

THE KING'S BENCH
WINNIPEG CENTRE

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF POLAR WINDOW OF CANADA LTD., ACCURATE DORWIN (2020) INC., GLASS 8 INC., NATIONAL INTERIORS (2021) INC., 12986647 CANADA LTD. o/a ALLSCO WINDOWS & DOORS, 12986591 CANADA LTD. o/a ALWEATHER WINDOWS & DOORS, POLAR HOLDING LTD., 10064720 MANITOBA LTD. AND 12986914 CANADA LTD.

(the "Applicants")

APPLICATION UNDER: THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C., c. C-36, AS AMENDED

AMENDED NOTICE OF MOTION
(STAY EXTENSION AND OTHER RELIEF)
DATE OF HEARING: FRIDAY, OCTOBER 27, 2023 AT 9:00 A.M.
THE HONOURABLE MR. JUSTICE BOCK

McDougall Gauley LLP
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CLIENT FILE NO. 549268.11

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(the "**Applicants**")

APPLICATION UNDER: THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C., c. C-36, AS AMENDED

AMENDED NOTICE OF MOTION
(STAY EXTENSION AND OTHER RELIEF)

Deloitte Restructuring Inc. (the "**Monitor**"), the court appointed monitor of Polar Window of Canada Ltd., Accurate Dorwin (2020) Inc., Glass 8 Inc., National Interiors (2021) Inc., 12986647 Canada Ltd. o/a Allsco Windows & Doors, 12986591 Canada Ltd. o/a Alweather Windows & Doors, Polar Holding Ltd., 10064720 Manitoba Ltd., and 12986914 Canada Ltd. (collectively, the "**Applicants**"), will make a motion before the Honourable Mr. Justice Bock on Friday, the 27th day of October, 2023 at 9:00 o'clock in the forenoon or so soon after that time as the motion can be heard at the Law Courts, 408 York Avenue at Kennedy Street, in the City of Winnipeg, in Manitoba.

THE AMENDED MOTION IS FOR:

1. An Order in substantially the form attached hereto as Schedule "A" to this Notice of Motion:
 - (a) abridging the time for service of this notice of motion and all other materials filed in support of the same such that this motion is properly returnable on October 27, 2023 at 9:00 a.m., and dispensing with further service thereof;

- (b) extending the Stay Period (as that term is defined in the Amended and Restated Initial Order of the Honourable Mr. Justice Bock dated February 14, 2023 (the "**ARIO**")) to December 8, 2023;
- (c) sealing the confidential supplement (the "**Confidential Supplement**") to the Fourth Report of the Monitor dated October 24, 2023 (the "**Fourth Report**");
- (d) further amending paragraph 7 of the July 21, 2023 Order (Stay Extension, Interim Distribution, and Other Relief) of the Honourable Justice Bock (the "**July 21 Order**") (as amended by the September 12, 2023 Order (Amendment to the Sale Agreement and Other Relief) of the Honourable Justice Bock (the "**September 12 Order**")) to update the amounts of the interim distributions (the "**Amended Interim Priority Distributions**") payable from the Net Proceeds (as defined in the AVO), should the Transaction close;
- (e) approving the Fourth Report and the Confidential Supplement, and the activities, actions, and conduct of the Monitor described therein;
- (f) approving the fees and disbursements of the Monitor, its legal counsel, McDougall Gauley LLP, and the Applicants' legal counsel, MLT Aikins LLP, as set out in the Fourth Report; ~~and~~
- (g) staying the Director of the Companies Office and directors of other federal and provincial companies branches from dissolving the Applicants until further order of the Court; and
- (h) such further and other relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

2. For the purposes of this application, the Monitor relies on:

- (a) sections 11 and 11.02(2) of the *CCAA*; ~~and~~
- (b) section 205 of *The Corporations Act*, CCSM c C225; and
- (c) Rules 1.04, 3.02(1), 16.04(1), and 16.08 of the *King's Bench Rules*.

3. Unless otherwise defined herein, capitalized terms will have the meanings given to them in the ARIO, the July 21, 2023 Order (the “**AVO**”), and the Sale Agreement.

SERVICE

4. The Monitor's Notice of Motion and Fourth Report were served by email on the members of the service list established in these proceedings, as contemplated by paragraph 51 of the ARIO.

EXTENDING THE STAY OF PROCEEDINGS

5. Since this matter was last before the Court on September 12, 2023, the Monitor, in consultation with The Toronto-Dominion Bank, entered into a Second Amendment to the Asset Purchase Agreement dated October 6, 2023 (the "**Second Amending Agreement**") with the Purchaser.

6. The Second Amending Agreement:

- (a) extended the Closing Date for the Transaction contemplated by the Asset Purchase Agreement (the “**APA**”), as amended by the Amendment to the APA dated August 31, 2023, from September 29 to October 27, 2023; and
- (b) increased the amount of the at-risk Deposit.

7. The Monitor's execution of the Second Amending Agreement is authorized by paragraphs 4 and 5 of the Order of the Honourable Mr. Justice Bock dated September 12, 2023.

8. The Stay Period expires on November 3, 2023. The Monitor is seeking an extension of the Stay Period until December 8, 2023 to facilitate the closing of the Transaction and allow the Monitor sufficient time to prepare a motion for a final distribution and discharge. If the Transaction does not close by October 27, 2023, then the additional time will be necessary to determine next steps.

9. The Applicants have been acting and continue to act in good faith and with due diligence, and the Purchaser is contractually bound to finance the Applicants' continued operation until the Transaction closes.

SEALING ORDER

10. The amount of the Second Amending Agreement's increased Deposit and the corresponding decrease to the Cash at Close have been redacted from the version appended to the Fourth Report. The amount of the increased Deposit has also been redacted from the Third Amendment to Interim Facility Loan Agreement appended to the Fourth Report.

11. The Confidential Supplement contains the unredacted versions of these documents. The sealing of the Confidential Supplement is being sought so as to keep the commercially sensitive terms of the Second Amending Agreement and Third Amendment to Interim Facility Loan Agreement confidential.

SECOND AMENDMENT TO THE JULY 21 ORDER

12. The Transaction has yet to close. Accordingly, the interim priority distributions contemplated by the July 21 Order (as amended by the September 12 Order) have not been made and the professional fees have continued to accrue in the meantime.

13. The Monitor is therefore seeking a further amendment to the July 21 Order authorizing the Monitor to make the Amended Interim Priority Distributions, should the Transaction close.

STAY OF THE DISSOLUTION OF THE APPLICANTS

14. The Applicants have been without directors since Messrs. Segal, Enderle, and Morris resigned in advance of the motion that resulted in the AVO and July 21 Order.

15. The Applicants have been without directors since that time.

16. On August 31, 2023, the Companies Office (Manitoba) served Polar Holding Ltd., Polar Window of Canada Ltd., National Interiors (2021) Inc., Accurate Dorwin (2020) Inc., and 10064720 Manitoba Ltd. with notices advising that the Companies Office shall dissolve the companies within 90 days of August 31, 2023 unless three individuals were appointed as directors.

17. The Applicants are unable to appoint the required directors, and a stay of the pending dissolution is necessary to allow the within proceedings to be concluded.

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

1. The pleadings filed herein;
2. The Amended and Restated Initial Order pronounced February 14, 2023;
3. The Order pronounced April 5, 2023;
4. The Approval and Vesting Order pronounced July 21, 2023;
5. The Stay Extension, Interim Distribution, and Other Relief Order pronounced July 21, 2023;
6. The Amendment to the Sale Agreement and Other Relief Order pronounced September 12, 2023;
7. The Affidavit of Stephen Segal sworn February 6, 2023;
8. The Affidavit of Stephen Segal sworn April 3, 2023;
9. The Pre-Filing Report of the Monitor dated February 7, 2023;
10. The First Report of the Monitor dated April 3, 2023;
11. The Second Report of the Monitor and the Confidential Supplement thereto, both dated July 20, 2023;

12. The Third Report of the Monitor and the Confidential Supplement thereto, both dated September 8, 2023;
13. The Fourth Report of the Monitor and the Confidential Supplement thereto, both dated October 24, 2023;
14. The Monitor's Brief of Law, to be served and filed;
15. The Affidavit of Service of Shelby Braun, to be filed; and
16. Such further and other documents and evidence as counsel may advise and this Honourable Court may permit.

October ~~23~~ 25, 2023

McDOUGALL GAULEY LLP
500 – 616 Main Street, Saskatoon SK S7J 0J6
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TO: SERVICE LIST (~~attached~~ enclosed)

SCHEDULE "A"

Court File No. CI 23-01-39360

THE KING'S BENCH
WINNIPEG CENTRE

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)	
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APPLICATION UNDER: THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C., c. C-36, AS AMENDED

ORDER
(STAY EXTENSION AND OTHER RELIEF)

THIS MOTION, made by Deloitte Restructuring Inc. in its capacity as the Court-appointed monitor (the "**Monitor**") of Polar Window of Canada Ltd., Accurate Dorwin (2020) Inc., Glass 8 Inc., National Interiors (2021) Inc., 12986647 Canada Ltd. o/a Allsco Windows & Doors, 12986591 Canada Ltd. o/a Alweather Windows & Doors, Polar Holding Ltd., 10064720 Manitoba Ltd. and 12986914 Canada Ltd. (collectively, the "**Applicants**") for an order extending the stay of proceedings from November 3, 2023 to December 8, 2023 and other relief, was heard this day at the Law Courts Building at 408 York Avenue, in the City of Winnipeg, Manitoba.

ON READING the fourth report of the Monitor dated October 24, 2023 (the "**Fourth Report**") and the confidential supplement thereto (the "**Confidential Supplement**"), and on hearing the submissions of counsel for the Monitor, the Applicants, and The Toronto-Dominion Bank ("**TD Bank**"), no one appearing for any other person on

the Service List, although properly served as appears from the affidavit of Shelby Braun sworn October 24, 2023 and the affidavit of service of Craig Frith sworn October 25, 2023; all filed:

SERVICE

1. THIS COURT ORDERS that the time for service of the Monitor's notice of motion and supporting materials is hereby abridged and validated so that the motion is properly returnable today and hereby dispenses with further service thereof.

EXTENSION OF THE STAY PERIOD

2. THIS COURT ORDERS that the Stay Period (as that term is defined in the Amended and Restated Initial Order of the Honourable Mr. Justice Bock dated February 14, 2023) is hereby extended from November 3, 2023 to December 8, 2023.

SEALING OF THE CONFIDENTIAL SUPPLEMENT

3. THIS COURT ORDERS that the Confidential Supplement and the appendices thereto be filed under seal, kept confidential, and not form part of the public record. The Confidential Supplement shall be kept separate and apart from the other contents of the Court file in a sealed envelope which sets out the style of cause of these proceedings and a statement that the contents thereof are subject to a Sealing Order, and shall not be opened except by the Registrar of this Court and the Honourable Mr. Justice Bock (or another Justice of the Court of King's Bench). The Confidential Supplement shall only be made available or form part of the public record after the Monitor's Certificate (as that term is defined in the AVO) is filed, or further Order of this Court.

SECOND AMENDMENT TO THE JULY 21, 2023 STAY EXTENSION ORDER

4. THIS COURT ORDERS that paragraph 7 of the Order (Stay Extension, Interim Distribution, and Other Relief) of the Honourable Justice Bock (as amended by the September 12, 2023 Order (Amendment to the Sale Agreement and Other Relief) of the Honourable Justice Bock) is hereby amended as follows (with the bold and underlined text to be substituted for the struck out text):

7. THIS COURT ORDERS that the Monitor shall make the following interim distributions from the Net Proceeds:

- (a) first, to reduce the amounts presently owed by the Applicants and secured by the Administration Charge:
 - (i) to Deloitte Restructuring Inc., ~~\$247,132~~ ~~\$293,171.62~~ **\$326,554** on account of the Monitor's outstanding fees and disbursements;
 - (ii) to McDougall Gauley LLP, ~~\$185,208~~ ~~\$209,561.58~~ **\$235,580** on account of its outstanding fees and disbursements;
 - (iii) to MLT Aikins LLP, ~~\$201,545~~ ~~\$197,757.25~~ **\$216,636.94** on account of its outstanding fees and disbursements;
- (b) second, in satisfaction of the DIP Lender's Charge, to TD Bank, the repayment of the DIP Facility to the maximum amount of \$2,350,000.

5. THIS COURT ORDERS that the Monitor or TD Bank may apply to this Court to further vary or amend paragraph 7 of the July 21 Order on notice to the Service List.

APPROVALS

6. THIS COURT ORDERS that:

- (a) the Fourth Report, the Confidential Supplement, and the activities, actions, and conduct of the Monitor described therein are hereby approved;
- (b) the fees and disbursements of the Monitor, its legal counsel, McDougall Gauley LLP, and the Applicants' legal counsel, MLT Aikins LLP, as set out in the Fourth Report are hereby approved.

STAY OF THE DISSOLUTION OF THE APPLICANTS

7. THIS COURT ORDERS that the Director of the Companies Branch (Manitoba) or directors of other federal or provincial companies branches shall not dissolve the Applicants as corporate entities except with the leave of this Court, and any and all steps to dissolve the Applicants currently under way against or in respect of the Applicants are hereby stayed and suspended pending further Order of this Court.

MISCELLANEOUS MATTERS

8. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicants, the Monitor and their 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 Applicants or the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants, the Monitor and their agents in carrying out the terms of this Order.

October __, 2023

BOCK, J.