

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

B E T W E E N:

**PILLAR CAPITAL CORP.**

Applicant

- and -

**TURUSS (CANADA) INDUSTRY CO., LTD.**

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE*  
*ACT*, R.S.O. 1990, c. C-43, AS AMENDED

**MOTION RECORD  
(returnable November 10, 2020)**

November 9, 2020

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**(as at September 18, 2020)**

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# TAB 1

Court File No. CV-20-00646729-00CL

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

B E T W E E N:

**PILLAR CAPITAL CORP.**

Applicant

– and –

**TURUSS (CANADA) INDUSTRY CO., LTD.**

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985 C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C-43, AS AMENDED

**NOTICE OF MOTION**

(returnable November 10, 2020)

MNP Ltd. (“**MNP**”), in its capacity as the court-appointed receiver (the “**Receiver**”) of the assets, undertakings and properties (the “**Property**”) of Turuss (Canada) Industry Co., Ltd. (the “**Debtor**”), appointed pursuant to the Order of the Honourable Justice Hainey, dated September 18, 2020 (the “**Receivership Order**”), will make a motion to a judge presiding over the Commercial List on November 10, 2020 at 12:00 p.m., or as soon after that as the motion can be heard, by judicial videoconference via Zoom due to the COVID-19 pandemic. Please refer to the conference details attached as **Schedule “A”** hereto in order to attend the motion and advise if you intend to join the motion by emailing [amanda.campbell@dentons.com](mailto:amanda.campbell@dentons.com).

**THE PROPOSED METHOD OF HEARING:** The motion is to be heard orally by judicial videoconference via Zoom.

**THE MOTION IS FOR AN ORDER:**

1. Abridging the time for service of the Notice of Motion and Motion Record and validating service thereof;

2. Directing Yang Jiang (“**Ms. Jiang**”) to deliver to the Receiver on or before November 13, 2020, all physical and electronic books and records of the Debtor, and Fortune Gate Timber Products Inc. (“**Fortune Gate**”) hardwood flooring stores operating as Total Hardwood Flooring (“**Total Hardwood**”), Elite International Forest Ltd. (“**Elite**”) and Vidar Design Flooring (“**Vidar**”), all of which appear to be related to the Debtor and/or Ms. Jiang and appear to be carrying on aspects of the Debtor’s business (collectively, the “**Flooring Entities**”), including a complete accounting of all activities conducted by Total Hardwood. For greater certainty, the physical and electronic books and records include, but are not limited to, the following:
- (a) all contracts, correspondence and leases with tenants and landlords;
  - (b) all bank statements and correspondence, including from September 1, 2019 onwards;
  - (c) all financial statements (internally and externally prepared), including a full accounting of business conducted by the Debtor since the appointment of the Receiver;
  - (d) copies of all annual income tax returns;
  - (e) copies of all provincial sales tax returns;
  - (f) creditor listing, including names of creditors and amounts owed to all secured creditors, unsecured creditors, utilities providers, government agencies and others;
  - (g) employee information including T-4 documentation for each individual employee and summaries filed for 2018 and 2019, records of employment, and any correspondence with the Canada Revenue Agency and any assessments and statements thereof;
  - (h) copies of any trust examination and assessment notices by the Canada Revenue Agency;
  - (i) Harmonized Sales Tax filings including any correspondence with the Canada Revenue Agency and any assessments and statements thereof;
  - (j) all payroll records, including individual pay stubs and the summaries for all of 2019 and 2020;
  - (k) all benefit plan information;
  - (l) access to any digital accounting software used by the Debtor (or access to a backup thereof);

- (m) access to all documentation and information with respect to all business and operations of the Debtor related to the industrial building and associated lands municipally known as 60 Queen Street North / 60 Industrial Park Road, Chesley, Ontario (collectively, the “**Industrial Facility**”), and the Flooring Entities;
  - (n) all related party transaction documentation; and
  - (o) an accounting in respect of all amounts, including rent, received from Bruce Power L.P. with respect to the Industrial Facility;
3. Requiring Ms. Jiang to attend for an examination under oath by the Receiver on 3 business days notice regarding the operations of the Debtor and Total Hardwood as well as the Debtor’s relationship to and interests in the Flooring Entities;
  4. Approving the Receiver’s Second Report to the Court, dated November 9, 2020 (the “**Second Report**”) and the activities of the Receiver described therein; and
  5. Such further and other relief that the Receiver may request and this Honourable Court may consider just.

**THE GROUNDS FOR THE MOTION ARE:**

**Background**

6. The Debtor is a federally incorporated entity that manufactures, imports and distributes hardwood flooring. Ms. Jiang is the sole officer and director of the Debtor;
7. Pursuant to the Receivership Order, MNP was appointed as Receiver of the Property by secured creditor Pillar Capital Corp.;
8. The Property includes, without limitation, the Industrial Facility, with a majority portion of the Industrial Facility being leased to Bruce Power L.P.;
9. The Court was provided with the First Report of the Receiver on October 21, 2020, which:
  - (a) updated the Court with respect to the Receiver’s activities since the date of its appointment, and sought approval for those activities;

- (b) summarized a solicitation and marketing process to be conducted by the Receiver for the Property (the “**Sale Process**”); and
  - (c) provided the Court with the Receiver’s recommendation for an Order, *inter alia*:
    - (i) approving the First Report and the Receiver’s activities;
    - (ii) authorizing and directing the Receiver to carry out the Sale Process; and
    - (iii) such other relief as this Court may seem just.
10. On October 29, 2020, the Court issued an Order approving the proposed Sale Process, authorizing and directing the Receiver to commence the Sale Process for the purpose of soliciting interest in and opportunities for a sale of the property and assets of the Debtor, authorizing and directing the Receiver to perform its obligations under the Sale Process and to do all things reasonably necessary to do so, and limiting the liability of the Receiver and its respective affiliates, partners, employees and agents with or as a result of the Sale Process.

### **Production of the Records**

11. The Receivership Order empowers and authorizes the Receiver to, *inter alia*:
- (a) take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property; and
  - (b) receive, preserve, and protect the Property;
12. The Receivership Order obliges the Debtor and Ms. Jiang, among others, to 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 in that Person's (as defined in the Receivership Order) possession or control, and provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access;

13. On October 5<sup>th</sup>, 2020, the Receiver delivered correspondence to Ms. Jiang (the “**Letter**”). As part of this Letter, the Receiver stated to Ms. Jiang that the Receiver has not been able to locate the books and records of the Debtor, and for Ms. Jiang to immediately make the books and records of the Debtor available to the Receiver. In addition to the foregoing, the Receiver requested all information relating to all the subsidiaries of the Debtor (including Total Hardwood Flooring) (collectively, the “**Turuss Enterprise**”), and any information relating to any other operating locations for the Turuss Enterprise.
14. On October 30, 2020, the Receiver sent a follow-up email to Ms. Jiang asking for Ms. Jiang to make available the books and records of the Debtor to the Receiver as soon as possible, in addition to again requesting all information relating to the Turuss Enterprise, and any information relating to any other operating locations for the Turuss Enterprise;
15. On November 5, 2020, the Receiver sent a second follow-up email to Ms. Jiang, asking for Ms. Jiang to immediately provide the Receiver with the books and records of the Debtor, including, but not limited to the following:
  - (a) Bank statements;
  - (b) Financial statements (internally and externally prepared);
  - (c) Copies of annual income tax returns;
  - (d) Copies of provincial sales tax returns;
  - (e) Copies of any trust examination and assessment notices by the Canada Revenue Agency;
  - (f) Payroll records;
  - (g) Employee information, such as T-4 documentation and records of employment; and
  - (h) Access to, or a backup of, any digital accounting software used by the Debtor (collectively, the “**Urgent Records**”).

16. Despite the Receiver following up and its repeated requests for books and records, the Receiver has not received any of the Urgent Records, or the books and records, more generally;
17. The Receiver has also recently been made aware of the Debtor operating separate locations. Given this recent information, the Receiver is requesting an Order directing Jiang to deliver all physical and electronic books and records of the Debtor and the Flooring Entities, including a complete accounting of all activities conducted by Total Hardwood. The Receiver is of the view that the relief sought is appropriate and necessary in light of the difficulty it has faced in obtaining even the most basic financial information in respect of the Debtor's business and operations.
18. Ms. Jiang failing to provide the books and records in connection to the Debtor is in direct contravention of the Receivership Order. The Receiver cannot properly and competently undertake and discharge its duties as Receiver without the books and records Debtor and the Flooring Entities;

#### **Examination of Ms. Jiang**

19. To assist in gathering all physical and electronic books and records of the Debtor and the Flooring Entities, the Receiver seeks to examine Ms. Jiang, under oath. An examination of Ms. Jiang under oath will provide the Receiver with the opportunity to expediently retrieve any other outstanding information necessary to performing its duties outlined in the Receivership Order.

#### **THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:**

20. The Receivership Order;
21. The Second Report; and

22. Such further and other material as counsel may advise and this Honourable Court may permit.

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**TO: THE SERVICE LIST**

**Schedule "A"**  
**Conference Details to join Motion via Zoom**

**Join Zoom Meeting:**

<https://dentons.zoom.us/j/95231397100?pwd=eIV3QlpuaDlMSVJqVXZkS0hNclp0Zz09>

**Meeting ID:** 952 3139 7100

**Password:** 955998

**Dial in information**

**Toll Free:** 1 (855) 703-8985

**Local:** 1 (647) 558-0588

**PILLAR CAPITAL CORP.**  
Applicant

- and -

**TURUSS (CANADA) INDUSTRY CO., LTD.**  
Respondent

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**NOTICE OF MOTION**  
(Returnable November 10, 2020)

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# TAB 2

Court File No. CV-20-00646729-00CL

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

**BETWEEN:**

**PILLAR CAPITAL CORP.**

Applicant

- and -

**TURUSS (CANADA) INDUSTRY CO., LTD.**

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

**SECOND REPORT OF MNP LTD. AS RECEIVER AND MANAGER OF THE ASSETS,  
UNDERTAKINGS AND PROPERTIES OF TURUSS (CANADA) INDUSTRY CO., LTD.**

**NOVEMBER 9, 2020**

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## APPENDICES

**Appendix “A”** – Appointment Order, dated September 18, 2020

**Appendix “B”** – First Report of the Receiver

**Appendix “C”** – Sale Process Order, dated October 29, 2020

**Appendix “D”** – Letter from Dentons Canada LLP to Yang Jiang, dated October 5, 2020

**Appendix “E”** – Email from Dentons Canada LLP to Yang Jiang, dated October 30, 2020

**Appendix “F”** – Email from the Receiver to Yang Jiang, dated November 5, 2020

**Appendix “G”** – DSF E-mail

**Appendix “H”** – Emix Statement of Claim

## INTRODUCTION AND PURPOSE

1. On September 18, 2020, MNP Ltd. (“**MNP**”) was appointed as the receiver and manager (the “**Receiver**”) without security, of the assets, undertakings and properties of Turuss (Canada) Industry Co., Ltd (“**Turuss**” or the “**Company**”) by order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”). A copy of the Appointment Order is attached as **Appendix “A”**.
2. The circumstances leading to the appointment of the Receiver are set out in the affidavit of Steve Dizep dated sworn September 4, 2020 (the “**Dizep Affidavit**”) and included in the Application Record dated September 4, 2020.
3. On October 21, 2020, the Receiver filed its first report to Court (the “**First Report**”) in support of its motion returnable October 29, 2020 seeking *inter alia* an order authorizing the Receiver to complete a specified sales process for the Company’s principal asset being a commercial rental property located at 60 Industrial Park Drive, Chesley, Ontario (the “**Chesley Property**”). A copy of the First Report (without appendices) is attached as **Appendix “B”**.
4. On October 29, 2020, the Court issued an order authorizing the Receiver to complete the sale process for the Chesley Property set out in the First Report (the “**Sale Process Order**”), a copy of which is attached as **Appendix “C”**.
5. The purpose of this Receiver’s second report to the Court (the “**Second Report**”) is to provide the Court with information regarding:
  - (a) the Receiver’s attempts to obtain the Company’s books and records and the Receiver’s communications with the Company’s principal and sole director, Ms. Yang Jiang (“**Jiang**”), generally;
  - (b) the Receiver’s findings regarding Fortune Gate Timber Products Inc. (“**Fortune Gate**”), hardwood flooring stores operating as Total Hardwood Flooring (“**Total Hardwood**”), Elite International Forest Ltd. (“**Elite**”) and Vidar Design Flooring (“**Vidar**”), all of which appear to be related to the Company and/or Jiang and appear

to be carrying on aspects of the Company's business (collectively, the "**Flooring Entities**"); and

- (c) the Receiver's recommendation for an Order, *inter alia*:
  - (i) directing Jiang to deliver to the Receiver on or before November 13, 2020, all physical and electronic books and records of Turuss and the Flooring Entities, including a complete accounting of all activities conducted by Total Hardwood up to and including the date of the Appointment Order,;
  - (ii) requiring Jiang to attend for an examination under oath by the Receiver on 3 business days notice regarding the operations of the Company and Total Hardwood as well as the Company's relationship to and interests in the Flooring Entities, both before and following the Appointment Order; and
  - (iii) such other matters considered relevant to the Receiver's administration of this proceeding.

## TERMS OF REFERENCE

6. In preparing this Second Report, the Receiver has relied on unaudited financial and other information regarding the Company and its assets, including the information provided as follows (collectively the "**Information**"):

- (a) provided by Pillar Capital Corp. ("**Pillar**") and its legal counsel, Gowling WLG (Canada) LLP;
- (b) obtained by attending at the Chesley Property;
- (c) provided by a former employee of Turuss, who has been retained by the Receiver on a contract basis;
- (d) as set out in the Dizep Affidavit, filed in connection with the application for the Appointment Order;
- (e) as provided by The Manufacturers Life Insurance Company ("**Manulife**");

- (f) obtained by attending at two locations identified as being leased by Turuss (Canada) Industry Co., Ltd o/a Total Hardwood Flooring from Emix Ltd. (“**Emix**”), as follows: (i) Total Hardwood Flooring at 1099 Kingston Rd E., Pickering Ontario (“**Total Hardwood Pickering**”), and (ii) an unmarked unit in a retail plaza at 2600 John Street, Suite 206, Markham, Ontario (“**Total Hardwood Markham**”);
- (g) obtained by an employee of Total Hardwood Pickering; and
- (h) as otherwise available to the Receiver and its counsel.

7. Except as describe in this Second Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with the Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada.

8. All currency references are in Canadian Dollars unless otherwise specified.

#### **REQUESTS TO OBTAIN ACCESS TO THE COMPANY’S BOOKS AND RECORDS**

9. Shortly after its appointment, the Receiver attended at the Chesley Property and met with Jamie Hingston (“**Hingston**”), the on-site property maintenance manager and the only former employee of Turuss known to the Receiver. Hingston advised that, to his knowledge, all of the Company’s books and records of Turuss were kept and maintained by Jiang at another location.

10. On October 5, 2020, Dentons Canada LLP (“**Dentons**”), counsel to the Receiver sent a notice to Jiang demanding the production by Jiang of all books and records related to Turuss in accordance with the provisions of the Appointment Order. A copy of the notice dated October 5, 2020 is attached as **Appendix “D”**.

11. After receiving no response from Jiang, Dentons sent another e-mail correspondence to Jiang on October 30, 2020 (the “**October 30 Email**”). Jiang replied on the same date requesting contact information for the Receiver, which were provided by Dentons shortly thereafter. A copy of the October 30, Email and Jiang’s response is attached as **Appendix “E”**.

12. On November 5, 2020, the Receiver sent an e-mail (the “**November 5 Email**”) to Jiang again requesting delivery of the Company’s books and records. As detailed below, the Receiver had since become aware that Turuss may have had additional business operations, and/or interests in other corporations. Therefore, in addition to requesting access to the books and records of Turuss, the Receiver requested that Jiang provide all details of any business or other operations of Turuss that were conducted or continuing other than at the Chesley Property. A copy of November 5 Email including Jiang response is attached as **Appendix “F”**.

13. As of the issuance of this Second Report, Jiang has failed to provide any of the books and records of the Turuss, or any information with respect of any additional operations of the Company or any interest that Turuss may have in the Flooring Entities, despite the Receiver’s repeated requests.

#### Total Hardwood Flooring

14. On the evening of November 3, 2020, the Receiver received an e-mail from Oren Chaimovitch of Devry Smith Frank LLP (the “**DSF E-mail**”) as counsel to Emix, landlord of Total Hardwood Pickering. The DSF E-mail indicated that a lease exists as between Turuss (Canada) Industry Co., Ltd. o/a Total Hardwood Flooring, as tenant, and Emix, as landlord and Fortune Gate as indemnifier of the Turuss obligations under the lease. The DSF E-mail further advised that Turuss was in default and had mistakenly issued a Statement of Claim against Turuss (given the stay of proceedings contained in the Appointment Order) with respect to the default of the lease (the “**Emix Statement of Claim**”) since Emix just recently became aware of the Receiver’s appointment. Attached as **Appendices “G”** and “**H**” is the DSF E-mail and Emix Statement of Claim, respectively.

15. Prior to the receipt of the DSF E-Mail, the Receiver was not made aware of any interest of Turuss in any other business activity generally, other than related to the Chesley Property. More specifically, the Receiver had no knowledge of the existence and operations of Total Hardwood Flooring, nor any knowledge of any existing lease agreements in relation to Total Hardwood Pickering.

16. On November 5, 2020, the Receiver spoke with Mr. Chaimovitch and advised that the Receiver was investigating these previously unknown locations of Turuss and would advise of its intentions regarding same as soon as possible.

17. The Receiver attended at the Total Hardwood Pickering and the Total Hardwood Markham on November 4, 2020.

18. The Total Hardwood Pickering is a retail storefront for the sale of hardwood and laminate flooring. An employee was present, Courtney Rutledge (“**Rutledge**”), who identified himself as the sole employee at Total Hardwood Pickering. Rutledge noted to the Receiver that Total Hardwood Flooring operates an additional location in Barrie, Ontario, however, although the two share a name and a website, the two locations are not owned or controlled by the same entity. Rutledge discussed some of the product offerings with the Receiver and of note was that the main product offered by Total Hardwood Flooring was engineered hardwood flooring produced by Vidar Design Flooring (“**Vidar**”).

19. While attending at the Total Hardwood Markham, the Receiver noted that there was no exterior signage present and that the leased unit, while containing office furniture and other contents, did not appear to be occupied.

20. The Receiver’s search of Total Hardwood Flooring’s website, [www.totalhardwoodflooring.com](http://www.totalhardwoodflooring.com), indicated that an additional location exists at 131 Saunders Road, Barrie, Ontario (the “**Total Hardwood Barrie**”).

21. On November 6, 2020, the Receiver attended at the Total Hardwood Barrie. Similar to Total Hardwood Pickering, the store was open and sells hardwood and laminate flooring products. Only one employee was present, Chris Garratt (“**Garratt**”). Garratt advised the Receiver that he was the only employee at Total Hardwood Barrie and that while Total Hardwood Barrie and Total Hardwood Pickering share a website and trade name, that they are owned and operated by separate entities.

22. The specifics of the operating structure outlined by Rutledge and Garratt are unknown by the Receiver.

Fortune Gate Timber Products Inc.

23. The Receiver took possession large equipment that was previously used by Turuss (the “**Snow Removal Equipment**”) located at the Chesley Location. An Ontario *Personal Property Security Act* search conducted on Fortune Gate reveals that the Snow Removal Equipment is owned by Fortune Gate. A corporate a search of Fortune Gate dated September 23, 2020, lists Jiang as the sole director with a registered address at 1775 Sismet Road, Unit 2, Mississauga, Ontario (the “**Mississauga Location**”).

24. The Emix Statement of Claim identifies Fortune Gate as the indemnifier of Turuss’ lease obligations for the Total Hardwood Pickering location.

Elite International Forest Ltd.

25. In its initial meeting with the Company’s only known employee Hingston, the onsite property manager, Hingston advised that Turuss had provided him with group health benefits through Manulife (the “**Manulife Plan**”).

26. The Receiver contacted Manulife to arrange continuing coverage for Hingston as a condition of his employment by the Receiver. Manulife confirmed that the Manulife Plan had 13 active members and would not continue coverage solely for Hingston. Included in the list of active members was Rutledge. The Receiver was able to make alternative coverage arrangements for Hingston and terminated the Manulife Plan on October 2, 2020.

27. The Receiver was contacted on November 6, 2020 by Steven Li, an employee of Elite located in Vancouver, British Columbia, to inquire as to why the Receiver had terminated the group benefits plan for employees of Elite. On the same date, the Receiver was contacted by a representative of Manulife’s in-house legal counsel inquiring as to the relationship as between Turuss and Elite.

28. It is unclear as to what relationship exists as between Turuss and Elite, however it is apparent that Turuss maintained the Manulife Plan for employees of various other entities, including Elite and Total Hardwood Flooring.

29. A search of Vidar's website, [www.vidarflooring.com](http://www.vidarflooring.com), states that Vidar is the flagship flooring brand under Elite. Further, the Vidar website shows that Vidar's Ontario office is the same as Fortune Gate's registered address, specifically the Mississauga Location.

## **CONCLUSION AND RECOMMENDATION**

30. Despite the Receiver's repeated requests for the delivery of the Turuss books and records, Jiang has failed to respond to the Receiver and deliver the books records in accordance with the Appointment Order. In addition, following the Receiver's investigations into the operations of Turuss, it appears Jiang is continuing certain aspects of the Turuss' business as Total Hardwood Flooring. Furthermore, the relationships and potentially interconnected operations of the Flooring Entities is unclear and might be being concealed by Jiang.

31. Based on the above and the lack of cooperation and information provided by Jiang, the Receiver has concerns that there may be additional assets owned by Turuss, and/or operations being conducted by Jiang in the name of Turuss to which liabilities may be incurred by Turuss, of which the Receiver is currently unaware. The issues outlined above have the potential to prejudice the receivership administration and the various stakeholders in these proceedings.

32. Additionally, the Receiver cannot discharge its duties as Receiver without production of all of the books and records. The failure on the part of Jiang to provide the books and records necessitates the Receiver expending additional time and resources seeking out the information from third parties, thereby increasing the costs of the receivership for all of the Company's stakeholders.

33. The books and records are urgently required, especially since it appears that Jiang is continuing to operate Turuss at different locations throughout Ontario.

34. Further, any additional delay with respect to the production of the books and records may impact the Receiver's ability to effectively conduct the previously approved sale process in respect of the Chesley Property. Many of the documents and information requested by the Receiver may need to be available to all potential purchasers for the purposes of conducting due diligence in respect of Turuss and the Chesley Property.

35. Jiang is the sole director and officer of the Company. The books and records of the Company are, or should be, within her possession and control. The Receiver is of the view that the relief sought is both appropriate and necessary in light of the difficulty it has faced to date in obtaining even the most basic financial information and records in respect of the Company's business.

36. Accordingly, the Receiver is respectfully requesting that this Court issue an Order granting the relief set out in paragraph 5 of this Second Report.

**MNP Ltd, in its capacity as the  
Court-appointed Receiver and Manager of  
Turuss (Canada) Industry Co., Ltd.  
and not in its personal or corporate capacity**

Per:

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

**APPENDIX "A"**

Court File No. CV-20-00646729-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE	)	FRIDAY, THE 18TH
	)	
MR. JUSTICE HAINEY	)	DAY OF SEPTEMBER, 2020

PILLAR CAPITAL CORP.

Applicant

- and -

TURUSS (CANADA) INDUSTRY CO., LTD.

Respondent

**ORDER**  
(appointing Receiver)

THIS APPLICATION made by the Applicant 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. ("MNP") as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Turuss (Canada) Industry Co., Ltd. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day by judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic,

ON READING the affidavit of Steve Dizep sworn September 4, 2020 and the Exhibits thereto, the pre-filing report of the proposed Receiver dated September 15, 2020, and the exhibits thereto (collectively, the "Pre-Filing Report"), and on hearing the submissions of counsel for the Applicant, counsel for the proposed Receiver, those other parties listed on the counsel slip, no one else appearing for any other party although duly served as appears from the affidavit of service of Angelica Wilamowicz sworn September 10, 2020, and on reading the consent of MNP to act as the Receiver.

## APPOINTMENT

1. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, MNP is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor and all proceeds thereof (collectively, the "Property"), including but not limited to the lands and premises listed in Schedule "A" hereto (the "Real Property").

## RECEIVER'S POWERS

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

- 3 -

- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

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

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property including as against the Real Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) 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;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

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

### DISTRIBUTION OF RENTAL REVENUE

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to distribute to the Applicant leasing revenue generated from the Real Property, either in whole or in part, up to the amount of the total indebtedness owing to the Applicant, subject to the Applicant entering into the Reimbursement Agreement (as defined in the Pre-Filing Report), substantially in the form attached to the Pre-Filing Report.

### DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs 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.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and

shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

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

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

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

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. 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**

10. 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**

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

#### **CONTINUATION OF SERVICES**

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

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

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

#### **EMPLOYEES**

14. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such

employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### PIPEDA

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

#### LIMITATION ON ENVIRONMENTAL LIABILITIES

16. 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* 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

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

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

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

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

#### FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$750,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim

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

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

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

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

#### SERVICE AND NOTICE

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

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that

any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### GENERAL

27. THIS COURT ORDERS that the Receiver is hereby authorized and empowered, but not obligated, to cause the Debtor to make an assignment in bankruptcy and nothing in this Order shall prevent the Receiver from acting as trustee in the Debtor's bankruptcy.

28. 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.

29. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

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

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



**SCHEDULE "A"**

**DESCRIPTION OF REAL PROPERTY**

The lands and premises municipally known as 60 Queen Street North / 60 Industrial Park Road, Chesley, Ontario and legally described as:

- **PIN 33183-0177 (LT):** PT PARKLT T, U PL 217 PT 6 ,7 3R7734; MUNICIPALITY OF ARRAN-ELDERSLIE
- **PIN 33183-0178 (LT):** LT 13-34, 36-47, 50-61, 65-76, 80-91, 96-101 PL 310; MCGAW ST, HIGH ST PL 310 S/T & T/W R376714; PT PARKLT T, U PL 217 & PT RIVER ST PL 310 CLOSED BY CH7716, PT 1 & 5 3R7740, PT 1, 2, 4 3R7734; PT FAIRVIEW AV, RIVER ST PL 310 PT 1, 2, 4 3R4763, PT 11 3R7734 CLOSED BY R374503, PT 1, 2, 3 3R6870 CLOSED BY R339205, PT 6, 7 3R4763 CLOSED BY CH7716; PT LANE PL 310 CLOSED BY CH7716, BTN LT 13 TO 22 PL 310; LANE LYING NORTHERLY OF LT 23 TO 32, PL 310; PT LANE PL 310 LYING EASTERLY AND ABUTTING LT 32 TO 34, PL 310 CLOSED BY R374503 PT 7, 8, 9 3R7740; LANE PL 310 BTN HIGH ST AND MCGRAW ST EXTENDING FROM QUEEN ST TO FAIRVIEW AV; LANE PL 310 BTN RIVER ST AND HIGH ST EXTENDING FROM QUEEN ST TO FAIRVIEW AV; LANE PL 310 BTN LT 40 TO 43, 54 TO 57, 69 TO 72, 84 TO 87, 100 & 101 PL 310, CLOSED BY R374503; LANE PL 310 BTN LT 100 & 101; PT LORNE ST PL 310 PT 3 3R7740, S/T R377152, PT 9, 10 3R7734, S/T R375072, CLOSED BY R374503;S/T R278375,R324241, R356491, R356492, R380920, R380921; MUNICIPALITY OF ARRAN-ELDERSLIE

## SCHEDULE "B"

## RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that MNP Ltd., the receiver (the "Receiver") of the assets, undertakings and properties Turuss (Canada) Industry Co., Ltd. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 18th day of September, 2020 (the "Order") made in an action having Court file number CV-20-00646729-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

- 2 -

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

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

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

MNP LTD., solely in its capacity  
as Receiver of the Property, and not in its personal  
capacity

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

Name:

Title:

PILLAR CAPITAL CORP.

- and -

TURUSS (CANADA) INDUSTRY CO., LTD.

Applicants  
APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended

Respondent

<p><b>ONTARIO</b></p> <p><b>SUPERIOR COURT OF JUSTICE</b> <b>(COMMERCIAL LIST)</b></p> <p>PROCEEDING COMMENCED AT TORONTO</p> <p><b>RECEIVERSHIP ORDER</b></p> <p><b>GOWLING WLG (CANADA) LLP</b> Barristers &amp; Solicitors 1 First Canadian Place 100 King Street West, Suite 1600 Toronto ON M5X 1G5 Tel: 416-862-7525 Fax: 416-862-7661</p> <p><b>Thomas Gertner (LSO# 67756S)</b> Tel: 416-369-4618 <a href="mailto:thomas.gertner@gowlingwlg.com">thomas.gertner@gowlingwlg.com</a></p> <p>Solicitors for the Applicant</p>
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**APPENDIX "B"**

Court File No. CV-20-00646729-00CL

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

**BETWEEN:**

**PILLAR CAPITAL CORP.**

Applicant

- and -

**TURUSS (CANADA) INDUSTRY CO., LTD.**

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

**FIRST REPORT OF MNP LTD. AS RECEIVER AND MANAGER OF THE ASSETS,  
UNDERTAKINGS AND PROPERTIES OF TURUSS (CANADA) INDUSTRY CO., LTD.**

**OCTOBER 21, 2020**

## TABLE OF CONTENTS

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ACTIVITIES OF THE RECEIVER .....	5
SALE PROCESS .....	7
CONCLUSION.....	9

## APPENDICES

**Appendix “A”** – Appointment Order, Dated September 18, 2020

**Appendix “B”** – Pre-Filing Report of the Proposed Receiver

**Appendix “C”** – Sale Process and Bidding Procedures

## INTRODUCTION AND PURPOSE

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated September 18, 2020 (the “**Appointment Order**”), MNP Ltd. (“**MNP**”) was appointed as the receiver and manager (the “**Receiver**”) without security, of the assets, undertakings and properties of Turuss (Canada) Industry Co., Ltd (“**Turuss**” or the “**Company**”). A copy of the Appointment Order is attached as **Appendix “A”**.
2. The circumstances leading to the appointment of the Receiver are set out in the affidavit of Steve Dizep dated sworn September 4, 2020 (the “**Dizep Affidavit**”) and included in the Application Record dated September 4, 2020.
3. The Company’s primary asset is a 340,000 square foot industrial building located on 34 acres of land located at 60 Industrial Park Road, Chesley, Ontario (the “**Property**”). A substantial portion of the Property is now leased to Bruce Power LP (“**Bruce Power**”).
4. The purpose of this First Report to the Court (the “**First Report**”) is to:
  - (a) update the Court with respect to the Receiver’s activities since the date of its appointment, and seek approval for those activities;
  - (b) summarize the contemplated solicitation and marketing process to be conducted by the Receiver for the Property (the “**Sale Process**”); and
  - (c) provide the Court with the Receiver’s recommendation for an Order, *inter alia*,:
    - (i) approving the First Report and the Receiver’s activities;
    - (ii) authorizing and directing the Receiver to carry out the Sale Process; and
    - (iii) such other relief as this Court may seem just.

**TERMS OF REFERENCE**

5. In preparing this Report, the Receiver has relied on unaudited financial and other information regarding the Company and its assets, including the information provided as follows (collectively the “**Information**”):
  - (a) provided by Pillar Capital Corp. (“**Pillar**”) and its legal counsel, Gowling WLG (Canada) LLP;
  - (b) obtained by attending at the Property;
  - (c) provided by the only known employee of Turuss, who has been retained by the Receiver on a contract basis;
  - (d) provided by the Property Manager (as defined below) who reports to the Receiver, including financial information supplied by the Property Manager;
  - (e) provided by CBRE Limited (“**CBRE**”) and Colliers International (“**Colliers**”), that provided marketing and listing proposals for the Property;
  - (f) as set out in the Dizep Affidavit, filed in connection with the application for the Appointment Order; and
  - (g) as otherwise available to the Receiver and its counsel.
6. Except as describe in this First Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with the Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada.
7. All currency references are in Canadian Dollars unless otherwise specified.

## BACKGROUND

8. As at the date of the Appointment Order, Turuss was indebted to Pillar in the amount of approximately \$2,032,000, plus any accrued interest, fees and costs. As referenced in the Pre-Filing Report (as defined herein), Pillar is the senior secured creditor of Turuss.
9. Turuss initially operated a hardwood flooring manufacturing, import and distribution business from the Property (the “**Flooring Business**”). Upon ceasing the Flooring Business, approximately 162,000 square feet of the Property was leased to Bruce Power. Bruce Power continues to occupy the Property in accordance with the governing lease agreement (as amended) dated November 30, 2018, entered into between Turuss and Bruce Power (the “**Bruce Power Lease**”).
10. Certain equipment and inventory related to the Flooring Business, which included wood handling, flooring manufacturing and lifting equipment (the “**Remaining Assets**”) are located in the unleased portion of the Property.
11. Additional information about the Company is contained in the Receiver’s pre-filing report to the Court as the proposed Receiver, dated September 15, 2020 (the “**Pre-Filing Report**”). A copy of the Pre-Filing Report is attached as **Appendix “B”**, without appendices.

## ACTIVITIES OF THE RECEIVER

12. Since the date of its appointment, the Receiver has, *inter alia*:
  - (a) secured and taken possession of the Property, and transferred accounts for utilities and all other applicable service accounts into the Receiver’s name;
  - (b) arranged for insurance coverage in respect of the Property;
  - (c) issued the notices required pursuant to Sections 245 and 246 of the *Bankruptcy and Insolvency Act* to the known creditors of Turuss and forwarded to the Office of the Superintendent of Bankruptcy;

- (d) established a website for these Receivership proceedings, [www.mnpdebt.ca/turuss](http://www.mnpdebt.ca/turuss);
- (e) delivered correspondence to the sole officer/director of Turuss for the delivery of the Turuss books and records;
- (f) filed with Service Canada an application under the *Wage Earner Protection Program Act* (“**WEPPA**”) for the benefit of the former employee;
- (g) calculated the WEPPA claims of the former employee of Turuss and communicated with them. As noted above, the Receiver entered into a short-term contract with the former employee of Turuss, as a daily on-site supervisor and maintenance manager;
- (h) contacted Canada Revenue Agency (“**CRA**”) to obtain information regarding any statutory obligations and other amounts due to CRA that might have priority to the Applicant;
- (i) issued two Receiver’s Certificates to Pillar in the total amount of \$475,000 in order to fund the Receiver’s initial expenses associated with the maintenance of the Property, and to pay all outstanding realty taxes in the amount of approximately \$375,000;
- (j) entered into a property management agreement with Richmond Advisory Services Inc. (“**Richmond**” or the “**Property Manager**”) as property manager to assist with the management of the Property including the receipt of the rental income from Bruce Power and the payment of the expenses associated with the maintenance of the Property;
- (k) met with Bruce Power, as the sole tenant of the Property, and subsequently negotiated into a lease amendment to the Bruce Power Lease addressing, among other things, an expansion of the leased space by Bruce Power;
- (l) consulted with commercial realtors in relation to the sale of the Property;
- (m) obtained two liquidation proposals for the Remaining Assets; and

- (n) entered negotiations for the terms of a Liquidation Agreement for the Remaining Assets to be conducted by Leveredge Asset Solutions Inc., the proceeds of which are not expected to exceed the limitation on the sale of assets by the Appointment Order in the amount of \$250,000 for any single transaction or \$500,000 for the aggregate of all transactions.

## **SALE PROCESS**

- 13. The Appointment Order, among other things, authorizes the Receiver to market and sell the Property.
- 14. With respect to a marketing and solicitation strategy for the Property, the Receiver consulted with two commercial real estate firms with respect to a marketing and listing proposal. The Receiver also considered implementing a marketing and solicitation process with the support of MNP LLP's internal corporate finance group that has the necessary commercial real estate experience to actively market and solicit interest in the Property.
- 15. After considering the approaches above, the Receiver has determined that the most reasonable and commercially efficient approach to market and solicit interest in the Property would be to have the Receiver implement the Sale Process. As part of this assessment, the Receiver considered the preliminary fee estimates provided by the commercial real estate firms and the potential cost savings available to the receivership estate if the Receiver conducted the process.
- 16. The Receiver has developed the proposed Sale Process to solicit bids by a set bid deadline. The Receiver is of the view that the proposed Sale Process balances the need to have a sale accomplished in a reasonable timeframe to limit the carrying costs associated with the Property with the desire to properly expose the Property to the marketplace to maximize recoveries for the stakeholders.
- 17. The Receiver seeks Court approval for the Sale Process. A copy of the Sale Process, including a bidding procedure, is attached to this Report as **Appendix "C"**.

18. In summary, the Sale Process would commence upon the issuance by this Court of an order approving the Sale Process (the “**Commencement Date**”) and be conducted on the following timeline (capitalized terms are as defined in the Sale Process):

Event		Timeline
1	Receiver to prepare the list of Interested Parties, the Teaser, the NDA, the Data Room, CIM, APS, and draft advertisements	10 days, commencing on October 29 <sup>th</sup> , 2020
2	Publish notice of the Sale Process in a nationally circulated newspaper	During the week of November 9, 2020 and again during the week of November 30, 2020
3	Publish notice of the Sale Process on the Receiver’s website and through the Insolvency Insider e-mail publication	Commencing on November 9, 2020
4	Distribute Teaser and the NDA to those identified as Interested Parties	Commencing on November 9, 2020
5	Commence distribution of CIM and providing data room access to Prospective Offerors, after receiving executed copy of NDA (subject to the Receiver’s discretion)	Commencing on November 9, 2020
6	Plan and provide tours of the Property	From November 16, 2020 to January 8, 2020
7	Discussion with Prospective Offerors to provide updates and to address any reasonable diligence queries	From November 23, 2020 to January 8, 2020
8	Deadline for submission of Offers	January 11, 2021 at 5:00 PM (Toronto Time)
9	Acceptance of Successful Offer(s)	Up to 10 days after the submission deadline

10	Court motion to approve Successful Offer(s)	As soon as possible after acceptance
11	Complete transaction(s)	Within 5 days after Court Approval, expected to be no later than February 12, 2021

19. Although the Sale Process establishes a bid deadline, the Receiver also seeks the flexibility to be able to accept any bid received any time, terminate the proposed Sale Process at any time and immediately enter into discussions with a bidder with a view of finalizing the transaction contemplated by such bid.
20. The Sale Process also provides for the comparison of multiple offers inherently maximizing sale value. The Receiver's proposed Sale Process will also set to limit the due diligence period required by prospective purchasers during which time the property would be essentially "off the market", if being sold by a real estate broker.
21. The Receiver is satisfied that the Sale Process represents a commercially reasonable and efficient process which allows for sufficient time for the Property to be exposed to the market in order to maximize the value of the Property. The Sale Process is supported by Pillar.

## CONCLUSION

22. The Receiver is satisfied that the proposed Sale Process represents the most efficient and fair process to be administered in the circumstances that will sufficiently expose the Property for sale to the marketplace and generate the maximum values. Furthermore, the Receiver's recommendation is supported by the Company's senior secured lender, Pillar.

23. Based on the foregoing, the Receiver respectfully requests that the Court make an order granting the relief detailed in paragraph 4(c) of this Report.

**MNP Ltd, in its capacity as the  
Court-appointed Receiver and Manager of  
Turuss (Canada) Industry Co., Ltd.  
and not in its personal or corporate capacity**

Per:

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

**APPENDIX "C"**

Court File No. CV-20-00646729-00CL

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

THE HONOURABLE )

THURSDAY, THE 29th

JUSTICE CAVANAGH )

DAY OF OCTOBER, 2020



BETWEEN:

**PILLAR CAPITAL CORP.**

Applicant

and

**TURUSS (CANADA) INDUSTRY CO., LTD.**

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE*  
*ACT*, R.S.O. 1990, c. C-43, AS AMENDED

**SALE PROCESS ORDER**

THIS MOTION, made by MNP Ltd., in its capacity as Court appointed receiver and manager (the “Receiver”) of the assets, undertakings and properties of Turuss (Canada) Industrial Co., Ltd. (“Turuss”) for an order approving the sale process, set out in Schedule “A” hereto (the “Sale Process”), was heard this day via videoconference due to the COVID-19 pandemic.

ON READING the First Report of the Receiver dated October 21, 2020 (the “First Report”), and on hearing the submissions of counsel for the Receiver, and any such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of Amanda Campbell sworn October 22, 2020 filed:

- 2 -

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is abridged and validated such that this Motion is properly returnable today, and further service of the Notice of Motion and the Motion Record is hereby dispensed with.

**RECEIVER'S ACTIVITIES**

2. **THIS COURT ORDERS** that the First Report is approved and the activities of the Receiver as described therein.

**SALE PROCESS**

3. **THIS COURT ORDERS** that the Sale Process be and is hereby approved and that the Receiver is authorized and directed to commence the Sale Process for the purpose of soliciting interest in and opportunities for a sale of the property and assets of Turuss.

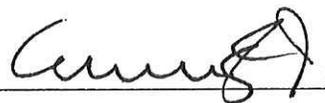
4. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to perform its obligations under the Sale Process, and to do all things reasonably necessary to do so.

5. **THIS COURT ORDERS** the Receiver and its respective affiliates, partners, employees and agents shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of the Sale Process, except to the extent such losses, claims, damages or liabilities result from gross negligence or wilful misconduct of the Receiver in performing its obligations under the Sale Process (as determined by this Court).

- 3 -

GENERAL

6. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions on the discharge of its duties and powers hereunder.



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ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

OCT 30 2020

PER / PAR:



Schedule "A" – Sale Process

**Turuss (Canada) Industry Co., Ltd.**  
**Sale Process**

**Purpose**

1. The proposed sale process (the "**Sale Process**") for Turuss (Canada) Industry Co., Ltd. ("**Turuss**") for sale of its assets and business (collectively, the "**Property**") would be conducted by MNP Ltd. in its capacity as court-appointed receiver and manager (the "**Receiver**") with the input and assistance of Dentons Canada LLP (the "**Legal Counsel**"), in accordance with the terms and timeline set out below.
2. Any contemplated sale shall be subject to approval by the Court.
3. Unless otherwise indicated herein, any event that occurs on a day that is not a business day shall be deemed to occur on the next business day.
4. Notwithstanding anything contained herein, the Receiver shall have the right to enter into an exclusive transaction for the sale of the Property, or any portion thereof, outside the Sale Process prior to the selection of a Successful Offeror.

**Sale Process Procedures**

5. The Receiver, in conjunction with MNP LLP's real estate and corporate finance groups will compile a list of prospective purchasers (together with any other party expressing an interest in the Property, the "**Interested Parties**"). The Receiver will make reasonable efforts to canvass the interest (if any) in the Property, of all Interested Parties.
6. The sale of the Property will be on an "*as is, where is*" basis without representations or warranties of any kind, nature or description by the Receiver, or any of their respective directors, officers, partners, employees, agents, advisors or estates, except to the extent as may be set forth in a Successful Offer (as defined herein), and approved by the Court. By submitting a bid, each Prospective Offeror (as defined herein) shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Property prior to making its bid, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its bid, and that it did not rely upon any written or oral statements, representations, warranties, or guarantees, express, implied, statutory or otherwise, regarding the Property or the completeness of any information provided in connection therewith, except as expressly stated in this Sale Process or as set forth in a Successful Offer and approved by the Court.

- 2 -

7. The Receiver will distribute to Interested Parties an interest solicitation letter ("**Teaser**") which will provide an overview of this opportunity. A Confidentiality and Non-Disclosure Agreement ("**NDA**") will also be distributed to the Interested Parties. Interested Parties will be required to sign the NDA in order to gain access to confidential information and to commence performing due diligence, if the Receiver determines that such Interested Party has a *bona fide* interest in the purchase of the Property (hereinafter referred to as a "**Prospective Offeror**"). All NDA's shall enure to the benefit of any purchaser of the Property.
8. The Receiver will provide to each Prospective Offeror: (i) a confidential information memorandum ("**CIM**") prepared with information available to the Receiver, (ii) access to a secure electronic data room (the "**Data Room**") established by the Receiver with information and documentation in the possession of the Receiver (which will include certain relevant and customary financial, operational and other information regarding the Property), and (iii) a proposed form of agreement of purchase and sale with the Receiver named as vendor (the "**APS**").
9. The Receiver will also facilitate, due diligence by Prospective Offerors, including arranging site visits, as the Receiver determines appropriate. The Receiver may also attend such site visits as it considers appropriate.
10. Notwithstanding paragraph 8 above, the Receiver shall have the right to deny or limit any Prospective Offeror's access to confidential information at any time, which may include denying access to confidential information, if in the Receiver's reasonably held view such Prospective Offeror is not likely to be serious about submitting an offer for the Property.
11. The Receiver makes no representation or warranty as to the information to be provided through this due diligence process or otherwise.

### **Timeline**

12. A chart summarizing the material deadlines for the Sale Process is set out below:

<b>Event</b>		<b>Timeline</b>
1	Receiver to prepare the list of Interested Parties, the Teaser, the NDA, the Data Room, CIM, APS, and draft advertisements	10 days, commencing on October 29 <sup>th</sup> , 2020

- 3 -

2	Publish notice of the sale in a nationally circulated newspaper	During the week of November 9, 2020 and again during the week of November 30, 2020
3	Publish notice of the sale on the Receiver's website and through the Insolvency Insider e-mail publication	Commencing on November 9, 2020
4	Distribute Teaser and the NDA to those identified as Interested Parties	Commencing on November 9, 2020
5	Commence distribution of CIM and providing data room access to Prospective Offerors, after receiving executed copy of NDA (subject to the Receiver's discretion as outlined herein)	Commencing on November 9, 2020
6	Plan and provide tours of the Property	From November 16, 2020 to January 8, 2020
7	Discussion with Prospective Offerors to provide updates and to resolve their queries	From November 23, 2020 to January 8, 2020
8	Deadline for submission of Offers	January 11, 2021 at 5:00 PM (Toronto Time) (the "Deadline")
9	Acceptance of Successful Offer(s)	Up to 10 days after the Deadline
10	Court motion to approve Successful Offer(s)	Following selection of Successful Offer(s)
11	Complete transaction(s)	Within 5 days after Court Approval, expected to be no later than February 12, 2021

- 4 -

13. Subject to any Order of the Court, the dates set out in the Sale Process may be extended by the Receiver for a total period no greater than (3) weeks, in its sole discretion acting reasonably, all with a view of maximizing the value of the Property.

#### Submission of Offers

14. The Receiver shall seek binding offers and accompanying materials from Prospective Offerors (a "**Binding Offer**") in accordance with the timeline set out above that provides for:
- (a) delivery of the Binding Offer by the Prospective Offeror on or before the Deadline;
  - (b) the identity of each person or entity (including its shareholders) that is sponsoring or participating in the Binding Offer and the complete terms of such participation, evidence of corporate authority, and proof of such offeror's financial ability to perform the proposed transaction to the satisfaction of the Receiver, acting reasonably;
  - (c) a binding offer capable of acceptance and irrevocable 15 days after the Deadline;
  - (d) all Binding Offers are to be accompanied by a deposit (the "**Deposit**") in the form of a wire transfer (to a bank account specified by the Receiver), in an amount equal to at least 10% of the total consideration contained in the Binding Offer;
  - (e) an agreement in the form of the APS, with any changes contained in the Binding Offer blacklined against the Receiver's form of APS;
  - (f) includes an acknowledgement and representation that the Prospective Offeror: (i) has had an opportunity to conduct any and all due diligence regarding the Property prior to making its bid, (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents, the Property and/or any other assets to be acquired and liabilities to be assumed in making its bid, and (iii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the business and/or assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly stated in any definitive documents;
  - (g) no conditions based upon: (i) the outcome of any further due diligence, (ii) obtaining financing, or (iii) any other conditions to closing, except the usual limited conditions such as the issuance by the Court of an order approving the transaction and vesting title in and to the Prospective Offeror.

- 5 -

15. Each offer submitted in accordance with paragraph 14 above shall be a "**Qualified Offer**" and each such offeror a "**Qualified Offeror**", as determined by the Receiver.
16. The Receiver may determine whether to entertain Binding Offers for the Property that do not conform to one or more of the requirements specified herein and deem such Binding Offers to be a Qualified Offer.

#### **Post-Offer Deadline Procedure**

17. If one or more Qualified Offers are received the Receiver may:
  - (a) accept one (or more, if for distinct transactions) Qualified Offer(s) (the "**Successful Offer**") and each Qualified Offeror making the Successful Offer(s) being a "**Successful Offeror**") and take such steps as are necessary to finalize and complete an agreement for the Successful Offer(s) with the Successful Offeror(s); or
  - (b) continue negotiations with a selected number of Qualified Offerors (collectively, "**Selected Offerors**") with a view to finalizing one or more agreements with one or more Selected Offerors.
18. The Receiver shall not be under any obligation to accept the highest or best (or any) Qualified Offer and any selection of the Successful Offer(s) and the Selected Offeror(s) shall be entirely in the discretion of the Receiver, in consultation with the Legal Counsel. For greater certainty, the Receiver is hereby permitted to decline acceptance of any and all Binding Offers, including Qualified Offers.
19. A Binding Offer may not be withdrawn, modified or amended without the written consent of the Receiver prior to the Successful Offer being determined. Any such withdrawal, modification or amendment made without the written consent of the Receiver prior to the Successful Offer being determined shall result in the forfeiture of such Prospective Offeror's deposit as liquidated damages and not as a penalty.
20. No one, including any Interested Parties, Prospective Offerors, Qualified Offerors or Successful Offerors, shall be entitled to nor permitted any break, termination or similar fee or reimbursement of any kind. For greater certainty, all such persons shall be responsible for their own fees and costs of any kind, including those relating to any due diligence they may have performed, and any offers they each may make.
21. In the event a Qualified Offeror is not selected as a Successful Offeror, the Deposit shall be returned to the Qualified Offeror as soon as reasonably practicable.

**Other Terms**

22. If a Successful Offeror breaches its obligations under the terms of its offer, and if the Receiver chooses not to proceed with the Successful Offeror, any Deposit submitted in connection with the Successful Offer shall be forfeited to the Receiver as liquidated damages and not as a penalty.
23. The Receiver may: (a) determine which Qualified Offer, if any, is the highest or otherwise best offer, (b) reject at any time before the issuance and entry of an order approving a Successful Offer, any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Sale Process or any order of the Court, or (iii) contrary to the best interests of the receivership estate, and (c) may modify the Sale Process or impose additional terms and conditions on the sale of the Property, acting reasonably.
24. The Receiver shall not have any liability whatsoever to any person or party, including without limitation any Interested Parties, Prospective Offerors, Qualified Offerors or Successful Offers, Turuss, or any creditor or other stakeholder, for any act or omission related to the Sale Process. By submitting a bid, each Prospective Offeror shall be deemed to have agreed that it has no claim against the Receiver for any reason whatsoever.
25. Following the selection of the Successful Offer(s), and subject to the timeline set out above, the Receiver shall bring a motion to the Court (the "**Approval Motion**") for an order, substantially in the form of the Approval and Vesting Order attached to the APS, and authorizing the Receiver to take such further actions as may be necessary or appropriate, to give effect to the Successful Offer(s) and vest the Turuss interest in the Property to the Successful Offeror(s).
26. Following the granting of any Approval and Vesting Order by the Court, the Receiver shall take all reasonable steps necessary to complete the transaction set forth in the Successful Offer in accordance with the timeline set out above.
27. Notwithstanding anything else contained herein, if it becomes evident to the Receiver that no Qualified Offers will be received, the Receiver, may terminate the Sale Process.
28. This Sale Process is solely for the benefit of the Receiver and nothing contained in the Sale Process Order or this Sale Process shall create any rights in any other person or bidder (including without limitation rights as third party beneficiaries or otherwise).

PILLAR CAPITAL CORP.  
Applicant

- and -

TURUSS (CANADA) INDUSTRY CO., LTD.  
Respondent

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

PROCEEDING COMMENCED AT TORONTO

**SALE PROCESS ORDER**

**DENTONS CANADA LLP**  
77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, Ontario M5K 0A1

**Robert Kennedy (LSO #474070)**  
Tel: (416) 367-6756  
Fax: (416) 863-4592  
[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)

**Daniel Loberto (LSO # 79632Q)**  
Tel: (416) 863-4760  
[daniel.loberto@dentons.com](mailto:daniel.loberto@dentons.com)

*Lawyers for the Receiver*

**APPENDIX "D"**

October 5, 2020

**Sent Via E-mail:**  
**jiangyang818@gmail.com**

Yang Jiang  
9 Highview Crescent  
Richmond Hill, ON L4B 2T6

Dear Ms. Jiang:

**RE: The Receivership Proceedings of Turuss (Canada) Industry Co., Ltd.**  
**Court File Number: CV-20-00646729-00CL**

We are counsel to MNP Ltd., in its capacity as Court appointed receiver and manager (the “**Receiver**”) of Turuss (Canada) Industry Co., Ltd. (“**Turuss**”).

We have been instructed by our client to send this letter in response to your recent communications with Bruce Power L.P. (“**Bruce Power**”) demanding payments for unpaid property taxes and utilities owed to Turuss, among other things. As you are well aware, pursuant to the Receivership Order dated September 18<sup>th</sup>, 2020 (the “**Receivership Order**”), a copy of which is attached for your reference, the Receiver has exclusive authority over the assets, undertakings and properties of Turuss which obviously includes the lands municipally known as 60 Industrial Park Road, Chesley, Ontario (the “**Lands**”), and all dealings associated with the Lands including the Bruce Power commercial lease. For your reference, paragraph 2 of the Receivership Order provides:

#### RECEIVER’S POWERS

2. 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:

...

- f) **to receive and collect all monies and accounts now owed or hereafter owing to the Debtor** and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- g) **to settle, extend or compromise any indebtedness owing to the Debtor;**

...

- r) **to take any steps reasonably incidental to the exercise of these powers** or the performance of any statutory obligations;

Your communications and demands upon Bruce Power are in direct violation of the Receivership Order. Our client takes this violation very seriously and such conduct will not be tolerated. You are to immediately cease all communications with Bruce Power (and any parties in relation to the Lands), failing which, our client will seek the appropriate relief from the Court which may include a contempt Order against you which can carry the sanction of imprisonment.

The Receiver has also not been able to locate any books and records of Turuss (the "**Books and Records**") in order to allow it to complete its duties pursuant to the Receivership Order. Given your role at Turuss, we refer you to paragraphs 4, 5, and 6 of the Receivership Order:

#### DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. This Court orders that (i) the Debtor, (ii) **all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.**

5. This Court orders **that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs 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.

6. This Court orders that **if any Records are stored or otherwise contained on a computer or other electronic system of information storage**, whether by independent service provider or otherwise, **all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein** whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the

information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, **all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records** as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

We understand that you are the sole director of Turuss. In light of the foregoing, we hereby demand that you immediately make the Books and Records available to the Receiver. In addition to the foregoing, the Receiver is requesting all information relating to all the subsidiaries of Turuss (which may include Total Hardwood Flooring) (collectively, the "**Turuss Enterprise**"), and any information relating to any other operating locations for the Turuss Enterprise.

We request that you confirm to our office in writing your compliance of the above on or before October 9, 2020, failing which, the Receiver has instructed our office to take all appropriate legal action.

Nothing contained in or omitted from this letter is or shall be deemed to be a limitation, restriction, or waiver of any of the Receiver's rights or remedies, either at law or in equity, in connection with any of the matters addressed herein, all of which are expressly reserved.

We look forward to your early reply.

Yours truly,

**Dentons Canada LLP**



Robert J. Kennedy  
Partner

RJK/dl

Attachment

**APPENDIX "E"**

**Michael Litwack**

---

**From:** Loberto, Daniel <daniel.loberto@dentons.com>  
**Sent:** October 30, 2020 1:35 PM  
**To:** Yang Jiang  
**Cc:** Kennedy, Robert; Campbell, Amanda; Jerry Henechowicz; Michael Litwack  
**Subject:** RE: The Receivership Proceedings of Turuss (Canada) Industry Co., Ltd. (CV-20-00646729-00CL)

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Good afternoon Ms. Jiang,

The contacts at MNP are Jerry Henechowicz ([Jerry.Henechowicz@mnp.ca](mailto:Jerry.Henechowicz@mnp.ca)) and Michael Litwack ([michael.litwack@mnp.ca](mailto:michael.litwack@mnp.ca)). Please provide the books and records as soon as possible.

Daniel



**Daniel Loberto**  
Associate

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[daniel.loberto@dentons.com](mailto:daniel.loberto@dentons.com)  
[Bio](#) | [Website](#)

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 77 King Street West, Suite 400, Toronto-Dominion Centre Toronto, ON M5K 0A1 Canada

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**From:** Yang Jiang <jiangyang818@gmail.com>  
**Sent:** Friday, October 30, 2020 1:30 PM  
**To:** Loberto, Daniel <daniel.loberto@dentons.com>  
**Cc:** Kennedy, Robert <robert.kennedy@dentons.com>; Campbell, Amanda <amanda.campbell@dentons.com>  
**Subject:** Re: The Receivership Proceedings of Turuss (Canada) Industry Co., Ltd. (CV-20-00646729-00CL)

Hi Mr. Loberto,

I missed the email on October 5th.

Could you please provide me the contact information from MNP who is taking care of the books and records.

Thanks and regards,

YANG JIANG

Loberto, Daniel <[daniel.loberto@dentons.com](mailto:daniel.loberto@dentons.com)> 于2020年10月30日周五 上午11:09写道 :

Ms. Jiang,

We refer to the correspondence delivered to your attention on October 5, 2020; a copy is attached for your reference (the “**Correspondence**”). Our office has not yet received a reply from you with respect to this Correspondence.

As stated in the Correspondence, the Receiver has not been able to locate any books and records of Turuss to allow it to complete its duties pursuant to the Receivership Order dated September 18, 2020. **We hereby demand that you immediately make any books and records of Turuss available to the Receiver as soon as possible.** In addition to the foregoing, the Receiver is requesting all information relating to all the subsidiaries of Turuss (which may include Total Hardwood Flooring) (collectively, the “**Turuss Enterprise**”), and any information relating to any other operating locations for the Turuss Enterprise. If you fail to do so, the Receiver has instructed our office to take all appropriate legal action.

Your immediate attention is required.

Daniel Loberto



**Daniel Loberto**  
Associate

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[daniel.loberto@dentons.com](mailto:daniel.loberto@dentons.com)  
[Bio](#) | [Website](#)

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---

**From:** Campbell, Amanda <[amanda.campbell@dentons.com](mailto:amanda.campbell@dentons.com)>  
**Sent:** Monday, October 5, 2020 11:44 AM  
**To:** [jiangyang818@gmail.com](mailto:jiangyang818@gmail.com)  
**Cc:** Kennedy, Robert <[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)>; Loberto, Daniel <[daniel.loberto@dentons.com](mailto:daniel.loberto@dentons.com)>  
**Subject:** The Receivership Proceedings of Turuss (Canada) Industry Co., Ltd. (CV-20-00646729-00CL)

Ms. Jiang,

Please see the attached letter from Robert Kennedy.

Kind regards,

Amanda



**Amanda Campbell**

Legal Assistant to Robert Kennedy, Sara-Ann Van Allen and Mark Freaque

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**APPENDIX “F”**

**Michael Litwack**

---

**From:** Yang Jiang <jiangyang818@gmail.com>  
**Sent:** November 6, 2020 2:53 PM  
**To:** Michael Litwack  
**Cc:** Loberto, Daniel; Kennedy, Robert; Jerry Henechowicz  
**Subject:** Re: The Receivership Proceedings of Turuss (Canada) Industry Co., Ltd. (CV-20-00646729-00CL)

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Good afternoon Mr. Litwack,

Apologies for the delay to reply regarding the books and records. My waist got really hurt last Sunday and I was not able to move in the previous days.

I am working the books and records today, and I have couple of questions regarding below:  
bank statements- how many months you request?

Payroll records-Do you request Employee's payslips or Payroll summary of employees?

T4s- Do you request both T4 summary for employer and T4s for each different employee?

Thanks and regards,

YANG JIANG

Michael Litwack <[Michael.Litwack@mnp.ca](mailto:Michael.Litwack@mnp.ca)> 于2020年11月5日周四 下午1:58写道 :

Ms. Jiang,

The Receiver has not yet received any further communication from you with respect to the books and records of Turuss (Canada) Industry Co., Ltd. ("Turuss").

We demand that you immediately provide us with the books and records of Turuss, including, but not limited to the following:

- Bank statements;
- Financial statements (internally and externally prepared);
- Copies of annual income tax returns;
- Copies of provincial sales tax returns;
- Copies of any trust examination and assessment notices by the Canada Revenue Agency;
- Payroll records;
- Copies of any T4s and ROEs; and
- Access to, or a backup of, any digital accounting software used by Turuss.

Additionally, we require details of all business and operations of Turuss that was conducted outside of the premises at 1 Industrial Park Rd in Chesley, Ontario.

If needed, we can arrange for a courier to pickup physical records.

We expect your immediate attention to this matter and we require a response by no later than November 9<sup>th</sup>, 2020.

Sincerely,

**Michael Litwack, JD, CIRP, LIT**  
MANAGER, CORPORATE RECOVERY AND RESTRUCTURING

**DIRECT 647.475.4589**  
111 Richmond Street West  
Suite 300  
Toronto, ON  
M5H 2G4  
[michael.litwack@mnp.ca](mailto:michael.litwack@mnp.ca)  
[mnpdebt.ca](http://mnpdebt.ca)



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---

**From:** Yang Jiang <[jiangyang818@gmail.com](mailto:jiangyang818@gmail.com)>  
**Sent:** October 30, 2020 1:43 PM  
**To:** Loberto, Daniel <[daniel.loberto@dentons.com](mailto:daniel.loberto@dentons.com)>  
**Cc:** Kennedy, Robert <[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)>; Campbell, Amanda <[amanda.campbell@dentons.com](mailto:amanda.campbell@dentons.com)>; Jerry Henechowicz <[Jerry.Henechowicz@mnp.ca](mailto:Jerry.Henechowicz@mnp.ca)>; Michael Litwack <[Michael.Litwack@mnp.ca](mailto:Michael.Litwack@mnp.ca)>  
**Subject:** Re: The Receivership Proceedings of Turuss (Canada) Industry Co., Ltd. (CV-20-00646729-00CL)

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Thanks Mr. Loberto.

I will contact them regarding to provide the matters of books and records.

thanks

YANG JIANG

Loberto, Daniel <[daniel.loberto@dentons.com](mailto:daniel.loberto@dentons.com)> 于2020年10月30日周五 下午1:34写道 :

Good afternoon Ms. Jiang,

The contacts at MNP are Jerry Henechowicz ([Jerry.Henechowicz@mnp.ca](mailto:Jerry.Henechowicz@mnp.ca)) and Michael Litwack ([michael.litwack@mnp.ca](mailto:michael.litwack@mnp.ca)). Please provide the books and records as soon as possible.

Daniel



**Daniel Loberto**  
Associate

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**From:** Yang Jiang <[jiangyang818@gmail.com](mailto:jiangyang818@gmail.com)>  
**Sent:** Friday, October 30, 2020 1:30 PM  
**To:** Loberto, Daniel <[daniel.loberto@dentons.com](mailto:daniel.loberto@dentons.com)>  
**Cc:** Kennedy, Robert <[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)>; Campbell, Amanda <[amanda.campbell@dentons.com](mailto:amanda.campbell@dentons.com)>  
**Subject:** Re: The Receivership Proceedings of Turuss (Canada) Industry Co., Ltd. (CV-20-00646729-00CL)

Hi Mr. Loberto,

I missed the email on October 5th.

Could you please provide me the contact information from MNP who is taking care of the books and records.

Thanks and regards,

YANG JIANG

Loberto, Daniel <[daniel.loberto@dentons.com](mailto:daniel.loberto@dentons.com)> 于2020年10月30日周五 上午11:09写道 :

Ms. Jiang,

We refer to the correspondence delivered to your attention on October 5, 2020; a copy is attached for your reference (the "**Correspondence**"). Our office has not yet received a reply from you with respect to this Correspondence.

As stated in the Correspondence, the Receiver has not been able to locate any books and records of Turuss to allow it to complete its duties pursuant to the Receivership Order dated September 18, 2020. **We hereby demand that you immediately make any books and records of Turuss available to the Receiver as soon as possible**. In addition to the foregoing, the Receiver is requesting all information relating to all the subsidiaries of Turuss (which may include Total Hardwood Flooring) (collectively, the "**Turuss Enterprise**"), and any information relating to any other operating locations for the Turuss Enterprise. If you fail to do so, the Receiver has instructed our office to take all appropriate legal action.

Your immediate attention is required.

Daniel Loberto



**Daniel Loberto**

Associate

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**From:** Campbell, Amanda <[amanda.campbell@dentons.com](mailto:amanda.campbell@dentons.com)>

**Sent:** Monday, October 5, 2020 11:44 AM

**To:** [jiangyang818@gmail.com](mailto:jiangyang818@gmail.com)

**Cc:** Kennedy, Robert <[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)>; Loberto, Daniel <[daniel.loberto@dentons.com](mailto:daniel.loberto@dentons.com)>

**Subject:** The Receivership Proceedings of Turuss (Canada) Industry Co., Ltd. (CV-20-00646729-00CL)

Ms. Jiang,

Please see the attached letter from Robert Kennedy.

Kind regards,

Amanda

**Amanda Campbell**

Legal Assistant to Robert Kennedy, Sara-Ann Van Allen and Mark Freaque

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**APPENDIX "G"**

**Michael Litwack**

---

**From:** Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>  
**Sent:** November 3, 2020 9:21 PM  
**To:** Jerry Henechowitz; Michael Litwack  
**Cc:** Tracey Mason  
**Subject:** Receivership of Turuss (Canada) Industry Co., Ltd.  
**Attachments:** Issued Statement of Claim.pdf

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Jerry and Michael,

We are lawyers for Emix Ltd., the landlord of Turuss (Canada) Industry Co., Ltd. o/a Total Hardwood Flooring at 1099 Kingston Road, Pickering. Turuss has been in default under its lease with our client for some time. Our client commenced an action against Turuss pursuant the attached statement of claim, not aware of the receivership.

Turuss seems to be open for business at the above-mentioned location. Our client has not yet terminated Turuss' lease. Will you be binging the rent current and paying rent going forward, or is our client free to terminate the lease for non-payment?

Please advise as to the claims procedure. I realize it is early in the process, but do you anticipate there being funds available for unsecured creditors?

Yours truly,

Oren Chaimovitch  
**Devry Smith Frank LLP**  
100-95 Barber Greene Road  
Toronto, ON  
M3C 3E9  
Direct: 416-446-3342  
Fax: 416-449-7071

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**APPENDIX "H"**



Electronically issued : 25-Sep-2020  
Délivré par voie électronique : 25-Sep-2020  
Oshawa

*ONTARIO*

**SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**EMIX LTD.**

Plaintiff

-and-

**TURUSS (CANADA) INDUSTRY CO., LTD. operating as TOTAL HARDWOOD  
FLOORING and FORTUNE GATE TIMBER PRODUCTS INC.**

Defendants

**STATEMENT OF CLAIM**

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiffs' lawyer or, where the Plaintiffs do not have a lawyer, serve it on the Plaintiffs, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM and \$2,000.00 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff(s) claim and \$100.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: September , 2020

Issued by \_\_\_\_\_  
Local Registrar

Address of court office:  
150 Bond Street East  
Oshawa, Ontario L1G 0A2

TO: Turuss (Canada) Industry Co., Ltd. operating as Total Hardwood Flooring  
1099 Kingston Rd Unit 6,  
Pickering, ON L1V 1B5

AND TO: Turuss (Canada) Industry Co., Ltd. operating as Total Hardwood Flooring  
2600 John Street Suite 206  
Markham, ON L3R 3W3

AND TO: Fortune Gate Timber Products Inc.  
1775 Sismet Road Unit 2  
Mississauga, ON L4W 1P9

AND TO: Fortune Gate Timber Products Inc.  
c/o Yang Jiang  
18 Doncrest Road  
Richmond Hill, ON L4B 1A2

**THIS ACTION IS BROUGHT AGAINST YOU UNDER THE SIMPLIFIED  
PROCEDURE PROVIDED IN RULE 76 OF THE RULES OF CIVIL PROCEDURE**

1. The plaintiff claims the following as against the defendants:
  - (a) the sum of \$44,863.40 for arrears in rent and other charges owing up to and including September 1, 2020, pursuant to the terms of the lease more particularly described below;
  - (b) the sum of \$38,177.07, representing the next three (3) months' accelerated rent from October 1, 2020 to December 31, 2020 and applicable taxes owing pursuant to the terms of the lease more particularly described below;
  - (c) additional damages at the rate of \$12,725.69 per month for each month the rent owed is not paid;
  - (d) prejudgment interest at the rate of 7.45% per annum from the date each rent payment referred to in subparagraphs 1(a), 1(b) and 1(c) above is due but not paid to the date of payment or judgment and post-judgment interest thereafter at the rate of 7.45% per annum in accordance with the terms of the Lease or alternatively in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
  - (e) costs of this action on a substantial indemnity basis as well as all applicable tax; and
  - (f) such further and other relief as this Honourable Court deems just.

**The Parties**

2. The plaintiff, Emix Ltd. (the “Landlord”), is a corporation incorporated under the laws of the Province of Ontario, and was at all material times the landlord of the commercial property located at 1099 Kingston Road, Pickering, Ontario (the “Property”).

3. The defendant, Turuss (Canada) Industry Co., Ltd. is a corporation incorporated under the federal laws of Canada, was formerly known as 7742053 Canada Inc., and operates under the firm name and style of Total Hardwood Flooring and was at all material times the Tenant under a Lease dated October 10, 2017 (the “Lease”) for Unit 6 of the Property (the “Demised Premises”).
4. The defendant, Fortune Gate Timber Products Inc. (the “Indemnifier”) is a corporation incorporated under the federal laws of Canada and is an indemnifier of the Lease.

### **The Lease**

5. In or about May of 2011, a Lease was entered into between the Landlord, the Tenant and the Indemnifier (the “Lease” which term refers to the Lease as amended and renewed from time to time) for a premises in the Property known as Unit 7.
6. The Lease was renewed and amended by an agreement dated February 19, 2016 such that the subject premises of the lease was changed to the Demised Premises.
7. Some of the key terms of the Lease, as amended, include:
  - (a) The initial term of the Lease was for approximately 5 years to be fully completed on June 30, 2016;
  - (b) The Lease was renewed by the agreement dated February 19, 2016 such that the Lease is to be fully ended and completed on June 31, 2020 (the “Term”);
  - (c) The Basic Rent payable under the term of the Lease is an annual sum per square foot of the gross leasable area (the “Basic Rent”). The Basic Rent for the relevant period is as follows:

Year of Term	Price per sq.ft. of the Rentable Area of the Premises per annum	Yearly Basic Rent	Monthly Basic Rent
July 1, 2019- June 30, 2020	\$19.00	\$76,342.00	\$6,361.83
July 1, 2020- June 30, 2021	\$20.00	\$80,360.00	\$6,696.67

- (d) The Basic Rent under the Lease is payable in equal, consecutive, monthly instalments in advance on the first day of each month without deduction, abatement, set-off, or compensation together with applicable taxes;
- (e) It is a “Net Carefree Lease” to the Landlord and other amounts, comprising of charges, impositions, costs, expenses, taxes, maintenance charges, utilities and all other charges set out in the Lease (collectively “Additional Rent”), are payable to the Landlord monthly without deduction, abatement, set-off, or compensation.
- (f) Notwithstanding an early termination of the Lease, the Landlord shall be entitled to damages for loss of Rent suffered by reason of the Lease having been prematurely terminated; (B) the costs of recovering the Demised Premises; and (C) the payment of any cost and expenses of reletting including brokerage fees and solicitors fees and the costs of alterations and repairs.
- (g) In the event of default under the Lease by the tenant, the Landlord may require the next three (3) months' Rent and applicable taxes to become immediately due and payable.
- (h) If legal proceedings are brought for recovery of Rent, or because of a default by the Tenant, the Tenant will pay to the Landlord as Additional Rent on demand, its costs and expenses, including its solicitors' fees on a solicitor and his client's basis.
- (i) Interest accrues on unpaid Rent at the rate of 5% above daily prime bank commercial lending rate charged from time to time by the Landlord's bank (currently at 2.45%)

for a total of 7.45% per year, pro-rated from the due date of the date of payment, subject to annual compounding.

- (j) If any cheque given by the Tenant to the Landlord in payment of Rent is refused payment by the Tenant's bank for any reason, the Tenant shall immediately replace that cheque with a certified cheque or bank draft and shall pay, in addition, as Additional Rent, the sum of \$250.00 as a service charge to the Landlord.
- (k) In addition to any other remedy available to the Landlord at law or under the Lease, if the Tenant fails to make any payment of Rent on its due date, the Tenant shall pay as Additional Rent, to compensate the Landlord for any loss incurred as a result of such late payment, the greater of \$50 or 10% of the amount of the Rent overdue.

- 8. The combined monthly total of the Basic Rent and the Additional Rent (collectively "Rent") for the Premises was generally \$12,725.69 at the time of the breach of the Lease as set out below.

### **The Breach & Damages**

- 9. Commencing in or around June of 2020, the Rent fell into arrears.
- 10. The Landlord delivered Notices of Rent Default including on or about August 10, 2020 and again on September 10, 2020.
- 11. The default was not remedied.

### **The Indemnity**

- 12. On or about May of 2011, the Indemnifier executed an Indemnity Agreement in favour of the Landlord.
- 13. Pursuant to the Indemnity Agreement, forming part of the Lease, the Indemnifier as direct principal obligor agreed that at all times during the Term and any extension or renewal of the

Lease to be bound to the Landlord for performance of all obligations of the Tenant under the Lease and will indemnify and save harmless the Landlord against all or any losses which the Landlord may sustain as a result of any default by the Tenant under the Lease.

14. Accordingly, the Indemnifier is liable to the Landlord for payment of the Rent arrears and ongoing monthly Rent.

**Damages**

15. As at September 10, 2020, the total amount owing for unpaid Rent was the sum of \$83,040.47, made up of rent arrears of \$44,863.40 inclusive of applicable fees and taxes plus three months of accelerated Rent in the amount of \$38,177.07, inclusive of applicable taxes.
16. The Landlord claims further damages at the rate of \$12,725.69 per month for each month the rent owed is not paid from January 1, 2021 to June 30, 2021 and interest from the due date of the Rent payment at the rate of 7.45% per annum in accordance with the Lease
17. The Landlord pleads and relies upon the provisions of the *Commercial Tenancies Act*, R.S.O. 1990, c. C.17.

DATE OF ISSUE: September , 2020

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Lawyers & Mediators

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(416) 449-7071 fax

Lawyers for the Plaintiff

EMIX LTD.

Plaintiff

-and-

TURUSS (CANADA) INDUSTRY CO., LTD. ET AL

Defendants

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*ONTARIO*  
**SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at  
OSHAWA

---

**STATEMENT OF CLAIM**

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Lawyers for the plaintiff

PILLAR CAPITAL CORP.  
Applicant

- and -

TURUSS (CANADA) INDUSTRY CO., LTD.  
Respondent

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

PROCEEDING COMMENCED AT TORONTO

**SECOND REPORT OF THE RECEIVER**

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*Lawyers for the Receiver*

# TAB 3

Court File No. CV-20-00646729-00CL

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

THE HONOURABLE	)	TUESDAY, THE 10th
	)	
JUSTICE GILMORE	)	DAY OF NOVEMBER, 2020

B E T W E E N:

**PILLAR CAPITAL CORP.**

Applicant

– and –

**TURUSS (CANADA) INDUSTRY CO., LTD.**

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985 C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C-43, AS AMENDED

**ORDER  
(Document Production)**

**THIS MOTION**, made by MNP Ltd., in its capacity as the court appointed receiver (the “**Receiver**”) of the assets, undertakings and properties (the “**Property**”) of Turuss (Canada) Industry Co., Ltd. (the “**Debtor**”), appointed pursuant to the Order of the Honourable Justice Hainey, dated September 18, 2020 (the “**Receivership Order**”), for delivery of all physical and electronic books and records of the Debtor and related entities, and granting related relief, was heard this day by judicial videoconference via Zoom due to the COVID-19 pandemic.

**ON READING** the Second Report of the Receiver, dated November 9, 2020 (the “**Second Report**”), and on hearing the submissions of counsel for the Receiver, the Applicant and any other party appearing:

## **SERVICE**

1. **THIS COURT ORDERS** that the timing and method of service of the Notice of Motion and Motion Record is hereby abridged and validated and this Motion is properly returnable today.

## **DOCUMENT PRODUCTION**

2. **THIS COURT ORDERS AND DIRECTS** Yang Jiang (“**Ms. Jiang**”) to deliver to the Receiver on or before November 13, 2020, all physical and electronic books and records of the Debtor, and Fortune Gate Timber Products Inc. (“**Fortune Gate**”), hardwood flooring stores operating as Total Hardwood Flooring (“**Total Hardwood**”), Elite International Forest Ltd. (“**Elite**”) and Vidar Design Flooring (“**Vidar**”), all of which appear to be related to the Debtor and/or Ms. Jiang and appear to be carrying on aspects of the Debtor’s business (collectively, the “**Flooring Entities**”), including a complete accounting of all activities conducted by Total Hardwood. For greater certainty, the physical and electronic books and records include, but are not limited to, the following:

- (a) all contracts, correspondence and leases with tenants and landlords;
- (b) all bank statements and correspondence, including from September 1, 2019 onwards;
- (c) all financial statements (internally and externally prepared), including a full accounting of business conducted by the Debtor since the appointment of the Receiver;
- (d) copies of all annual income tax returns;
- (e) copies of all provincial sales tax returns;
- (f) creditor listing, including names of creditors and amounts owed to all secured creditors, unsecured creditors, utilities providers, government agencies and others;

- (g) employee information including T-4 documentation for each individual employee and summaries filed for 2018 and 2019, records of employment, and any correspondence with the Canada Revenue Agency and any assessments and statements thereof;
- (h) copies of any trust examination and assessment notices by the Canada Revenue Agency;
- (i) Harmonized Sales Tax filings including any correspondence with the Canada Revenue Agency and any assessments and statements thereof;
- (j) all payroll records, including individual pay stubs and the summaries for all of 2019 and 2020;
- (k) all benefit plan information;
- (l) access to any digital accounting software used by the Debtor (or access to a backup thereof);
- (m) access to all documentation and information with respect to all business and operations of the Debtor related to the industrial building and associated lands municipally known as 60 Queen Street North / 60 Industrial Park Road, Chesley, Ontario (collectively, the “**Industrial Facility**”), and the Flooring Entities;
- (n) all related party transaction documentation;
- (o) an accounting in respect of all amounts, including rent, received from Bruce Power L.P. with respect to the Industrial Facility; and
- (p) such other physical and electronic books and records as the Receiver consider necessary, acting reasonably.

3. **THIS COURT ORDERS AND DIRECTS** Ms. Jiang to attend for an examination under oath by the Receiver on 3 business days notice regarding the operations of the Debtor and Total Hardwood as well as the Debtor’s relationship to and interests in the Flooring Entities.

#### **RECEIVER’S ACTIVITIES AND REPORT**

4. **THIS COURT ORDERS** that the Second Report and the activities and conduct of the Receiver reported therein be and are hereby approved.

**PILLAR CAPITAL CORP.**

-and-

**TURUSS (CANADA) INDUSTRY CO., LTD.**

Applicant

Respondent

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

PROCEEDING COMMENCED AT TORONTO

**ORDER  
(Document Production)**

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*Lawyers for the Receiver*

PILLAR CAPITAL CORP.  
Applicant

- and -

TURUSS (CANADA) INDUSTRY CO., LTD.  
Respondent

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

PROCEEDING COMMENCED AT TORONTO

**MOTION RECORD**  
(returnable November 10, 2020)

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