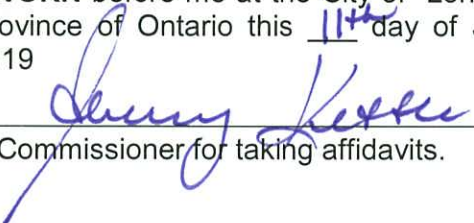
I, TONY VAN KLINK, of the Municipality of Thames Centre, in the Province of Ontario,  
MAKE OATH AND SAY:

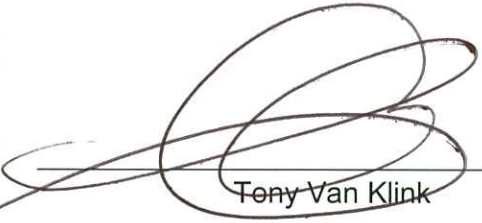
1. I am partner with the law firm of Miller Thomson LLP ("**MT**"), lawyers for MNP Ltd., in its capacity as Court-appointed Receiver (the "**Receiver**") of certain of the assets, undertakings and properties of Tomlin Industries (2000) Inc., CAML North America Ltd., 7949952 Canada Inc. and 7949987 Canada Inc. and, as such, have knowledge of the matters to which I hereinafter depose.
2. I make this Affidavit in support of the Receiver's motion for, among other things, having the fees and disbursements of MT, as legal counsel to the Receiver, approved.
3. Attached hereto to this my Affidavit and marked as **Exhibit "A"** are copies of the invoices rendered by MT to the Receiver for fees and disbursements of MT for the period February 25, 2019 through to June 26, 2019 (the "**Period**"). I affirm that the invoices accurately reflect the services provided by MT during the Period and the fees and disbursements claimed by it. During the Period, the total fees and disbursements billed were \$67,391.00 and \$780.93 respectively. The HST billed was \$8,861.32. Attached hereto to this my Affidavit and marked as **Exhibit "B"** is a statement summarizing MT's fees for the Period. Lawyers and staff at MT

have collectively expended a total of 175.4 billable hours in connection with this matter during the Period as outlined in the summary of fees attached as Exhibit "B".

4. To the best of my knowledge, the rates charged by MT throughout these proceedings are comparable to the rates charged by other firms in the Southwestern Ontario market for the provision of similar services. No premiums have been charged on the invoices.

SWORN before me at the City of London, )  
Province of Ontario this 11<sup>th</sup> day of July, )  
2019 )

  
\_\_\_\_\_  
A Commissioner for taking affidavits. )

  
\_\_\_\_\_  
Tony Van Klink )

Attached are Exhibits "A" and "B" to the  
Affidavit of Tony Van Klink sworn the  
11<sup>th</sup> day of July, 2019

  
\_\_\_\_\_  
A Commissioner, Etc.

The Toronto-Dominion Bank  
Plaintiff and

Tomlin Industries (2000) Inc., et al.  
Defendants

Court File No.: 35-2214905T

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

**FEE AFFIDAVIT OF  
TONY VAN KLINK  
SWORN JULY 11, 2019**

**MILLER THOMSON LLP**  
One London Place  
255 Queens Avenue, Suite 2010  
London, ON Canada N6A 5R8

**Tony Van Klink** LSO#: 29008M  
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**Sherry A. Kettle** LSO#: 53561B  
skettle@millerthomson.com  
Tel: 519.931.3534  
Fax: 519.858.8511

Lawyers for MNP Ltd., Court-appointed Receiver  
of Tomlin Industries (2000) Inc., Caml North  
America Ltd., 7949952 Canada Inc. o/a Acryline,  
and 7949987 Canada Inc.

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**MILLER THOMSON**  
AVOCATS | LAWYERS

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**EXHIBIT " A "**

**March 31, 2019**

Invoice Number 3317179

MNP Ltd.  
300 – 111 Richmond Street West  
Toronto, ON M5H 2G4

Attention: Jerry Henechowicz, CPA CA, CIRP, LIT

To Professional Services Rendered in connection with the following matter(s) including:

**Re: Tomlin Industries (2000) Inc.**  
**Our File No. 0223176.0004**

<b>Date</b>	<b>Initials</b>	<b>Description</b>	<b>Hours</b>
02/25/2019	AVK	Reviewing various e-mails; telephone calls wth Mr. Henechowicz; telephone call with Mr. Hogan	0.40
02/26/2019	SK	Telephone conference with Mr. Hogan, Mr. Van Klink and Mr. Henechowicz;	1.50
02/26/2019	AVK	Reviewing draft APS; conference call with Mr. Hogan and Mr. Henechowicz	1.60
02/27/2019	SK	Meeting with Mr. Van Klink; Review and revise Purchase and Sale Agreement;	7.20
02/27/2019	AVK	Working on APS; conference with Ms. Kettle	2.80
02/28/2019	SK	Review and revise Purchase and Sale Agreement; Meeting with Mr. Van Klink; E-mail correspondence to and from Mr. Hogan; Review draft application materials; E-mail correspondence to Mr. Hogan re same;	4.50
02/28/2019	AVK	Telephone calls with Mr. Henechowicz; working on draft APS; e-mails with Mr. Hogan	1.60
03/01/2019	AVK	Conference call with MNP and counsel for TD Bank; telephone call with Ruth Thomson (BDC); working on revisions to APS and AVO; various e-mails and telephone calls	3.20

Please return the Account Summary and Remittance Form with your payment.

Terms: Accounts due when rendered. Interest at the rate of 12.0% per annum will be charged on accounts overdue 30 days or more. Any disbursements not posted to your account on the date of this account will be billed later.



<b>Date</b>	<b>Initials</b>	<b>Description</b>	<b>Hours</b>
03/01/2019	SK	Attend conference call with proposed receiver and counsel; Meeting with Mr. Van Klink; E-mail correspondence with counsel and proposed receiver; Request searches; Telephone conference with Mr. Hogan re revisions to APS; Revise APS; E-mail correspondence to Mr. Hogan and Mr. Van Klink re same; E-mail correspondence with counsel and proposed receiver; E-mail correspondence to Mr. Gauvin; E-mail correspondence to Mr. Van Klink;	6.20
03/03/2019	AVK	Reviewing draft MNP report as proposed receiver; e-mails with Mr. Henechowicz	0.50
03/04/2019	SK	Review searches; Draft security opinion; Review Exclusivity Agreement; E-mail correspondence to and from Mr. Hogan; Discussion with Mr. Van Klink; E-mail correspondence to and from Mr. Gauvin; E-mail correspondence to and from Mr. Harnett;	6.20
03/04/2019	KM	Analysis of mandate from JF Gauvin; coordination of the searches on REQ and RPMRR;	0.70
03/04/2019	AVK	Telephone call with Mr. Henechowicz	0.20
03/04/2019	PH	Correspondence from and to S. Kettle regarding Alberta PPSA opinion;	0.30
03/05/2019	KM	Email to and from JF Gauvin; coordination of bank act searches and RPMRR searches and review;	0.50
03/05/2019	SK	Review searches; Draft security opinion; Telephone conference with client and Mr. Hogan; Telephone conference with Mr. Gauvin;	3.60
03/05/2019	AVK	Telephone call with Mr. Hogan	0.20
03/05/2019	SM	Review of vetting letter draft and working session with Mtre Jean-François Gauvin to that effect;	0.70
03/05/2019	ME	Obtain Corporation Profile Report for Tomlin Industries (2000) Inc. and provide same to S. Kettle;	0.10
03/05/2019	ME	Obtain Certificate of Status for Tomlin Industries (2000) Inc. and provide same to S. Kettle;	0.10
03/05/2019	ME	Obtain Verbal Personal Property Securities Act Printout for Tomlin Industries (2000) Inc. and provide same to S. Kettle;	0.20



<b>Date</b>	<b>Initials</b>	<b>Description</b>	<b>Hours</b>
03/05/2019	ME	Obtain Bank Act certificate for Tomlin Industries (2000) Inc. and provide same to S. Kettle;	0.20
03/05/2019	ME	Obtain Corporation Profile Report for Caml North America Ltd. and provide same to S. Kettle;	0.10
03/05/2019	ME	Obtain Certificate of Status for Caml North America Ltd. and provide same to S. Kettle;	0.10
03/05/2019	ME	Obtain Verbal Personal Property Securities Act Printout for Caml North America Ltd. and provide same to S. Kettle;	0.20
03/05/2019	ME	Obtain Bank Act certificate for Caml North America Ltd. and provide same to S. Kettle;	0.20
03/05/2019	ME	Obtain Corporation Profile Report for 7949952 Canada Inc. and provide same to S. Kettle;	0.10
03/05/2019	ME	Obtain Certificate of Status for 7949952 Canada Inc. and provide same to S. Kettle;	0.10
03/05/2019	ME	Obtain Verbal Personal Property Securities Act Printout for 7949952 Canada Inc. and provide same to S. Kettle;	0.20
03/05/2019	ME	Obtain Bank Act certificate for 7949952 Canada Inc. and provide same to S. Kettle;	0.20
03/05/2019	ME	Obtain Corporation Profile Report for 7949987 Canada Inc. and provide same to S. Kettle;	0.10
03/05/2019	ME	Obtain Certificate of Status for 7949987 Canada Inc. and provide same to S. Kettle;	0.10
03/05/2019	ME	Obtain Verbal Personal Property Securities Act Printout for 7949987 Canada Inc. and provide same to S. Kettle;	0.20
03/05/2019	ME	Obtain Bank Act certificate for 7949987 Canada Inc. and provide same to S. Kettle;	0.20
03/05/2019	AVK	Various e-mails; reviewing Application materials and draft pre-filing report	1.00
03/05/2019	KM	Courriel à et de JF Gauvin; recherche au RDPRM d'une marque de commerce;	0.30
03/05/2019	PH	Review Bank Act searches and re-request search due to processing error;	0.20





<b>Date</b>	<b>Initials</b>	<b>Description</b>	<b>Hours</b>
03/05/2019	PH	Review Security Agreements and Alberta searches; prepare opinion; review Bank Act security priority;	2.50
03/05/2019	PH	Correspondence to Bank Act Registry regarding amended search;	0.30
03/05/2019	PH	Correspondence to S. Kettle regarding Alberta opinion;	0.20
03/06/2019	SK	Review and revise draft Proposed Receiver's report; Discussion with Mr. Van Klink; Telephone conference with Mr. Gauvin; E-mail correspondence from Mr. Harnett; E-mail correspondence from and to Mr. Hogan;	8.20
03/06/2019	AVK	Telephone call with Mr. Hogan; conference with Ms. Kettle regarding pre-filing report; reviewing searches and opinions and revising same; working on pre0-filing report	1.60
03/06/2019	PH	Revise Alberta Opinion Letter and correspondence to S. Kettle regarding same;	0.10
03/07/2019	JFG	Discussions and emails with S. Kettle concerning security review to complete for TD Bank's securities in Quebec for the 4 borrowers;	0.50
03/07/2019	JFG	Obtaining and reviewing corporate research and RPMRR for Tomlin Industries (2000) Inc., Caml North America Ltd., 7949952 Canada Inc., and 7949987 Canada Inc.;	0.50
03/07/2019	JFG	Reviewing TD's securities documents relating to Tomlin Industries (2000) Inc., Caml North America Ltd., 7949952 Canada Inc., and 7949987 Canada Inc.;	2.00
03/07/2019	JFG	Drafting the opinion concerning TD's securities with Tomlin Industries (2000) Inc., Caml North America Ltd., 7949952 Canada Inc., and 7949987 Canada Inc.;	2.00
03/07/2019	SK	Revise and finalize Ontario security opinion; E-mail correspondence from Mr. Hogan; Review draft approval and vesting orders; Telephone conference re approval and vesting orders; Review and revise Alberta security opinion; Telephone discussion with Mr. Harnett re same; E-mail correspondence from Mr. Harnett re same; E-mail correspondence to and from	5.00



<b>Date</b>	<b>Initials</b>	<b>Description</b>	<b>Hours</b>
		Mr. Gauvin re Quebec security opinion; E-mail correspondence to Kaufman re Quebec immovable security opinion; E-mail correspondence from Mr. Van Klink; E-mail correspondence to Mr. Murray re deposit; Review and revise draft pre-filing report; E-mail correspondence to Mr. Henechowicz re same;	
03/07/2019	AVK	Working on pre-filing report; reviewing amended approval and vesting orders; conference call with other counsel; reviewing purchasers' revisions to APS	4.20
03/07/2019	PH	Telephone attendance with S. Kettle regarding revisions to opinion letter;	0.10
03/07/2019	PH	Revise opinion letter and correspondence to S. Kettle;	0.20
03/08/2019	SK	Review revised draft Agreement of Purchase and Sale; Attend telephone conferences re Agreement of Purchase and Sale; E-mail correspondence from and to Mr. Hogan; E-mail correspondence to Mr. Henechowicz; Telephone conference with Mr. Henechowicz; Telephone conference with Mr. Hogan; E-mail correspondence to and from Mr. Schacter; Draft direction re deposit; E-mail correspondence to Mr. Murray re same;	6.50
03/08/2019	AVK	Conference calls with MNP, Bank counsel and purchaser's counsel regarding APS and transaction terms	3.50
03/08/2019	AVK	Reviewing revised APS and provide comments thereon	0.50
03/10/2019	AVK	Various e-mails	0.50
03/11/2019	SK	E-mail correspondence to and from counsel; E-mail correspondence to and from Mr. Henechowicz; Review and revise appendices to pre-filing report; Review and revise two approval and vesting orders; Attend telephone conferences; Review and revise pre-filing report; Review and revise orders; Review e-mail correspondence from counsel; E-mail correspondence to counsel re agreements; E-mail correspondence to counsel re orders; E-mail correspondence to counsel re draft pre-filing report; Telephone conferences with Mr. Henechowicz; Meeting with Mr. Van Klink; Prepare	13.10



<b>Date</b>	<b>Initials</b>	<b>Description</b>	<b>Hours</b>
		submissions and cases for Court; Finalize pre-filing report; Prepare service letter; Provide instructions;	
03/11/2019	AVK	Conference calls with other counsel and MNP regarding outstanding issues in APS; telephone call with Mr. Hogan regarding purchase price adjustments; working on revisions to APS; various e-mails	4.70
03/12/2019	AVK	Various e-mails; reviewing revised documents	1.30
03/12/2019	SK	Review e-mail correspondence between counsel; Revise approval and vesting orders; Telephone conferences with Mr. Hogan; Telephone conferences with Mr. Henechowicz; Telephone conference with Mr. Bernard; Telephone conference with Mr. Schacter; Prepare for Court; Finalize receiver's report, appendices and confidential supplement; Attend Court; Attend at court office to obtain issued and entered orders; E-mail correspondence with Mr. Hogan;	10.50
03/13/2019	SK	Drafting closing documents; Telephone conference re closing agenda; Telephone conference with Mr. Henechowicz;; E-mail correspondence with counsel re closing; E-mail correspondence with Mr. Henechowicz re closing; E-mail correspondence with Mr. Murray re closing;	9.50
03/13/2019	AVK	Conference with Ms. Kettle regarding closing requirements	0.40
03/14/2019	SK	E-mail correspondence to Mr. Murray re deposit; Telephone conferences with Mr. Henechowicz; Telephone conferences with Mr. Hogan; E-mail correspondence to and from Mr. Schacter; E-mail correspondence to and from purchaser's counsel; Telephone conference with Mr. Schacter; Telephone conference with Mr. Bernard; E-mail correspondence with counsel; Review and revise closing documents; Attend at court house re Approval and Vesting Order;	7.60
03/15/2019	SK	E-mail correspondence with counsel; E-mail correspondence with MNP; Telephone conferences with Mr. Henechowicz; Telephone conferences with Mr. Bernard; Telephone conferences with Mr. Schacter; Telephone conference with Mr. Hogan;	7.80



Date	Initials	Description	Hours
		Notarize Approval and Vesting Order; Finalize documents; Discussion with Mr. Van Klink re resolution; Telephone conference with Mr. Van Klink and Mr. Schacter re resolution;	
03/15/2019	JZ	Attending at Judicial Assistant's office to obtain amended orders of Justice Aston with amendments as to numbered hypothecs on the Approval and Vesting Order; re-entering the amended order in the court's file;	2.10
03/15/2019	AVK	Conference with Sherry Kettle regarding closing issues	0.20
03/18/2019	SK	Telephone conference with Mr. Henechowicz; E-mail correspondence from and to Mr. Hogan; E-mail correspondence from and to Mr. Schacter; Telephone call with Mr. Schacter and Mr. Jutras; E-mail correspondence with purchaser's counsel; Telephone conference with Mr. Bernard and Mr. Michaud; Telephone conference with Mr. Hogan; Telephone conference with Mr. Henechowicz; Telephone conference with Ms. Thomson;	2.00
03/19/2019	SK	E-mail correspondence with purchaser's counsel; E-mail correspondence with Mr. Schacter; Telephone conference with Ms. Thomson; E-mail correspondence to Mr. Hogan; Telephone conference with Mr. Hogan and Mr. Henechowicz; E-mail correspondence with Mr. Henechowicz; Telephone conference with Mr. Schacter and Mr. Jutras; Telephone conferences with Mr. Bernard and Mr. Guillaume;	3.40
03/20/2019	SK	E-mail correspondence to and from Mr. Bernard; E-mail correspondence to and from Mr. Hogan; Telephone call to Mr. Bernard (left voice message); E-mail correspondence from Mr. Dinino; E-mail correspondence to and from Mr. Henechowicz; Prepare memo to file Receiver's Certificates with the Court; E-mail correspondence to Ruth Thomson at BDC re discharge of hypothecs;	2.70
03/21/2019	SK	E-mail correspondence from and to Mr. Schacter; E-mail correspondence from and to Ms. Thomson; Telephone conference with Mr. Schacter; Telephone	1.30



Date	Initials	Description	Hours
		conference with Ms. Thomson; E-mail correspondence from Mr. Henechowicz; E-mail correspondence from Mr. Bernard;	
03/22/2019	SK	E-mail correspondence from and to Mr. Bernard; E-mail correspondence from Mr. Hogan; E-mail correspondence from Mr. Schacter; E-mail correspondence from Mr. Henechowicz; E-mail correspondence from Mr. Van Klink;	0.20
03/25/2019	SK	Voice message from BDC; E-mail correspondence from and to Ms. Thomson; E-mail correspondence to Mr. Schacter and Mr. Jutras; E-mail correspondence from Mr. Bernard; E-mail correspondence from and to Mr. Henechowicz;	0.40
03/26/2019	SK	E-mail correspondence from Mr. Bernard; E-mail correspondence from Mr. Schacter; E-mail correspondence to Mr. Van Klink; Telephone conference with Mr. Schacter; E-mail correspondence to Mr. Bernard; E-mail correspondence from Mr. Michaud; E-mail correspondence to and from Mr. Schacter; E-mail correspondence to Mr. Henechowicz re immovable security opinion;	0.80
03/27/2019	SK	E-mail correspondence from Mr. Bernard;	0.10
03/29/2019	SK	E-mail correspondence from Mr. Schacter; Telephone call to Mr. Henechowicz (left voice message); Telephone conference with Mr. Henechowicz;	0.40
<b>Total Hours</b>			<b>152.70</b>

**Our Fee: 59,305.00**

**Taxable Disbursements**

Personal Property Registry Search	15.00
Bank of Canada Search	32.00
Bank Act Search	8.00
Court Messenger	20.00
RPMRR Search	80.00



Agent's Disbursements	284.50	
Agent's Fees	266.00	
Total Taxable Disbursements	<u>705.50</u>	\$705.50
<b>Non-Taxable Disbursements</b>		
Other Non-Taxable Charges	8.00	
Total Non-Taxable Disbursements	<u>8.00</u>	\$8.00
<b>Total Fees and Disbursements</b>		<b>\$60,018.50</b>
<b>Ontario HST 13% (R119440766)</b>		
On Fees		\$7,709.65
On Disbursements		\$91.72
<b>Total Amount Due</b>		<b><u><u>\$67,819.87</u></u></b>

E.&O.E.





**MILLER THOMSON**  
AVOCATS | LAWYERS

MILLER THOMSON LLP  
ONE LONDON PLACE  
255 QUEENS AVENUE, SUITE 2010  
LONDON, ON N6A 5R8  
CANADA

T 519.931.3500  
F 519.858.8511

MILLERTHOMSON.COM

**June 30, 2019**

Invoice Number 3350711

MNP Ltd.  
300 – 111 Richmond Street West  
Toronto, ON M5H 2G4

Attention: Jerry Henechowicz, CPA CA, CIRP, LIT

To Professional Services Rendered in connection with the following matter(s) including:

**Re: Tomlin Industries (2000) Inc**  
**Our File No. 0223176.0004**

<b>Date</b>	<b>Initials</b>	<b>Description</b>	<b>Hours</b>
04/02/2019	SK	Telephone call to Mr. Schacter (left voice message);	0.10
04/04/2019	SK	Telephone conference with Mr. Hogan; Telephone conference with Mr. Schacter;; Telephone call to Mr. Thomson at McMillan (left voice message);	0.50
04/08/2019	SK	Telephone conference with Martin Thomson (McMillan LLP); Telephone conference with Mr. Henechowicz; E-mail correspondence from Mr. Henechowicz;	0.30
04/16/2019	SK	Telephone conference with Ms. Ramnarinesingh re certificate of non-appeal; E-mail correspondence to Ms. Ramnarinesingh re same;	0.20
04/18/2019	SK	Telephone call to Mr. Henechowicz (left voice message); Telephone conference with Mr. Henechowicz;	0.20
04/18/2019	SK	E-mail correspondence to Ms. Ramnarinesingh re certificate of non-filing;	0.10
04/23/2019	SK	E-mail correspondence from and to Ms. Ramnarinesingh; E-mail correspondence to and from Mr. Schacter;	0.20
04/26/2019	SK	E-mail correspondence from Mr. Henechowicz;	0.10

Please return the Account Summary and Remittance Form with your payment.

40750579.1 Terms: Accounts due when rendered. Interest at the rate of 12.0% per annum will be charged on accounts overdue 30 days or more. Any disbursements not posted to your account on the date of this account will be billed later.





<b>Date</b>	<b>Initials</b>	<b>Description</b>	<b>Hours</b>
04/29/2019	SK	E-mail correspondence from Mr. Henechowicz; Telephone conference with Mr. Henechowicz; E-mail correspondence from Mr. Schacter;	0.30
05/01/2019	SK	E-mail correspondence from Ms. Ramnarinesingh; Provide instructions re obtaining Certificate of Non-Filing; Prepare memorandum to agent re same;	0.40
05/02/2019	SK	E-mail correspondence from Mr. Scriven; Telephone conference with Mr. Scriven; Provide instructions re service list; E-mail correspondence from Mr. Henechowicz; E-mail correspondence from Mr. Peters re Certificate of Non-filing;	0.50
05/03/2019	SK	E-mail correspondence from and to Mr. Henechowicz;	0.20
05/06/2019	SK	Review draft Receiver's Report; E-mail correspondence from and to Mr. Hogan;	0.30
05/08/2019	SK	E-mail correspondence from Mr. Scriven;	0.50
05/08/2019	SK	Review and revise First Report of Receiver;	1.50
05/09/2019	SK	Draft motion materials; E-mail correspondence with Mr. Henechowicz;	2.50
05/10/2019	SK	Draft motion materials; Telephone conference with Mr. Henechowicz, Mr. Hogan and Mr. Van Klink;	2.40
05/10/2019	AVK	Conference call with Messrs. Henechowicz and Hogan regarding purchase price adjustments and reviewing materials for same	0.60
05/13/2019	SK	E-mail correspondence from and to Mr. Henechowicz; Telephone conference with Mr. Henechowicz; Revise draft receiver's report;	2.20
05/14/2019	SK	E-mail correspondence from Mr. Henechowicz;	0.10
05/15/2019	SK	E-mail correspondence from and to Mr. Hogan; Finalize letter to Mr. Bernard;	0.50
05/22/2019	SK	E-mail correspondence from Mr. Henechowicz;	0.10
05/23/2019	SK	Review letter from Mr. Scriven;	0.10
05/24/2019	SK	Voice message from Mr. Henechowicz (left voice message); Telephone call to Mr. Henechowicz (left voice message); Review and revise receiver's report; Telephone conference with Mr. Henechowicz;	1.20



<b>Date</b>	<b>Initials</b>	<b>Description</b>	<b>Hours</b>
05/28/2019	SK	Discussion with Mr. Van Klink; Telephone call to Mr. Hogan (left voice message); Voice message from Mr. Hogan; Telephone calls to Mr. Hogan (left voice messages); Telephone conference with Mr. Hogan; E-mail correspondence to Mr. Henechowicz; Telephone call to Mr. Henechowicz (left voice message); Telephone conferences with Mr. Henechowicz;	0.90
05/30/2019	SK	E-mail correspondence from Mr. Hogan; E-mail correspondence to and from Mr. Henechowicz;	0.20
05/31/2019	SK	E-mail correspondence to and from Mr. Hogan; E-mail correspondence to and from Mr. Henechowicz;	0.20
06/05/2019	SK	E-mail correspondence from and to Ms. Thomson (BDC);	0.10
06/06/2019	SK	E-mail correspondence from Mr. Scriven; E-mail correspondence to Mr. Henechowicz; Prepare letter to Mr. Scriven;	0.20
06/14/2019	SK	E-mail correspondence from Mr. Henechowicz; E-mail correspondence from Mr. Hogan;	0.10
06/19/2019	SK	E-mail correspondence re motion for consolidation;	0.20
06/21/2019	SK	Voice message form Mr. Henechowicz; Discussion with Mr. Van Klink; Telephone call to Mr. Henechowicz (left voice message); Telephone conference with Mr. Henechowicz; Consider next steps re consolidation;	0.50
06/24/2019	SK	Draft motion materials for bankruptcy consolidation;	2.40
06/25/2019	SK	E-mail correspondence from Mr. Lem; Voice message from Mr. Lem; Discussion with Mr. Van Klink; Telephone conference with Mr. Lem; Revise draft motion materials; E-mail correspondence from and to Mr. Henechowicz;	2.10
06/26/2019	SK	Telephone call to Mr. Lem (left voice message); Voice message from Mr. Lem; Telephone conference with Mr. Lem; E-mail correspondence from and to Mr. Lem; Revise receiver's report;	0.70
<b>Total Hours</b>			<b>22.70</b>



**Our Fee:** **8,086.00**

**Taxable Disbursements**

Agent's Fees

67.43

Total Taxable Disbursements

67.43

\$67.43

**Total Fees and Disbursements**

**\$8,153.43**

**Ontario HST 13% (R119440766)**

On Fees

\$1,051.18

On Disbursements

\$8.77

**Total Amount Due**

**\$9,213.38**

E.&O.E.



**EXHIBIT "B"**  
**Miller Thomson's Fees**

Hours	Year of Call	Rate 2019	Invoice #3317179	Invoice #3350711	Total
			31-Mar-19	30-Jun-19	
T. Van Klink - Partner	1988	\$585.00	28.40	0.60	29.00
S. Kettle - Partner	2007	\$350.00	108.70	22.10	130.80
JF Gauvin - Partner	1991	\$460.00	5.00		5.00
P. Harnett - Associate	2014	\$315.00	3.90		3.90
S. Mihalachi - Associate	2010	\$335.00	0.70		0.70
J. Zanetti - Articling	N/A	\$130.00	2.10		2.10
M. Emmanuel - clerk	N/A	set search fee	2.40		2.40
K. Moisan - clerk	N/A	\$220.00	1.50		1.50
			<b>152.70</b>	<b>22.70</b>	<b>175.40</b>

Total \$					
T. Van Klink - Partner	\$	16,614.00	\$	351.00	\$ 16,965.00
S. Kettle - Partner	\$	38,045.00	\$	7,735.00	\$ 45,780.00
JF Gauvin - Partner	\$	2,300.00	\$	-	\$ 2,300.00
P. Harnett - Associate	\$	1,228.50	\$	-	\$ 1,228.50
S. Mihalachi - Associate	\$	234.50	\$	-	\$ 234.50
J. Zanetti - Articling	\$	273.00	\$	-	\$ 273.00
M. Emmanuel - clerk	\$	280.00	\$	-	\$ 280.00
K. Moisan - clerk	\$	330.00	\$	-	\$ 330.00
	\$	<b>59,305.00</b>	\$	<b>8,086.00</b>	\$ <b>67,391.00</b>

Summary					
Fees	\$	59,305.00	\$	8,086.00	\$ 67,391.00
Disbursements	\$	713.50	\$	67.43	\$ 780.93
HST	\$	7,801.37	\$	1,059.95	\$ 8,861.32
Total	\$	<b>67,819.87</b>	\$	<b>9,213.38</b>	\$ <b>77,033.25</b>

TAB "L"

Court File No. 35-124515

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)

BETWEEN:

THE TORONTO-DOMINION BANK

Plaintiff

- and -

TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD.,  
7949952 CANADA INC. and 7949987 CANADA INC.

Defendants

## AFFIDAVIT OF MICHAEL SCHACTER

I, MICHAEL SCHACTER, of the City of Montreal, in the Province of Quebec, MAKE OATH AND SAY:

1. I am an attorney with the law firm of Kaufman LLP ("**Kaufman**"), lawyers for MNP Ltd., in its capacity as Court-appointed Receiver (the "**Receiver**") of certain of the assets, undertakings and properties of Tomlin Industries (2000) Inc., CAML North America Ltd., 7949952 Canada Inc. and 7949987 Canada Inc. and, as such, have knowledge of the matters to which I hereinafter depose.
2. I make this Affidavit in support of the Receiver's motion for, among other things, having the fees and disbursements of Kaufman, as legal counsel to the Receiver, approved.
3. Attached hereto to this my Affidavit and marked as **Exhibit "A"** are copies of the invoices rendered by Kaufman to the Receiver for fees and disbursements of Kaufman for the period of January 1, 2019 through to March 31, 2019 (the "**Period**"). I affirm that the invoices accurately reflect the services provided by Kaufman during the Period and the fees and disbursements claimed by it. During the Period, the total fees and disbursements billed were \$25,300.00 and \$64.01 respectively. The GST billed was \$1,267,95 and the QST billed was \$2,529.57. Lawyers at Kaufman have collectively expended a total of 74.6 billable hours in connection with this matter during the Period as detailed in Exhibit "A". They were were called to

the Bar of Quebec as follows: Michael Schacter – 2007; Martin P. Jutras – 1992; Ronald Auclair – 1976; and Jennifer Désaulniers – 20120.

4. To the best of my knowledge, the rates charged by Kaufman throughout these proceedings are comparable to the rates charged by other firms in the Montreal, Quebec market for the provision of similar services. No premiums have been charged on the invoices.

SWORN before me at the City of )  
Montreal, Province of Quebec this 11<sup>TH</sup> )  
day of July, 2019 )  
Ketina Sunal 219 645 )  
A Commissioner for taking affidavits. )

  
\_\_\_\_\_  
Michael Schacter



Attached is Exhibit "A" to the Affidavit of  
Michael Schacter sworn the 11<sup>TH</sup> day of  
July, 2019

Kathleen Bual 219645  
A Commissioner, Etc.

**KAUFMAN**

KAUFMAN LLP  
Attorneys  
800 René-Lévesque Blvd W., Suite 2220  
Montréal, Québec H3B 1X9  
Canada

(514) 875-7550  
(514) 875-7147  
info@kicanada.com  
www.kicanada.com

MNP LTD.  
c/o Mr. Jerry Henechowitz  
300-111 Richmond St. W.  
Toronto, Ontario M5H 2G4

April 25, 2019  
Invoice No.: 121168  
Our File No.: 14070-346

TPS/GST: R139106462  
TVQ/QST: 1017094307

**RE: 7949952 Canada Inc./Tomlin Industries (2000) Inc. et al.**

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending March 31, 2019:

Date	Lyr	Description	Hours
11/01/2019	MS	E-mail exchange with Tim Hogan re: immovable hypothec. Telephone conversation with Notary Litvack.	0.50
13/02/2019	MJ	Discussion with Michael Schacter re: appointment of a receiver.	0.50
13/02/2019	MS	Telephone conversation with Tim Hogan re: vesting order and related issues.	0.30
21/02/2019	MJ	Conference call with Eric Golden, Khalil Bimji and Martin Desmarais. Conference call with Rob Danter, Jerry Henechowitz and Eric Golden. Receipt and review of multiple e-mails from Eric Golden, Tim Hogan, Rob Danter, Jerry Henechowitz, Martin Desmarais and Khalil Bimji,	4.00
21/02/2019	MJ	Telephone conversation with Eric Golden and e-mails with Vitaly Kormakov. Review of e-mails. Review of Zitta's letter of intent. Telephone conversation with Martin Desmarais.	4.00
22/02/2019	MJ	Telephone conversation with Notary Litvack. E-mails and telephone conversation with Martin Desmarais, Eric Golden and Tim Hogan. Receipt and review of multiple e-mails and searches.	3.50
26/02/2019	MJ	Review of a 1st draft of an Agreement of Purchase and Sale. Review of an Exclusivity Agreement. Discussion with Barry Mintz.	1.75

Mr. Tim Hogan

Invoice No.: 121168  
 Our File No.: 14070-346  
 Page No.: 2

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Date	Lyr	Description	Hours
27/02/2019	MJ	Exchange of e-mails with Gerry Apostolatos and Tim Hogan. Initial comments on the draft APA.	2.50
28/02/2019	MJ	Multiple e-mails with Tim Hogan and Jerry Henechowick. Review of a second draft of the APA. Review of a draft of the Approval and Vesting Order and of an Appointment Order. Review of the draft Application record and affidavit.	2.25
01/03/2019	RA	Communicate with Martin Jutras; review of emails from Mr. Hogan re: file.	0.50
01/03/2019	MJ	Conference call with Tim Hogan, Jerry Henechowick and als. Discussion with Michael Schacter. E-mails with Rob Danter, Tim Hogan, Felix Bernard and Jerry Henechowick. Review of the latest APS and comments. Amendments to the Approval and Vesting Order. Searches at the RDPRM and the Land Registry. Meeting with Ronald Auclair. Review of the APS and the two draft orders.	3.50
01/03/2019	MS	Drafting and review of amendments to APA. Conference call with Tim Hogan et al. Various e-mail exchanges.	2.50
04/03/2019	RA	Receipt and review of email stream and various documents; review list to RDPRM and registry offices re: prior approval.	0.50
04/03/2019	JD	Review of the file, email to RDPRM and to Land Registry.	1.00
04/03/2019	MJ	Receipt and review of multiple e-mails. E-mails with Ron Auclair.	1.25
05/03/2019	RA	Communication(s) with correspondants and Caisse re: service on the Caisse; conference call with Martin Jutras and Tim Hogan re: draft order and carve-outs & next steps.	1.00
05/03/2019	RA	Follow up with correspondants and Ms. Bourgeois.	0.50
05/03/2019	JD	Telephone conversation and email from RDPRM, re: draft judgment accepted, telephone conversation and email from Land Registry, delay.	0.50

Mr. Tim Hogan

Invoice No.: 121168  
 Our File No.: 14070-346  
 Page No.: 3

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Date	Lyr	Description	Hours
05/03/2019	MJ	Exchange of e-mails with Jennifer Desaulniers, Ron Auclair, Rob Danter, Felix Bernard.	0.50
06/03/2019	RA	E-mails to and from Mr. Hogan re: status of certain parties; telephone conversation with Ms. Bourgeois and Mr. Hogan to approve and sign.	2.00
06/03/2019	MJ	Receipt and review of various e-mails.	0.25
07/03/2019	RA	Review of email from Mr. Hogan and comments on draft orders.	0.50
07/03/2019	MJ	Review of the draft Orders and the Application. Exchange of e-mails and telephone conversation with Michael Schacter.	0.75
07/03/2019	MS	Conference call with Ontario counsel and MNP. Drafting and review of changes to vesting orders. Various e-mail exchanges.	1.75
08/03/2019	RA	Review of latest drafts and emails in preparation for conference call to finalize.	0.50
08/03/2019	RA	Review of asset purchase agreement with Mr. Hogan et al.	1.50
08/03/2019	MJ	Receipt, review and exchange of multiple e-mails. Telephone conversation with Michael Schacter.	0.75
08/03/2019	MS	Various telephone conversations, e-mail exchanges and documents reviewed re: PSA.	2.00
08/03/2019	MS	Various telephone conversations, e-mail exchanges and documents reviewed re: PSA.	2.00
10/03/2019	MJ	E-mail from Felix Bernard.	0.25
10/03/2019	MS	Various e-mails and review of documents re: vesting orders.	1.00
11/03/2019	RA	Review/Analyse with Mr. Gagné, sending declaration; follow-up with Michael Schacter.	0.50

Mr. Tim Hogan

Invoice No.: 121168  
 Our File No.: 14070-346  
 Page No.: 4

Date	Lyr	Description	Hours
11/03/2019	MJ	Review of the amended draft order. Review and comments on the approval and vesting order. Conference call and multiple e-mail exchange.	2.75
11/03/2019	MS	Various telephone conversations, e-mail exchanges and documents reviewed re: vesting order.	4.00
12/03/2019	MJ	Review of final drafts and e-mail exchange.	1.25
12/03/2019	MS	Various telephone conversations, e-mail exchanges and documents reviewed re: vesting order.	2.50
13/03/2019	MJ	Meeting with Michael Schacter and review.	1.00
13/03/2019	MS	Various telephone conversations, e-mail exchanges and documents reviewed re: closing.	2.00
14/03/2019	MS	Various telephone conversations, e-mail exchanges and documents reviewed re: closing on immovable.	5.00
15/03/2019	MJ	Review of the amended deed of transfer.	0.50
15/03/2019	MS	Various telephone conversations, e-mail exchanges and documents reviewed re: closing on immovable.	4.00
18/03/2019	MJ	Telephone conversation with Guillaume Michaud and discussion with Michael Schacter.	0.50
18/03/2019	MS	Telephone conversations with Sherry Kettle and with Felix Bernard and Guillaume Michaud. E-mail exchange with Jerry Henechowicz re: CNESST claim.	1.00
19/03/2019	MJ	Exchange of e-mails and telephone conversation with Sherry Kettle and Michael Schacter.	0.50
19/03/2019	MS	Various e-mail exchanges. Conference call with Sherry Kettle.	0.75
20/03/2019	MJ	E-mails and telephone conversation with Sherry Kettle, Felix Bernard.	0.50
20/03/2019	MS	Various e-mail exchanges and telephone conversations	0.80

Mr. Tim Hogan

Invoice No.: 121168  
 Our File No.: 14070-346  
 Page No.: 5

Date	Lyr	Description	Hours
		re: radiation and reduction of hypothecs. Telephone conversation with Mtre Cyr re: CNESST claim.	
21/03/2019	MS	Various e-mail exchanges re: radiation of hypothecs. Telephone conversation with Mtre Cyr.	1.50
22/03/2019	MS	E-mail exchanges re: radiations.	0.50
26/03/2019	MS	Correspondence with Vincent Santillo (TD) re: signature of Reduction forms. Telephone conversations with Mtre Cyr re: CNESST matter.	0.50
26/03/2019	MS	Arrangements for execution of RE forms. E-mail exchange with Langlois.	0.25

TIME SUMMARY

Lawyer	Hours	Rate	Total
Michael Schacter (MS)	32.85	275.00	9,033.75
Martin P. Jutras (MJ)	32.75	395.00	12,936.25
Ronald Auclair (RA)	7.50	400.00	3,000.00
Jennifer Désaulniers (JD)	1.50	220.00	330.00
OUR FEES			\$ 25,300.00
GST at 5%			1,265.00
QST at 9.975%			2,523.68
<u>Non Taxable Disbursements:</u>			
Registre Foncier			5.00
<u>Taxable Disbursements:</u>			
Canadian Securities Reg.Sys.	32.00		
Taxis (travel local)	22.00		
Delivery/Messengers	5.01		
Total Taxable Disbursements			59.01
GST at 5%			2.95
QST at 9.975%			5.89
<b>INVOICE TOTAL</b>			<b>\$ 29,161.53</b>

Mr. Tim Hogan

Invoice No.: 121168  
Our File No.: 14070-346  
Page No.: 6

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**KAUFMAN S.E.N.C.R.L./LLP**

Per: \_\_\_\_\_  
Michael Schacter

/KB  
E. & O.E.

This account is payable and due upon receipt.  
Interest applies on overdue accounts at the rate of 1.50% per month (18% per annum).

The Toronto-Dominion Bank  
Plaintiff and

Tomlin Industries (2000) Inc., et al.  
Defendants

Court File No.: 35-2214905T

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

**FEE AFFIDAVIT OF  
MICHAEL SCHACTER  
SWORN JULY 11<sup>TH</sup>, 2019**

**MILLER THOMSON LLP**  
One London Place  
255 Queens Avenue, Suite 2010  
London, ON Canada N6A 5R8

**Tony Van Klink LSO#: 29008M**  
tvanklink@millerthomson.com  
Tel: 519.931.3509  
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**Sherry A. Kettle LSO#: 53561B**  
skettle@millerthomson.com  
Tel: 519.931.3534  
Fax: 519.858.8511

Lawyers for MNP Ltd., Court-appointed Receiver  
of Tomlin Industries (2000) Inc., Caml North  
America Ltd., 7949952 Canada Inc. o/a Acryline,  
and 7949987 Canada Inc.



**TAB “M”**



Industry Canada

Industrie Canada

Office of the Superintendent  
of Bankruptcy CanadaBureau du surintendant  
des faillites Canada

District of: Ontario  
 Division No.: 08 - Waterloo  
 Court No.: 35-2525602  
 Estate No.: 35-2525602

In the Matter of the Bankruptcy of:

**TOMLIN INDUSTRIES (2000) INC.**

Debtor

**MNP LTD / MNP LTÉE**

Licensed Insolvency Trustee

Ordinary Administration

---

Date and time of bankruptcy:	June 20, 2019, 15:54	Security:	\$0.00
Date of trustee appointment:	June 20, 2019		
Meeting of creditors:	July 08, 2019, 10:00 801-50 Burnhamthorpe Road West Mississauga, Ontario Canada,		
Chair:	Trustee		

---

CERTIFICATE OF APPOINTMENT - Section 49 of the Act: Rule 85

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforementioned debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: June 20, 2019, 16:00

E-File/Dépôt Electronique

Official Receiver

Federal Building - London, 451 Talbot Street, Suite 303, London, Ontario, Canada, N6A5C9, (877)376-9902

**Canada**



Industry Canada

Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada

Bureau du surintendant  
des faillites Canada

District of: Ontario  
 Division No.: 08 - Waterloo  
 Court No.: 35-2525608  
 Estate No.: 35-2525608

In the Matter of the Bankruptcy of:

**CAML NORTH AMERICA LTD.**

Debtor

**MNP LTD / MNP LTÉE**

Licensed Insolvency Trustee

Ordinary Administration

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Date and time of bankruptcy:	June 20, 2019, 15:58	Security:	\$0.00
Date of trustee appointment:	June 20, 2019		
Meeting of creditors:	July 08, 2019, 10:30 800-50 Burnhamthorpe Road West Mississauga, Ontario Canada,		
Chair:	Trustee		

---

CERTIFICATE OF APPOINTMENT - Section 49 of the Act; Rule 85

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforementioned debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: June 20, 2019, 16:09

E-File/Dépôt Electronique

Official Receiver

Federal Building - London, 451 Talbot Street, Suite 303, London, Ontario, Canada, N6A5C9, (877)376-9902



Industry Canada

Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada

Bureau du surintendant  
des faillites Canada

District of: Ontario  
 Division No.: 08 - Waterloo  
 Court No.: 35-2525606  
 Estate No.: 35-2525606

In the Matter of the Bankruptcy of:

**7949952 CANADA INC.**

Debtor

**MNP LTD / MNP LTÉE**

Licensed Insolvency Trustee

Ordinary Administration

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Date and time of bankruptcy:	June 20, 2019, 15:56	Security:	\$0.00
Date of trustee appointment:	June 20, 2019		
Meeting of creditors:	July 08, 2019, 10:15 801-50 Burnhamthorpe Road West Mississauga, Ontario Canada,		
Chair:	Trustee		

---

CERTIFICATE OF APPOINTMENT - Section 49 of the Act: Rule 85

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforementioned debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: June 20, 2019, 16:08

E-File/Dépôt Electronique

Official Receiver

Federal Building - London, 451 Talbot Street, Suite 303, London, Ontario, Canada, N6A5C9, (877)376-9902



Industry Canada

Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada

Bureau du surintendant  
des faillites Canada

District of: Ontario  
 Division No.: 08 - Waterloo  
 Court No.: 35-2525605  
 Estate No.: 35-2525605

In the Matter of the Bankruptcy of:

**7949987 CANADA INC.**

Debtor

**MNP LTD / MNP LTÉE**

Licensed Insolvency Trustee

Ordinary Administration

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Date and time of bankruptcy:	June 20, 2019, 15:55	Security:	\$0.00
Date of trustee appointment:	June 20, 2019		
Meeting of creditors:	July 08, 2019, 10:45 800-50 Burnhamthorpe Road West Mississauga, Ontario Canada,		
Chair:	Trustee		

---

CERTIFICATE OF APPOINTMENT - Section 49 of the Act: Rule 85

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforementioned debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy;  
and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: June 20, 2019, 16:11

E-File/Dépôt Electronique

Official Receiver

Federal Building - London, 451 Talbot Street, Suite 303, London, Ontario, Canada, N6A5C9, (877)376-9902

TAB “N”

# Litvack Alain

NOTAIRES - NOTARIES  
CONSEILLERS JURIDIQUES  
TITLE ATTORNEYS

IRWIN LITVACK, M.A., B.C.L., D.D.N., LL.B.  
ROBERT ALAIN, M.A., B.C.L., D.D.N.  
MARIE-FRANCE FRIARD, L.L.L., D.D.N.  
AARON LITVACK, B.COM., L.L.L., LL.B., D.D.N.  
ERIC LUPOVICH, B.COM., LL.B., LL.M.

NOTAIRES HONORAIRES :  
GERALD SHEINER, B.C.L.  
LEONARD H. WISSE, L.L.L.

BUREAU 1050  
3500 BOUL. DE MAISONNEUVE O  
WESTMOUNT, QUÉBEC  
H3Z 3C1

TÉLÉPHONE: (514) 875-5223  
TÉLÉCOPIEUR: (514) 875-5843

March 20, 2019

**KAUFMAN**  
800 René-Lévesque Boulevard West  
Suite 2220  
Montreal, Quebec H3B 1X9

Attention: Michael SCHACHTER, Attorney

**RE: 2005-2015 Becancour, Lyster, Quebec (the "Property")**

Dear Sirs:

At your request, we did attend the Registration Division of Arthabaska in order to examine title to the Property for a period of fifty-two (52) years and, as of March 14, 2019 at 11:00 a.m. hrs (being the date of certification of the Index of Immovables to the Property), 7949987 CANADA INC., is the registered owner of the Property, with good and marketable title, subject to the following:

**DESCRIPTION:**

The Property is described as lot 5 835 035, Cadastre du Quebec, Registration Division of Arthabaska.

**TENURE:**

The said Property is not subject to seigneurial rent.

**HYPOTHECS:**

There exists a first hypothec in favour of Business Development of Canada in the original amount of \$700,000.00 in virtue of a Deed published at the said Registry Office under number 20 228 439.

There exists a second hypothec in favour of Business Development Bank of Canada in the original amount of \$225,000.00 in virtue of a Deed published at said Registry Office under number 22 857 780.

There exists a legal hypothec in favour of the Ministre du Revenu du Quebec in the original amount of \$53,722.24 in virtue of Notice published at said Registry Office under number 23 751 304.

There also appears to be a movable hypothec in favour of The Toronto-Dominion Bank against the equipment situated in the building in virtue of a notice published at the RDPRM under numbers 11-0813874-0001, 97-0139435-0001, 01-0201696-0001, 04-0044140-0016, 04-0044140-0017, 04-0217876-0003 and 11-0213641-0001.

**SERVITUDES:**

Nil

**LEASES:**

No leases whose term has not yet expired owing to the passage of time affect the Property.

**MATRIMONIAL STATUS:**

The matrimonial status contained in various title deeds for the last thirty (30) years is satisfactorily declared, and there are no rights of dower or any other matrimonial rights published against the said Property.

**ESTATES:**

All estates have obtained Succession Duty Releases.

**COMPANIES:**

All Companies were duly incorporated and had the power to deal in real estate at the time they acquired or sold the Property.

**CULTURAL HERITAGE ACT:**



No Notices have been published at the said Registry Office indicating that the Property is subject to the said Act.

**AGRICULTURAL ZONING:**

The Property is not subject to the provisions of the Loi sur la protection du territoire et des activités agricoles.

**RESERVES OR EXPROPRIATIONS:**

No reserves for public purposes are published at said Registry Office against the Index of Immoveables to the Property.

**ENVIRONMENTAL:**

There are no notices or orders published against the Index of Immoveables to the Property under the Environment Quality Act (R.S.Q.c.Q.-2).

**CERTIFICATE OF LOCATION:**

The certificate of location to the Property prepared by MICHEL BENJAMIN, Q.L.S., on March 16, 2004 under his minute number 10851, indicates no illegalities or irregularities whatsoever, save and except for minor discrepancies between occupation and cadastre as well as the following:

The Certificate of location was prepared before cadastral renovation and the description of the property has since changed. It also indicates that one of the south-east fences is not erected on the property line and that the front setback of the building does not respect present municipal by-laws. However, the surveyor also states that the building was erected around the year 1960 and that therefore the building benefits from acquired rights.

**TAXES:**

We have not yet verified municipal and school taxes.

Yours very truly,

**LITVACK ADAIN, Notaries**

  
\_\_\_\_\_  
Mtre. Aaron Litvack, Notary  
AL/rc

TAB "O"



July 5, 2019

Mr. Jean-Louis Cloutier  
 7949987 Canada Inc.  
 608-3 Weber St N,  
 Waterloo, ON N2V 1K4  
 &  
 MNP Ltd.,  
 300-111 Richmond Street West  
 Toronto, ON M5H 2G4

Sent Via Email: [jerry.henechowicz@mnp.ca](mailto:jerry.henechowicz@mnp.ca)

**Attention: Mr. Jerry Henechowicz**

Dear Mr. Henechowicz:

**Subject: Confirmation of Payout Amounts—Loan No. 072156-01 & 02  
 7949987 Canada Inc. (the "debtor")**

As requested, Business Development Bank of Canada ("BDC") has calculated the payout figures for the above-mentioned loan, as at July 08, 2019

	<u>Loan 01</u>	<u>Loan 02</u>
Principal	\$455,130.00	\$185,625.00
Interest up to and including July 07, 2019	10,628.85	6,199.80
Annual Admin Fees	0.00	350.00
<b>Total</b>	<b>\$ 465,758.85</b>	<b>\$ 192,174.80</b>
Current Per Diem (subject to change)	\$83.47	\$47.40
Current Interest rate – floating base + Variance%	6.55%	9.05%

Since this loan is on a floating interest rate, please contact this office one day prior to the date of payout and request the exact amount of accrued interest required to retire the loan. The amounts will be confirmed to you by email. Funds and Per Diem Interest calculated up to and including the date prior to the payout must be received by BDC no later than 12:00 p.m. on the payout date. If the Funds and Per Diem Interest are not received by 12:00 p.m. of the fifth business day from the date of the letter, this payout letter is no longer valid and may not be relied upon. If you are not able to deliver the payout prior to 12:00 p.m. of the fifth business day, please contact this office one day prior to the new date of payout to reconfirm the exact amount of accrued interest and the new Per Diem Interest required to retire the loan.

Any subsequently produced prepayment figures will render the contents herein null and void.

The executed discharges will be delivered to you in due course.

Any release and/or discharge granted by BDC is made on the basis that all source deductions, GST/HST/QST obligations and all other amounts, claims and demands owed by any party to the loan to the Canada Revenue Agency, Revenu Quebec or any other governmental agency that could give rise to a deemed trust claim by such agency in priority to any claim or security held by BDC in relation to the loan (collectively, "Deemed Trust Claims") have been paid in full.

Business Development Bank of Canada  
 1200-121 King Street West  
 Toronto, ON M5H 3T9  
[www.bdc.ca](http://www.bdc.ca)



To the extent that BDC suffers a loss or is required to pay any amounts to any governmental agency in respect of any Deemed Trust Claims as a result of the failure of any loan party to meet its obligations to such governmental agency, then BDC shall be entitled to claim the full amount of any loss or payment required to be made by it in respect of any Deemed Trust Claim from the loan parties, or any of them, and the discharges shall not operate as a release of the loan parties to such extent.

Yours truly,

  
for Ruth Thomson  
Business Specialist  
T (416) 952-8690  
E [ruth.thomson@bdc.ca](mailto:ruth.thomson@bdc.ca)



Saroja Sinnanainar  
Analyst, Special Accounts

cc: Sherry Kettle of Miller Thomson LLP

Sent Via Email: [skettle@millerthomson.com](mailto:skettle@millerthomson.com)

TAB "P"



**MILLER THOMSON**  
AVOCATS | LAWYERS

MILLER THOMSON SENCRL  
1000, RUE DE LA GAUCHETIÈRE OUEST  
BUREAU 3700  
MONTRÉAL (QC) H3B 4W5  
CANADA

TÉL. 514.875.5210  
TÉLÉC. 514.875.4308

MILLERTHOMSON.COM

March 7, 2019

Private and Confidential

Facsimile (416.323.5242) /  
Email (jerry.henechowicz@mnp.ca)

Jean-François Gauvin  
Direct line : 514.871.5354  
jfgauvin@millerthomson.com

Our file: 0223176.0004

BY EMAIL

**MNP Ltd.**  
111 Richmond Street West  
Suite 300  
Toronto, ON M5H 2G4

Attention: Jerry Henechowicz

Dear Sir:

**Re: Tomlin Industries (2000) Inc. ("Tomlin"), Caml North America Ltd. ("Caml"), 7949952 Canada Inc. ("952 Canada"), and 7949987 Canada Inc. ("987 Canada" and collectively, the "Borrowers")**  
**Our file: 0223176.0004**

We understand that the Toronto-Dominion Bank ("**TD Bank**") intends to make an application to the Ontario Superior Court of Justice in Bankruptcy and Insolvency for an order appointing MNP Ltd. ("**MNP**") as the receiver of the assets, undertakings and properties of the Borrowers (the "**Receivership Order**"). We also understand that if MNP is appointed as a receiver, MNP anticipates completing a sale of substantially all of the assets, property and undertaking of the Borrowers on a going concern basis shortly thereafter (the "**Transaction**").

Therefore, you have mandated us to review the form and content, registration, and apparent validity and opposability of the securities granted and registered in the province of Québec in favour of Toronto Dominion Bank. ("**TD Bank**" or the "**Lender**") to secure the loan and advances granted by the Lender to Tomlin Industries (2000) Inc., 7949987 Canada Inc., 7949952 Canada Inc., and CAML North America Ltd.

For the purpose of this opinion, we have conducted searches with respect to the Borrowers in the Register of Personal and Movable Real Rights (the "**RPMRR**"). We have also conducted corporate searches in respect of the Borrowers at the Registraire des entreprises du Québec and Canada Corporations (Strategis). According to these searches, the Borrowers are existing under the Federal Business Corporations Act or the Business Corporations Act (Ontario) and their registered offices are in the province of Ontario. For the purpose of this opinion, we have assumed that the Borrowers' place of business in the province of Québec is located on 215 Bécancour, Lyster, province of Québec, G0S 1V0.

For the purposes of our analysis, we have reviewed the copies of the following documents (collectively, the "**Documents**"):

1. LIST OF LOAN AND CREDIT AGREEMENTS AND RELATED DOCUMENTS
  - 1.1 Offer of Credit by TD Bank to the Borrowers dated October 6, 2016, and amendment of same dated July 24, 2017 (the "**Loans**");

- 2 -

- 1.2 Movable Hypothec granted by the Borrowers Tomlin Industries (2000) Inc. on November 15, 2013;
- 1.3 Movable Hypothec granted by the Borrower 7949987 Canada Inc. on October 17, 2011;
- 1.4 Movable Hypothec granted by the Borrower 7949952 Canada Inc. on October 17, 2011;
- 1.5 Movable Hypothec granted by the Borrower CAML North America Ltd. on November 15, 2013;

(the "Securities")

## 2. ASSUMPTIONS AND QUALIFICATIONS

The opinion expressed herein is subject to the qualifications and assumptions set forth on Schedule "A" to this letter.

## 3. DOCUMENTS REVIEWED FOR THE PURPOSE OF THE OPINION

- 3.1 Offer of Credit by TD Bank to the Borrowers dated October 6, 2016, and amendment of same dated July 24, 2017.

- 3.2 Movable Hypothec

A Deed of Movable Hypothec granted by the Borrower Tomlin Industries (2000) Inc. on November 15, 2013 in favour of the Lender charging the universality of movable assets for an amount of \$4,250,000.00 and registered at the RPMRR on November 21, 2013, under number 13-1038149-0002.

- 3.3 Movable Hypothec

A Deed of Movable Hypothec dated October 17, 2011, granted by the Borrower 7949987 Canada Inc. on October 17, 2011 in favour of the Lender charging the universality of movable assets for an amount of \$2,400,000.00 and registered at the RPMRR on October 24, 2011, under number 11-0813874-0001.

- 3.4 Movable Hypothec

A Deed of Movable Hypothec dated October 17, 2011, granted by the Borrower 7949952 Canada Inc. on October 17, 2011 in favour of the Lender charging the universality of movable assets for an amount of \$2,400,000.00 and registered at the RPMRR on October 24, 2011, under number 11-0813869-0001.

- 3.5 Movable Hypothec

A Deed of Movable Hypothec dated November 15, 2013, granted by the Borrower CAML North America Ltd on November 15, 2013 in favour of the Lender charging the universality of movable assets for an amount of \$4,250,000.00 and registered at the RPMRR on November 21, 2013, under number 13-1038149-0001.

## 4. OPINION

Subject to the assumptions and qualifications set forth on Schedule "A" to this letter and otherwise set forth herein, we are of the opinion that:



- 3 -

- 4.1 The Movable Hypothec # 3.2 creates an apparent valid movable hypothec in favour of the Lender over the property described therein, being the universality of movable assets, in the capital amount of \$4,250,000, standing as security for the Loans. The hypothec created thereunder appears as first ranking registration in respect of the property charged thereby.
- 4.2 The Movable Hypothec # 3.3 creates an apparent valid movable hypothec in favour of the Lender over the property described therein, being the universality of movable assets, in the capital amount of \$2,400,000, standing as security for the Loans. The hypothec created thereunder appears as first ranking registration in respect of the property charged thereby.
- 4.3 The Movable Hypothec # 3.4 creates an apparent valid movable hypothec in favour of the Lender over the property described therein, being the universality of movable assets, in the capital amount of \$2,400,000, standing as security for the Loans. The hypothec created thereunder appears as first ranking registration in respect of the property charged thereby.
- 4.4 The Movable Hypothec # 3.5 creates an apparent valid movable hypothec in favour of the Lender over the property described therein, being the universality of movable assets, in the capital amount of \$4,250,000, standing as security for the Loans. The hypothec created thereunder appears as first ranking registration in respect of the property charged thereby.
- 4.5 Therefore, we can confirm that based on the RPMRR's registrations, the Lender is first ranking creditor on all movable assets of the Borrowers.

#### 5. OTHER REGISTRATIONS AGAINST THE BORROWERS

Based on our review of the RPMRR (registration updated on 2019-03-01 (15:00)), be advised that the following rights and movable hypothecs are registered at the RPMRR against the Borrowers:

- 5.1 A Deed of Hypothec dated August 29, 2013, granted by the Borrower 7949987 Canada Inc. in favour of Business Development bank of Canada charging all present and future immovable and movable property of the Borrowers for an amount of \$700,000, and registered at the RPMRR on August 30, 2013, under registration number 13-0768891-0001. In this registration, there is a reference about the immovable located on 215 Bécancour, Lyster, province of Québec, G0S 1V0, and that would be presumably the business place in the province of Québec for the Borrower 7949987 Canada Inc.
- 5.2 A Deed of Hypothec dated August 29, 2013, granted by the Borrower 7949952 Canada Inc. in favour of Business Development bank of Canada charging all present and future immovable and movable property of the Borrowers for an amount of \$700,000, and registered at the RPMRR on August 30, 2013, under registration number 13-0768891-0002.
- 5.2 A Deed of Hypothec dated January 19, 2017, granted by the Borrower 7949987 Canada Inc. in favour of Business Development bank of Canada charging all present and future immovable and movable property of the Borrowers for an amount of \$270,000, and registered at the RPMRR on January 27, 2017, under registration number 17-0075761-0001.



- 4 -

We would be pleased to discuss with you in more detail any of the matters referred to in this report at your convenience.

This opinion is given for the sole benefit of the intended Receiver (and its successors and assigns) and may not be relied upon by or distributed to any other person without our prior written consent.

We wish to advise you that Miller Thomson is sometimes retained to act for the Lender in different files across Canada, but the Montreal office had not been consulted regarding the present matter.

Yours truly,

A handwritten signature in blue ink that reads "Miller Thomson".

MILLER THOMSON LLP

/mb

## Schedule "A"

### GENERAL ASSUMPTIONS AND QUALIFICATIONS

For the purposes of our overview of the Documents, as herein expressed, we draw your attention to the following assumptions and qualifications as to the date of the opinion:

a) Accuracy of RPMRR Register, Bank Act Security Registry and Public Corporate Records

We have assumed the accuracy of all public records, indices and filing systems which we have searched or have caused inquiries to be made and that same are current. We also assume that the registrations disclosed by the RPMRR searches and the Bank Act Security Registry which we have conducted accurately reflect the contents of and all registrations affecting the Borrowers made by all secured parties.

b) Attachment

Quebec does not have a system for registering absolute title to movable property, so that we cannot confirm that the Borrowers holds (or held, as the case may be) title respectively to any of the movable property subject to each of the Securities.

We assume, therefore, that the Borrowers either owned or had rights akin to ownership in respect of the movable property which is the subject matter of each of the Securities to permit the rights created in favour of TD Bank to attach within the meaning of the RRPMR.

We have not examined the originals, as they were not the Documents provided to us by the Lender;

c) Consideration

We assume that consideration was exchanged between the parties to the Documents.

d) Assumptions

We have assumed the following:

- (i) The genuineness of all signatures on all Documents submitted to us, the legal capacity of all natural persons, the authenticity, completeness and accuracy of all Documents submitted to or obtained by us;
- (ii) That each party to the Documents is a person validly existing under applicable laws and the execution and delivery of the Documents by the Borrowers, as the case may be, and the performance of their obligations thereunder have been duly authorized by all necessary means (corporate or otherwise) on the part of the Borrowers, as applicable;
- (iii) The completeness, truth and accuracy of all facts set forth in the official public records and certificates and documents supplied by public officials;

- 6 -

- (iv) That the Borrowers have delivered to the Lender the Documents in form and substance previously reviewed by us, duly signed by all parties thereto (other than the Lender);
- (v) That the authorisation, execution, delivery and performance of the Documents by any party thereto does not contravene or conflict with any provision of the Documents or by-laws of such party, or any existing laws or regulations applicable to such party;
- (vi) That the Documents of the Borrowers do not prohibit the granting by Borrowers of a secured right over their respective undertaking and assets to and in favour of the Lender;
- (vii) That each of the Borrowers have all necessary corporate power and capacity to execute and deliver the Documents to which they are a party, and to perform all of their obligations thereunder;
- (viii) Rights and prior claims vesting in favour of Revenue Canada or Quebec may have priority over the movable property of the Borrowers, notably with respect for amounts due on account of source deductions, amounts due for contributions to employment insurance or unemployment insurance, to the Canada Pension Plan or the "Régie des rentes du Québec", and a prior claim exists in favour of employees for certain amounts due to them as wages. In certain cases, the security of secured creditors may not charge certain accounts receivable from the Federal or Provincial Crown and these parties furthermore have a legal right of set-off which they may apply against any amount owed by them on account of any fiscal claim. Furthermore, a number of liens and charges do not require registration to be effective, and may have priority over the rights of the Lender.
- (ix) The opinion expressed herein is limited to the laws of the Province of Québec and the federal laws of Canada applicable therein in effect on the date hereof. The opinion expressed herein is effective as at the date hereof. No opinion is herein expressed with respect to any measure or act which may become necessary in the future to ensure the maintenance, conservation or enforceability of the Securities constituted under the Documents. This opinion may not be relied upon by any person other than the addressee hereof and its permitted successors and assigns without our prior written consent.

TAB "Q"



**MILLER THOMSON**  
AVOCATS | LAWYERS

MILLER THOMSON LLP  
ONE LONDON PLACE  
255 QUEENS AVENUE, SUITE 2010  
LONDON, ON N6A 5R8  
CANADA

T 519.931.3500  
F 519.858.8511

MILLERTHOMSON.COM

March 7, 2019

Sherry A. Kettle  
Direct Line: 519.931.3534  
skettle@millertomson.com

**Private and Confidential**

**Facsimile** (416.323.5242) / **Email**  
(jerry.henechowicz@mnp.ca)

File: 0223176.0004

MNP Ltd.  
111 Richmond Street West  
Suite 300  
Toronto, ON M5H 2G4

Attention: Jerry Henechowicz

Dear Sir:

**Re: Tomlin Industries (2000) Inc. ("Tomlin"), Caml North America Ltd. ("Caml"), 7949952 Canada Inc. ("952 Canada"), and 7949987 Canada Inc. ("987 Canada" and collectively, the "Debtors")**

We understand that the Toronto-Dominion Bank ("**TD Bank**") intends to make an application to the Ontario Superior Court of Justice In Bankruptcy and Insolvency for an order appointing MNP Ltd. ("**MNP**") as the receiver of the assets, undertakings and properties of the Debtors (the "**Receivership Order**"). We also understand that if MNP is appointed as a receiver, MNP, as receiver, anticipates completing a sale of substantially all of the assets, property and undertaking of the Debtors on a going concern basis shortly thereafter (the "**Transaction**").

The following is our report to you on searches we have conducted in respect of the Debtors in the Province of Ontario and our opinion on the validity and enforceability of the security held by TD Bank against the assets, undertakings and properties of the Debtors.

**ASSUMPTIONS AND QUALIFICATIONS**

The opinions expressed herein are subject to the qualifications and assumptions set forth on **Schedule "A"** to this letter.

**SEARCHES**

We have conducted the following searches concerning Tomlin:

1. Corporation Profile Report – we obtained a corporation profile report with respect to Tomlin on March 1, 2019 which confirmed that Tomlin was incorporated under the laws of the Province of Ontario under its present name on October 23, 2000. Tomlin has two current registered business names, "Arto" and "Caml-Tomlin". Tomlin has one expired business name, "Caml-Tomlin";
2. Certificate of Status – we obtained a certificate of status with respect to Tomlin which confirmed that Tomlin had not been dissolved as of March 1, 2019;
3. *Personal Property Security Act* (Ontario) ("**PPSA**") – we obtained a search of registrations against Tomlin under the *PPSA* with a file currency of February 28, 2019. The registrations disclosed by that search are summarized on Schedule "B" to this letter.

We obtained a search of registrations against "Arto" and "Caml-Tomlin" under the *PPSA* with a file currency of March 3, 2019. Those searches did not disclose any registrations against "Arto" or "Caml-Tomlin".

4. *Bank Act* (Canada) – we obtained a search of registrations against Tomlin under the *Bank Act* in the Province of Ontario as of March 1, 2019. That search disclosed an outstanding registration against Tomlin in favour of TD Bank as follows:

- (a) Notice of Intention registered on April 15, 2011 as No. 01263290.

We obtained a search of registrations against "Arto" and "Caml-Tomlin" under the *Bank Act* in the Province of Ontario as of March 4, 2019. Those searches did not disclose any outstanding registrations against "Arto" or "Caml-Tomlin" as of that date.

We have conducted the following searches concerning Caml:

1. Corporation Profile Report – we obtained a corporation profile report with respect to Caml on March 1, 2019 which confirmed that Caml was incorporated under the laws of the Province of Ontario under its present name on October 4, 2001. Caml has one expired business name, "Caml North America Eastern";
2. Certificate of Status – we obtained a certificate of status with respect to Caml which confirmed that Caml had not been dissolved as of March 1, 2019;
3. *PPSA* – we obtained a search of registrations against Caml under the *PPSA* with a file currency of February 28, 2019. The registrations disclosed by that search are summarized on Schedule "C" to this letter.

We obtained a search of registrations against "Caml North America Eastern" under the *PPSA* with a file currency of March 3, 2019. That search did not disclose any registrations against "Caml North America Eastern".

4. *Bank Act* (Canada) – we obtained a search of registrations against Caml under the *Bank Act* in the Province of Ontario as of March 1, 2019. That search did not disclose any outstanding registrations against Caml as of that date.

We obtained a search of registrations against "Caml North America Eastern" under the *Bank Act* in the Province of Ontario as of March 4, 2019. That search did not disclose any outstanding registrations against "Caml North America Eastern" as of that date.

We have conducted the following searches concerning 952 Canada:

1. Corporation Profile Report – we obtained a corporation profile report with respect to 952 Canada on March 1, 2019 which confirmed that 952 Canada was incorporated under the laws of Canada under its present name on August 18, 2011. The search confirmed that 952 Canada is overdue on its annual filings, but had not been dissolved;
2. Certificate of Compliance – we received a Notice of Refusal to provide a Certificate of Compliance because 952 Canada is in default of filing its annual return for 2018.
3. *PPSA* – we obtained a search of registrations against 952 Canada under the *PPSA* with a file currency of February 28, 2019. The registrations disclosed by that search are summarized on Schedule "D" to this letter;



4. *Bank Act (Canada)* – we obtained a search of registrations against 952 Canada under the *Bank Act* in the Province of Ontario as of March 1, 2019. That search did not disclose any outstanding registrations against 952 Canada as of that date.

We have conducted the following searches concerning 987 Canada:

1. Corporation Profile Report – we obtained a corporation profile report with respect to 987 Canada on March 1, 2019 which confirmed that 987 Canada was incorporated under the laws of Canada under its present name on August 18, 2011;
2. Certificate of Compliance – we received a Certificate of Compliance indicating that 987 Canada exists under the *Canada Business Corporations Act*, has filed the required annual returns and has paid all prescribed fees.
3. *PPSA* – we obtained a search of registrations against 987 Canada under the *PPSA* with a file currency of February 28, 2019. The registrations disclosed by that search are summarized on Schedule “E” to this letter;
4. *Bank Act (Canada)* – we obtained a search of registrations against 987 Canada under the *Bank Act* in the Province of Ontario as of March 1, 2019. That search did not disclose any outstanding registrations against 987 Canada as of that date.

## SECURITY REVIEWED

### General Security Agreements

We have reviewed copies of the following general security agreements granted by the Debtors to TD Bank:

1. A General Security Agreement dated April 19, 2011 granted by Tomlin (“**Tomlin GSA**”);
2. A General Security Agreement dated April 19, 2011 granted by Caml (“**Caml GSA**”);
3. A General Security Agreement dated October 17, 2011 granted by 952 Canada (“**952 Canada GSA**”); and
4. A General Security Agreement dated October 17, 2011 granted by 987 Canada (“**987 Canada GSA**”),

collectively, the “**General Security Agreements**”.

### The Tomlin GSA

The Tomlin GSA has been executed by Jean-Louis Cloutier on behalf of Tomlin. Under the terms of the Tomlin GSA, Tomlin granted to TD Bank a security interest in all of Tomlin’s present and after acquired undertaking and personal property as security for all present and future indebtedness of Tomlin to TD Bank.

### The Caml GSA

The Caml GSA has been executed by Jean-Louis Cloutier on behalf of Caml. Under the terms of the Caml GSA, Caml granted to TD Bank a security interest in all of Caml’s present and after acquired undertaking and personal property as security for all present and future indebtedness of Caml to TD Bank.



### The 952 Canada GSA

The 952 Canada GSA has been executed by Jean-Louis Cloutier on behalf of 952 Canada. Under the terms of the 952 Canada GSA, 952 Canada granted to TD Bank a security interest in all of 952 Canada's present and after acquired undertaking and personal property as security for all present and future indebtedness of 952 Canada to TD Bank.

### The 987 Canada GSA

The 987 Canada GSA has been executed by Jean-Louis Cloutier on behalf of 987 Canada. Under the terms of the 987 Canada GSA, 987 Canada granted to TD Bank a security interest in all of 987 Canada's present and after acquired undertaking and personal property as security for all present and future indebtedness of 987 Canada to TD Bank.

### PPSA Registrations

The *PPSA* registrations outstanding against the Debtors as of February 28, 2019 are summarized on attached Schedules "B" to "E".

There are nine financing statements registered against Tomlin. The original secured parties on the first four financing statements, by order of time, were parties other than TD Bank. Each of these registrations were later subordinated to TD Bank's registration (Family 5 on Schedule B) and thereafter assigned to TD Bank. As such, TD Bank holds the first five registrations by order of time against Tomlin.

In respect to each of Caml, 952 Canada and 987 Canada, TD Bank has a first in time registration.

Our opinion on the priority of the security interests held by TD Bank in respect of the assets of the Debtors included in the Transaction is limited to security interests perfected by registrations under the *PPSA* and the *Bank Act*. A purchase money security interest can, in certain circumstances, have priority over a prior in time registration. Otherwise, under section 30(1) of the *PPSA* where priority is to be determined between security interests perfected by registration, priority shall be determined by the order of registration regardless of the order of perfection.

### Section 427 Bank Act Security

We have been provided with the following documents executed by Jean-Louis Cloutier on behalf of Tomlin with respect to the security granted by Tomlin to TD Bank under section 427 of the *Bank Act*:

1. Notice of Intention dated April 5, 2011 (registered with the Ontario agent of the Bank of Canada on April 15, 2011);
2. Application for Credit and Promise to Give Bills of Lading, Warehouse Receipts or Security under section 427 of the *Bank Act* dated April 19, 2011; and
3. Special Security in Respect of Property or Classes of Property Described in section 427 of the *Bank Act* dated April 19, 2011.

The security covered by the above documents consists of all inventory of Tomlin.





**OPINION**

Subject to the assumptions and qualifications set forth on Schedule "A" to this letter and otherwise set forth herein, we are of the opinion that:

1. TD Bank has a valid and perfected security interest in the personal property of the Debtors situate in Ontario;
2. TD Bank has valid security under section 427 of the *Bank Act* in respect of the inventory of Tomlin situate in Ontario; and
3. TD Bank's security interest in the personal property of the Debtors situate in Ontario has priority over the security interests of the other secured parties in the personal property of the Debtors situate in Ontario which are perfected by the registrations on the *PPSA* searches referred to in this letter, save and except to the extent that these security interests may constitute purchase money security interests.

We would be pleased to discuss with you in more detail any of the matters referred to in this report at your convenience.

This opinion is given for the sole benefit of MNP (and its successors and assigns), as proposed receiver of the Debtors, and may not be relied upon by or distributed to any other person without our prior written consent.

Yours truly,

MILLER THOMSON LLP

Per:

  
Sherry A. Kettle  
SAK/sj

37749510.1



**SCHEDULE "A"****Genuineness and Authenticity**

We assume the genuineness of all signatures and the authenticity of all documents or copies thereof.

**Equity and other Statutory Limitations**

The opinions herein expressed are subject to any equities between the parties of which we have no notice or knowledge.

**Proper Corporate Authorization**

We assume that the security documents described in the attached letter have been executed by proper signing officers of the Debtors duly authorized.

**Accuracy of PPSA Register and Public Records**

We have assumed the accuracy of all public records, indexes and filing systems which we have searched or have caused inquiries to be made. We also assume that the registrations disclosed by the *PPSA* and *Bank Act* searches that we have conducted accurately reflect the contents of and all registrations affecting the Debtors made by all secured parties.

**Laws of Ontario**

The opinions expressed herein, insofar as same relate to personal property, are limited to personal property located in the Province of Ontario. The opinions expressed herein are, as well, limited to the laws of the Province of Ontario and all federal laws applicable therein.

**Attachment**

We assume that the Debtors either owned or had rights akin to ownership in respect of their personal property to permit the security interests created in the security documents to attach within the meaning of the *PPSA*.

**Consideration and Outstanding Indebtedness**

We assume that consideration was given by TD Bank to support the granting of the security documents.

**Subordination and Priority Agreements, Assignments**

We assume that there are no agreements between TD Bank and any of the other secured creditors of the Debtors by which TD Bank agreed to subordinate its security interests in the assets, undertakings and properties of the Debtors to any of the other secured creditors of the Debtors.

We assume that all priority agreements, subordination agreements and assignments that have been registered under the *PPSA* are valid and enforceable.



## SCHEDULE "B"

SUMMARY OF PPSA REGISTRATIONS AGAINST  
TOMLIN INDUSTRIES (2000) INC.  
FILE CURRENCY DATE OF FEBRUARY 28, 2019

FAMILY	REGISTRATION NO. AND FILE NO.	REGISTERED UNDER PPSA * / RSLA	DEBTOR NAME(S)	SECURED PARTY	COLLATERAL CLASSIFICATION	COLLATERAL DESCRIPTION AND OTHER
1	20001205 1148 0020 5917 (Financing Statement) File No. 085009599 Reg. Period: 5 years Expiry Date: 05DEC2025	PPSA	Tomlin Industries (2000) Inc.	The Toronto- Dominion Bank	Consumer Goods, Inventory, Equipment, Accounts, Other  No fixed maturity date	GENERAL SECURITY AGREEMENT FINANCING CHANGE STATEMENT 20041108 1404 1462 4189 AMENDMENT TO CHANGE NAME OF SECURED PARTY DUE TO AMALGAMATION FROM TOMLIN INDUSTRIES INC. TO 1048167 ONTARIO LIMITED  FINANCING CHANGE STATEMENT 20041108 1404 1462 4190 OTHER: SUBORDINATION SUBORDINATION AS SET OUT IN PRIORITIES AGREEMENT BETWEEN BANK OF MONTREAL, 1048167 ONTARIO LIMITED AND TOMLIN INDUSTRIES (2000) INC. DATED NOVEMBER 1, 2004  FINANCING CHANGE STATEMENT 20041112 1707 1462 6258 RENEWAL: 10 YEARS  FINANCING CHANGE STATEMENT 20060512 1046 1862 1788 AMENDMENT TO DELETE AMOUNT IN COLLATERAL SECTION ON LINE 10  FINANCING CHANGE STATEMENT 20110418 1259 1862 7236 OTHER: SUBORDINATION POSTPONEMENT OF SECURITY INTEREST OF 1048167 ONTARIO LIMITED OVER THE ASSETS OF TOMLIN INDUSTRIES (2000) INC. IN FAVOUR OF THE TORONTO DOMINION BANK REGISTRATION

\* PPSA = Personal Property Security Act, RSLA = Repair and Storage Liens Act

FAMILY	REGISTRATION NO. AND FILE NO.	REGISTERED UNDER PPSA / RSLA	DEBTOR NAME(S)	SECURED PARTY	COLLATERAL CLASSIFICATION	COLLATERAL DESCRIPTION AND OTHER
2	20090303 1718 1862 1666 (Financing Statement) File No. 651828519 Reg. Period: 15 years Expiry Date: 03MAR2024	PPSA	Tomlin Industries (2000) Inc.	The Toronto-Dominion Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	NO. 20110418123518627234/FILE NO. 669156723  FINANCING CHANGE STATEMENT 20110418 1341 1862 7245 ASSIGNMENT ASSIGNOR: 1048167 ONTARIO LIMITED ASSIGNEE: THE TORONTO-DOMINION BANK  FINANCING CHANGE STATEMENT 20151016 1938 1531 5285 RENEWAL: 5 YEARS  FINANCING CHANGE STATEMENT 20151116 1435 1530 2960 RENEWAL: 5 YEARS  FINANCING CHANGE STATEMENT 20090313 0942 1862 2576 AMENDMENT THE SECURED PARTY DESCRIBED ON LINE 08 OF PAGE 2 OF REGISTRATION NUMBER 20090303 1718 1862 1666 IS CHANGED TO JEAN-LOUIS CLOUTIER  FINANCING CHANGE STATEMENT 20110418 1307 1862 7237 OTHER: SUBORDINATION SUBORDINATION OF SECURITY INTEREST OF 1048167 ONTARIO LIMITED OVER THE ASSETS OF TOMLIN INDUSTRIES (2000) INC. IN FAVOUR OF THE TORONTO DOMINION BANK REGISTRATION NO. 20110418123518627234/FILE NO. 669156723  FINANCING CHANGE STATEMENT 20110418 1316 1862 7239 OTHER: SUBORDINATION SUBORDINATION OF SECURITY INTEREST OF 1266267 ONTARIO LTD. OVER THE ASSETS OF TOMLIN INDUSTRIES (2000) INC. IN FAVOUR

FAMILY	REGISTRATION NO. AND FILE NO.	REGISTERED UNDER PPSA* / RSLA	DEBTOR NAME(S)	SECURED PARTY	COLLATERAL CLASSIFICATION	COLLATERAL DESCRIPTION AND OTHER
						<p>OF THE TORONTO DOMINION BANK REGISTRATION NO. 20110418123518627234/FILE NO. 669156723</p> <p>FINANCING CHANGE STATEMENT 20110418 1323 1862 7240 OTHER: SUBORDINATION SUBORDINATION OF SECURITY INTEREST OF JOHN A. WEIR OVER THE ASSETS OF TOMLIN INDUSTRIES (2000) INC. IN FAVOUR OF THE TORONTO-DOMINION BANK REGISTRATION NO. 20110418123518627234/FILE NO. 669156723</p> <p>FINANCING CHANGE STATEMENT 20110418 1325 1862 7241 OTHER: SUBORDINATION SUBORDINATION OF SECURITY INTEREST OF JEAN-LOUIS CLOUTIER OVER THE ASSETS OF TOMLIN INDUSTRIES (2000) INC. IN FAVOUR OF THE TORONTO DOMINION BANK REGISTRATION NO. 20110418123518627234/FILE NO. 669156723</p> <p>FINANCING CHANGE STATEMENT 20110418 1344 1862 7246 ASSIGNMENT ASSIGNOR: 1048167 ONTARIO LIMITED ASSIGNEE: THE TORONTO- DOMINION BANK</p> <p>FINANCING CHANGE STATEMENT 20110418 1345 1862 7247 ASSIGNMENT ASSIGNOR: JEAN-LOUIS CLOUTIER ASSIGNEE: THE TORONTO- DOMINION BANK</p> <p>FINANCING CHANGE STATEMENT 20110418 1347 1862 7248 ASSIGNMENT</p>

FAMILY	REGISTRATION NO. AND FILE NO.	REGISTERED UNDER PPSA / RSLA	DEBTOR NAME(S)	SECURED PARTY	COLLATERAL CLASSIFICATION	COLLATERAL DESCRIPTION AND OTHER
3	20110405 1606 1862 6381 (Financing Statement) File No. 668843838 Reg. Period: 5 years Expiry Date: 05APR2021	PPSA	Tomlin Industries (2000) Inc.	The Toronto-Dominion Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	ASSIGNOR: 1266267 ONTARIO LTD. ASSIGNEE: THE TORONTO-DOMINION BANK FINANCING CHANGE STATEMENT 20110418 1349 1862 7250 ASSIGNMENT ASSIGNOR: JOHN A. WEIR ASSIGNEE: THE TORONTO-DOMINION BANK FINANCING CHANGE STATEMENT 20110419 1510 1862 7363 AMENDMENT REMOVE MICHEL CLOUTIER AS A SECURED PARTY FINANCING CHANGE STATEMENT 20110418 1337 1862 7244 OTHER: SUBORDINATION SUBORDINATION OF SECURITY INTEREST OF JACKSCO LTD. OVER THE ASSETS OF TOMLIN INDUSTRIES (2000) INC. IN FAVOUR OF THE TORONTO-DOMINION BANK REGISTRATION NO. 20110418123518627234/FILE NO. 669156723 FINANCING CHANGE STATEMENT 20110418 1353 1862 7255 ASSIGNMENT ASSIGNOR: JACKSCO LTD. ASSIGNEE: THE TORONTO-DOMINION BANK FINANCING CHANGE STATEMENT 20160225 1954 1531 3629 RENEWAL: 5 YEARS

FAMILY	REGISTRATION NO. AND FILE NO.	REGISTERED UNDER PPSA / RSLA	DEBTOR NAME(S)	SECURED PARTY	COLLATERAL CLASSIFICATION	COLLATERAL DESCRIPTION AND OTHER
4	20110405 1557 1862 6376 (Financing Statement) File No. 668842047 Reg. Period: 5 years Expiry Date: 05APR2021	PPSA	Tomlin Industries (2000) Inc.	The Toronto-Dominion Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	GENERAL SECURITY AGREEMENT FINANCING CHANGE STATEMENT 20110418 1329 1862 7242 OTHER: SUBORDINATION SUBORDINATION OF SECURITY INTEREST OF FNS CORPORATION LTD. OVER THE ASSETS OF TOMLIN INDUSTRIES (2000) INC. IN FAVOUR OF THE TORONTO-DOMINION BANK REGISTRATION NO. 20110418123518627234/FILE NO. 669156723 FINANCING CHANGE STATEMENT 20110418 1350 1862 7253 ASSIGNMENT ASSIGNOR: FNS CORPORATION LTD. ASSIGNEE: THE TORONTO- DOMINION BANK FINANCING CHANGE STATEMENT 20160225 1954 1531 3628 RENEWAL: 5 YEARS FINANCING CHANGE STATEMENT: 20160216 1437 1530 6271 RENEWAL: 5 YEARS
5	20110418 1235 1862 7234 (Financing Statement) File No. 669156723 Reg. Period: 5 years Expiry Date: 18APR2021	PPSA	Tomlin Industries (2000) Inc.	The Toronto-Dominion Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	
6	20130820 1435 1862 2409 (Financing Statement) File No. 689615262 Reg. Period: 19 years Expiry Date: 20AUG2032	PPSA	Tomlin Industries (2000) Inc.	Business Development Bank of Canada	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	
7	20140810 1445 1530 6292 (Financing Statement) File No. 698574006 Reg. Period: 5 years Expiry Date: 10AUG2019	PPSA	Tomlin Industries (2000) Inc.	Royal Bank of Canada	Consumer Goods, Other, Motor Vehicle Included No fixed maturity date	2014 BUICK ENCORE (VIN KL4CJASBXEB664102)
8	20181207 1753 1219 2561 (Financing Statement) File No. 7466688512	PPSA	1. Tomlin Industries (2000) Inc.	1. Canadian Dealer Lease Services Inc.	Equipment, Other, Motor Vehicle Included	2019 LAND ROVER DISCOVERY SPORT (VIN SALCR2FX0KH785832)

FAMILY	REGISTRATION NO. AND FILE NO.	REGISTERED UNDER PPSA / RSLA	DEBTOR NAME(S)	SECURED PARTY	COLLATERAL CLASSIFICATION	COLLATERAL DESCRIPTION AND OTHER
	Reg. Period: 4 years Expiry Date: 07DEC:2022		2. Jean-Loui Cloutier (DOB 10OCT1952)	2. Bank of Nova Scotia - DLAC	Amount: 67401	OUR SECURITY INTEREST IS LIMITED TO THE MOTOR VEHICLES LISTED ABOVE AND THE PROCEEDS OF THOSE VEHICLES
9	20181221 0944 1590 6425 (Financing Statement) File No. 747042633 Reg. Period: 7 years Expiry Date: 21DEC:2025	PPSA	Tomlin Industries (2000) Inc.	1. Jean-Louis Cloutier 2. Melanie A. Shewchuk	Accounts, Other	



SCHEDULE "C"

SUMMARY OF PPSA REGISTRATIONS AGAINST  
 CAML NORTH AMERICA LTD.  
 FILE CURRENCY DATE OF FEBRUARY 28, 2019

FAMILY	REGISTRATION NO. AND FILE NO.	REGISTERED UNDER PPSA* / RSLA	DEBTOR NAME(S)	SECURED PARTY	COLLATERAL CLASSIFICATION	COLLATERAL DESCRIPTION AND OTHER
1	20110418 1241 1862 7235 (Financing Statement) File No. 669156631 Reg. Period: 5 years Expiry Date: 18APR2021	PPSA	Caml North America Ltd.	The Toronto-Dominion Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	FINANCING CHANGE STATEMENT 20160216 1437 1530 6362 RENEWAL: 5 YEARS
2	20130820 1435 1862 2410 (Financing Statement) File No. 689615271 Reg. Period: 19 years Expiry Date: 20AUG2032	PPSA	Caml North America Ltd.	Business Development Bank of Canada	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	
3	20181221 0945 1590 6426 (Financing Statement) File No. 747042687 Reg. Period: 7 years Expiry Date: 21DEC2025	PPSA	Caml North America Ltd.	1. Jean-Louis Cloutier 2. Melanie A. Shewchuk	Accounts, Other	

\* PPSA = Personal Property Security Act; RSLA = Repair and Storage Liens Act

SCHEDULE "D"

SUMMARY OF PPSA REGISTRATIONS AGAINST  
7949952 CANADA INC.  
FILE CURRENCY DATE OF FEBRUARY 28, 2019

FAMILY	REGISTRATION NO. AND FILE NO.	REGISTERED UNDER PPSA* / RSLA	DEBTOR NAME(S)	SECURED PARTY	COLLATERAL CLASSIFICATION	COLLATERAL DESCRIPTION AND OTHER
1	20111019 1632 1862 2165 (Financing Statement) File No. 673756533 Reg. Period: 5 Expiry Date: 19OCT2021	PPSA	7949952 Canada Inc.	The Toronto-Dominion Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	FINANCING CHANGE STATEMENT 20160816 1439 1530 2265 RENEWAL: 5 YEARS
2	20130820 1434 1862 2408 (Financing Statement) File No. 689615253 Reg. Period: 19 years Expiry Date: 20AUG2032	PPSA	7949952 Canada Inc.	Business Development Bank of Canada	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	
3	20181221 0946 1590 6427 (Financing Statement) File No. 747042741 Reg. Period: 7 years Expiry Dated: 21DEC2025	PPSA	7949952 Canada Inc.	1. Jean-Louis Cloutier 2. Melanie A. Shewchuk	Accounts, Other	

\* PPSA = Personal Property Security Act, RSLA = Repair and Storage Liens Act

SCHEDULE "E"

SUMMARY OF PPSA REGISTRATIONS AGAINST  
7949987 CANADA INC.  
FILE CURRENCY DATE OF FEBRUARY 28, 2019

FAMILY	REGISTRATION NO. AND FILE NO.	REGISTERED UNDER PPSA* / RSLA	DEBTOR NAME(S)	SECURED PARTY	COLLATERAL CLASSIFICATION	COLLATERAL DESCRIPTION AND OTHER
1	2011019 1632 1862 2166 (Financing Statement) File No. 673756542 Reg. Period: 5 years Expiry Date: 19OCT2021	PPSA	7949987 Canada Inc.	The Toronto-Dominion Bank	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	FINANCING CHANGE STATEMENT 20160816 1439 1530 2266 RENEWAL: 5 YEARS
2	20130820 1434 1862 2407 (Financing Statement) File No. 689615244 Reg. Period: 19 years Expiry Date: 20AUG2032	PPSA	7949987 Canada Inc.	Business Development Bank of Canada	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	
3	20170203 1520 1590 6522 (Financing Statement) File No. 724616487 Reg. Period: 11 years Expiry Date: 03FEB2028	PPSA	7949987 Canada Inc.	Business Development Bank of Canada	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	
4	20181221 0946 1590 6428 (Financing Statement) File No. 747042804 Reg. Period: 7 years Expiry Date: 21DEC2025	PPSA	7949987 Canada Inc.	1. Jean-Louis Cloutier 2. Melanie A. Shewchuk	Accounts, Other	

\* PPSA = Personal Property Security Act, RSLA = Repair and Storage Liens Act

**TAB "R"**



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March 7, 2019

**Private and Confidential**

**Facsimile (416.323.5242) / Email**  
(jerry.henechowicz@mnp.ca)

MNP Ltd.  
111 Richmond Street West  
Suite 300  
Toronto, ON M5H 2G4

Attention: Jerry Henechowicz

**Patrick Harnett**  
Direct Line: 780.429.9738  
pharnett@millerthomson.com

File: 119381.17

Dear Sir:

**Re: Tomlin Industries (2000) Inc. ("Tomlin"), Caml North America Ltd. ("Caml"), 7949952 Canada Inc. ("952 Canada"), and 7949987 Canada Inc. ("987 Canada" and collectively, the "Debtors")**

We understand that the Toronto-Dominion Bank ("TD Bank") intends to make an application to the Ontario Superior Court of Justice In Bankruptcy and Insolvency for an order appointing MNP Ltd. ("MNP") as the receiver of the assets, undertakings and properties of the Debtors (the "**Receivership Order**"). We also understand that if MNP is appointed as a receiver, MNP, as receiver, anticipates completing a sale of substantially all of the assets, property and undertaking of the Debtors on a going concern basis shortly thereafter (the "**Transaction**").

The following is our report to you on searches we have conducted in respect of the Debtors in the Province of Alberta and our opinion on the validity and enforceability of the security held by TD Bank against the personal property of the Debtors located in Alberta.

#### **ASSUMPTIONS AND QUALIFICATIONS**

The opinions expressed herein are subject to the qualifications and assumptions set forth on **Schedule "A"** to this letter.

#### **SEARCHES**

We have conducted the following searches concerning Tomlin:

1. Alberta Corporate Registry Search – we attempted to search for Tomlin at the Alberta Corporate Registry, and no results were returned, indicating that Tomlin is neither incorporated nor extra-provincially registered in Alberta.
2. *Personal Property Security Act* (Alberta) ("**PPSA**") – we obtained a search of registrations against Tomlin under the PPSA with a file currency of March 4, 2019. The registrations disclosed by that search are summarized on **Schedule "B"** to this letter.

3. *Bank Act (Canada)* – we obtained a search of registrations against Tomlin under the *Bank Act* in the Province of Alberta as of March 5, 2019. That search disclosed no outstanding registrations against Tomlin in favour of TD Bank or any other party.

We have conducted the following searches concerning Caml:

1. Alberta Corporate Registry Search – we attempted to search for Caml at the Alberta Corporate Registry, and no results were returned, indicating that Caml is neither incorporated, nor extra-provincially registered, in Alberta.
2. PPSA – we obtained a search of registrations against Caml under the PPSA with a file currency of March 4, 2019. The registrations disclosed by that search are summarized on **Schedule “B”** to this letter.
3. *Bank Act (Canada)* – we obtained a search of registrations against Caml under the *Bank Act* in the Province of Alberta as of March 6, 2019. That search disclosed no outstanding registrations against Caml in favour of TD Bank or any other party.

We have conducted the following searches concerning 952 Canada:

1. Alberta Corporate Registry Search – we attempted to search for 952 Canada at the Alberta Corporate Registry, and no results were returned, indicating that 952 Canada is neither incorporated nor extra-provincially registered in Alberta.
2. PPSA – we obtained a search of registrations against 952 Canada under the PPSA with a file currency of March 4, 2019. The registrations disclosed by that search are summarized on **Schedule “B”** to this letter.
3. *Bank Act (Canada)* – we obtained a search of registrations against 952 Canada under the *Bank Act* in the Province of Alberta as of March 5, 2019. That search disclosed no outstanding registrations against 952 Canada in favour of TD Bank or any other party.

We have conducted the following searches concerning 987 Canada:

1. Alberta Corporate Registry Search – we attempted to search for 987 Canada at the Alberta Corporate Registry, and no results were returned, indicating that 952 Canada is neither incorporated nor extra-provincially registered in Alberta.
2. PPSA – we obtained a search of registrations against 987 Canada under the PPSA with a file currency of March 4, 2019. The registrations disclosed by that search are summarized on **Schedule “B”** to this letter.
3. *Bank Act (Canada)* – we obtained a search of registrations against 987 Canada under the *Bank Act* in the Province of Alberta as of March 5, 2019. That search disclosed no outstanding registrations against 987 Canada in favour of TD Bank or any other party.



## SECURITY REVIEWED

### General Security Agreements

We have reviewed copies of the following general security agreements granted by the Debtors to TD Bank:

1. A General Security Agreement dated April 19, 2011 granted by Tomlin ("**Tomlin GSA**");
2. A General Security Agreement dated April 19, 2011 granted by Caml ("**Caml GSA**");
3. A General Security Agreement dated October 17, 2011 granted by 952 Canada ("**952 Canada GSA**"); and
4. A General Security Agreement dated October 17, 2011 granted by 987 Canada ("**987 Canada GSA**"),

collectively, the "**General Security Agreements**".

#### The Tomlin GSA

The Tomlin GSA has been executed by Jean-Louis Cloutier on behalf of Tomlin. Under the terms of the Tomlin GSA, Tomlin granted to TD Bank a security interest in all of Tomlin's present and after acquired undertaking and personal property as security for all present and future indebtedness of Tomlin to TD Bank.

#### The Caml GSA

The Caml GSA has been executed by Jean-Louis Cloutier on behalf of Caml. Under the terms of the Caml GSA, Caml granted to TD Bank a security interest in all of Caml's present and after acquired undertaking and personal property as security for all present and future indebtedness of Caml to TD Bank.

#### The 952 Canada GSA

The 952 Canada GSA has been executed by Jean-Louis Cloutier on behalf of 952 Canada. Under the terms of the 952 Canada GSA, 952 Canada granted to TD Bank a security interest in all of 952 Canada's present and after acquired undertaking and personal property as security for all present and future indebtedness of 952 Canada to TD Bank.

#### The 987 Canada GSA

The 987 Canada GSA has been executed by Jean-Louis Cloutier on behalf of 987 Canada. Under the terms of the 987 Canada GSA, 987 Canada granted to TD Bank a security interest in all of 987 Canada's present and after acquired undertaking and personal property as security for all present and future indebtedness of 987 Canada to TD Bank.



### PPSA Registrations

The PPSA registrations outstanding against the Debtors as of March 4, 2019 are summarized on attached **Schedule "B"**.

There is one (1) PPSA registration collectively registered against Tomlin, Caml, 952 Canada and 987 Canada, under Alberta PPSA Registration No. 19030414787 made on March 4, 2019 with the expiry date of March 4, 2020, in favour of the TD Bank.

The PPSA registration is in respect of all present and after-acquired personal property, along with proceeds.

Our opinion on the priority of the security interests held by TD Bank in respect of the assets of the Debtors included in the Transaction is limited to security interests perfected by registrations under the PPSA and the *Bank Act*. A purchase money security interest can, in certain circumstances, have priority over a prior in time registration. Otherwise, under section 35(1) of the PPSA where priority is to be determined between security interests perfected by registration, priority shall be determined by the order of registration regardless of the order of perfection.

### Section 427 Bank Act Security

We have been provided with the following documents executed by Jean-Louis Cloutier on behalf of Tomlin with respect to the security granted by Tomlin to TD Bank under section 427 of the *Bank Act*:

1. Notice of Intention dated April 5, 2011 (registered with the Ontario agent of the Bank of Canada on April 15, 2011);
2. Application for Credit and Promise to Give Bills of Lading, Warehouse Receipts or Security under section 427 of the *Bank Act* dated April 19, 2011; and
3. Special Security in Respect of Property or Classes of Property Described in section 427 of the *Bank Act* dated April 19, 2011.

The security covered by the above documents consists of all inventory of Tomlin.

### **OPINION**

Subject to the assumptions and qualifications set forth on Schedule "A" to this letter and otherwise set forth herein, we are of the opinion that:

1. TD Bank has a valid and perfected security interest in the personal property of the Debtors situate in Alberta;
2. TD Bank has valid security under section 427 of the *Bank Act* in respect of the inventory of Tomlin, as a result of its registration in Ontario; and
3. TD Bank's security interest in the personal property of the Debtors situate in Alberta has first ranking priority as there are no other registrations under the PPSA.





We would be pleased to discuss with you in more detail any of the matters referred to in this report at your convenience.

This opinion is given for the sole benefit of MNP (and its successors and assigns), as proposed Receiver of the Debtors, and may not be relied upon by or distributed to any other person without our prior written consent.

Yours truly,

MILLER THOMSON LLP

Per:



Patrick Harnett

PTH/pth

c. Miller Thomson LLP, Attention: Sherry Kettle (via e-mail)





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## SCHEDULE "A"

### **Genuineness and Authenticity**

We assume the genuineness of all signatures and the authenticity of all documents or copies thereof.

### **Equity and other Statutory Limitations**

The opinions herein expressed are subject to any equities between the parties of which we have no notice or knowledge.

### **Proper Corporate Authorization**

We assume that the security documents described in the attached letter have been executed by proper signing officers of the Debtors duly authorized.

### **Extra-provincial Registration in Alberta**

We assume that the lack of the Debtors to extra-provincial registration in Alberta does not affect the validity or enforceability of any of the security documents described in the attached letter.

### **Accuracy of PPSA Register and Public Records**

We have assumed the accuracy of all public records, indexes and filing systems which we have searched or have caused inquiries to be made. We also assume that the registrations disclosed by the *PPSA* and *Bank Act* searches that we have conducted accurately reflect the contents of and all registrations affecting the Debtors made by all secured parties.

For the purpose of the *Bank Act* priority, we are assuming that the principal place of Tomlin's business is Ontario, which is the jurisdiction in which the Tomlin *Bank Act* security is registered.

### **Laws of Alberta**

The opinions expressed herein, insofar as same relate to personal property, are limited to personal property located in the Province of Alberta. The opinions expressed herein are, as well, limited to the laws of the Province of Alberta and all federal laws applicable therein.

### **Attachment**

We assume that the Debtors either owned or had rights akin to ownership in respect of their personal property to permit the security interests created in the security documents to attach within the meaning of the *PPSA*.

### **Consideration and Outstanding Indebtedness**

We assume that consideration was given by TD Bank to support the granting of the security documents.

**Subordination and Priority Agreements, Assignments**

We assume that there are no agreements between TD Bank and any of the other secured creditors of the Debtors by which TD Bank agreed to subordinate its security interests in the assets, undertakings and properties of the Debtors to any of the other secured creditors of the Debtors.

We assume that all priority agreements, subordination agreements and assignments that have been registered under the PPSA are valid and enforceable.



## SCHEDULE "B"

ALBERTA PERSONAL PROPERTY SECURITY ACT SEARCH  
IN THE NAMES OF  
TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD., 7949952 CANADA  
INC., and 7949987 CANADA INC.

FILE CURRENCY: MARCH 4, 2019

REGISTRATION NO.	SECURED PARTY	COLLATERAL CLASSIFICATION	Registration Type
19030414787 (Financing Statement)	The Toronto-Dominion Bank	ALL PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY OF EACH OF THE DEBTORS ALONG WITH ANY PROCEEDS THEREOF.	Security Agreement

TAB "S"

**Jerry Henechowicz**

---

**From:** Tim Hogan <thogan@harrisonpensa.com>  
**Sent:** May 6, 2019 7:09 AM  
**To:** Jerry Henechowicz  
**Cc:** Vitaly Kormakov - TD Bank (vitaly.kormakov@td.com)  
**Subject:** Tomlin [IWOV-HPMain.FID414087]  
**Attachments:** Tomlin Payout May 3.pdf

Jerry

Please see attached TD payout statement.

Note that in addition TD's legal costs (to HP) total \$59,631.87 (billed to date plus paid to date).

Thanks

**Tim Hogan** | [HARRISON PENSA LLP](#) | 450 Talbot St., London, Ontario N6A 5J6 | *tel* 519-661-6743 | *fax* 519-667-3362 | [thogan@harrisonpensa.com](mailto:thogan@harrisonpensa.com)

Assistant | Cathy Coleiro | *tel* 519-850-5568 | [ccoleiro@harrisonpensa.com](mailto:ccoleiro@harrisonpensa.com)

This e-mail may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.

The logo for TD Commercial Banking, featuring the letters 'TD' in a square followed by the text 'Commercial Banking'.

3140 Dufferin St.  
Toronto, Ontario M5A 2T1  
Tel: (416) 785-5172  
Fax: (416) 785-5082

Tomlin Industries (2000) Inc.

Balance due as at May 3/2019

Demand Loan	\$	1,121,283.83
Accrued Interest (\$182.78 per diem)	\$	29,212.08
Credit Cards	\$	1,428.76

7949952 Canada Inc.

Demand Loan	\$	246,707.33
Accrued Interest (\$40.22)	\$	11,921.32
Credit Cards	\$	6,379.34

<b>TOTAL OWING AS AT MAY 3/2019</b>	<b>\$</b>	<b>1,416,932.66</b>
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Internal

TAB “3”



Court File No.: 35-124515

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

THE HONOURABLE

)

FRIDAY, THE 26TH

)

JUSTICE

)

DAY OF JULY, 2019

)

**B E T W E E N:**

**THE TORONTO-DOMINION BANK**

Plaintiff

- and -

**TOMLIN INDUSTRIES (2000) INC., CAML NORTH AMERICA LTD.,  
7949952 CANADA INC. and 7949987 CANADA INC.**

Defendants

**DISCHARGE ORDER**

THIS MOTION, made by MNP Ltd. ("**MNP**"), in its capacity as Court-appointed Receiver (the "**Receiver**") of certain of the assets, undertakings and properties of Tomlin Industries (2000) Inc., CAML North America Ltd., 7949952 Canada Inc. and 7949987 Canada Inc. (collectively the "**Debtors**") for an order:

- (a) if necessary, abridging or waiving the time for service and filing, dispensing with service, or validating the method of service of the Notice of Motion, the Motion Record, the motion confirmation form(s) and the First Report of the Receiver dated July 11, 2019 and all appendices thereto (the "**First Report**"), and all supplementary motion materials, if any, and directing that any further service of same be dispensed with such that this motion is properly returnable on July 26, 2019;
- (b) approving the First Report and the activities and actions of the Receiver described therein;
- (c) approving the Receiver's Interim Statement of Receipts and Disbursements for the period from March 12, 2019 through June 30, 2019 (the "**Interim R&D**");

- (d) approving the professional fees and disbursements of the Receiver and its counsel, Miller Thomson LLP ("**Miller Thomson**") and Kaufman LLP, including approval of the estimate of additional fees and disbursements required in connection with the receivership proceeding without further Court approval (collectively, the "**Professional Fees**");
- (e) authorizing Zitta Immobilier Inc. and Les Produits Zitta Inc./Zitta Products Inc. (collectively, the "**Purchasers**") and the Receiver to directly remit all future Business Receivable collections, as described in the First Report (the "**Business Receivable Collections**"), to the Toronto-Dominion Bank ("**TD Bank**");
- (f) approving and directing the Receiver to distribute the balance of funds held by the Receiver as follows:
  - (i) firstly, to pay Business Development Bank of Canada ("**BDC**");
  - (ii) secondly, to pay the unpaid Professional Fees; and
  - (iii) thirdly, to pay TD Bank;
- (g) approving the discharge of MNP as Receiver;
- (h) releasing the Receiver from any and all liability, save and except for any gross negligence or wilful misconduct on the Receiver's part, upon the filing of a certificate with the Court confirming that the administration by the Receiver of its duties pursuant to the Appointment Order of Mr. Justice Aston dated March 12, 2019 (the "**Appointment Order**") have been completed; and
- (i) such further and other relief as counsel may advise and this Honourable Court may deem just,

was heard this day at the Courthouse, 80 Dundas Street, London, Ontario.

ON READING the First Report, the Fees Affidavit of Jerry Henechowicz sworn July 5, 2019 and the exhibits thereto (the "**Receiver's Fee Affidavit**"), the Fee Affidavit of Tony Van Klink sworn July 11, 2019 and the exhibits thereto and the Fee Affidavit of Michael Schacter sworn July 11, 2019 (collectively, the "**Legal Counsel Fee Affidavits**" and together with the Receiver's Fee Affidavit, the "**Fee Affidavits**") and on hearing the submissions of counsel for

the Receiver, no one else appearing although properly served as evidenced by the Affidavit of Susan Jarrell sworn July \_\_\_\_, 2019, filed;

1. THIS COURT ORDERS that the time for and method of service of motion confirmation forms, the Motion Record, including the Notice of Motion and the First Report, and all supplementary motion materials, if any, are hereby abridged and validated, as necessary, such that this motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS that the First Report and the activities and actions of the Receiver described therein are hereby approved.

3. THIS COURT ORDERS that the Interim R&D be and is hereby approved.

4. THIS COURT ORDERS that the Professional Fees, as set out in the First Report and the Fee Affidavits, be and are hereby approved, and the estimates of additional fees and disbursements of the Receiver and Miller Thomson to complete the Receiver's administration of the estate of the Debtors are hereby approved and the Receiver is authorized to pay same without further Court approval.

5. THIS COURT ORDERS that the Purchasers and the Receiver are authorized to directly remit all future Business Receivable Collections to TD Bank.

6. THIS COURT ORDERS that the Receiver shall distribute the balance of funds held by the Receiver as follows:

- (a) firstly, to pay BDC;
- (b) secondly, to pay the unpaid Professional Fees; and
- (c) thirdly, to pay TD Bank.

7. THIS COURT ORDERS that upon payment of the amounts set out in paragraphs 4 and 6 hereof, the Receiver shall be discharged as Receiver of the assets, undertakings and properties of the Debtors as set out in the Appointment Order, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of MNP in its capacity as Receiver.

8. THIS COURT ORDERS AND DECLARES that MNP is hereby released and discharged from any and all liability that MNP now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of MNP while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, MNP is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

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*Justice, Superior Court of Justice*

The Toronto-Dominion Bank  
Plaintiff

Tomlin Industries (2000) Inc., et al.  
and  
Defendants

Court File No.: 35-2214905T

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

Proceeding commenced at London

**DISCHARGE ORDER**

**MILLER THOMSON LLP**  
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Lawyers for MNP Ltd., Court-appointed Receiver of  
Tomlin Industries (2000) Inc., Caml North America  
Ltd., 7949952 Canada Inc. o/a Acryline, and 7949987  
Canada Inc.