

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) TUESDAY, THE 4th
)
JUSTICE GILMORE) DAY OF MAY, 2021
)

B E T W E E N:

LIQUID CAPITAL EXCHANGE CORP.

Applicant

-and-

**163556 ONTARIO INC. O/A VERSITEC MARINE & INDUSTRIAL,
VERSITEC MARINE HOLDINGS INC., VERSITEC MARINE USA INC.,
DAVID TAYLOR, REUBEN BYRD and DAVID CARPENTER**

Respondents

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
COURT OF JUSTICE ACT, R.S.O. 1990, C. C-43, AS AMENDED

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Ltd., in it's capacity as substitute receiver (in such capacity, the "**Substitute Receiver**"), without security, over all of the assets, undertakings and properties (the "**Property**") of Versitec Marine USA Inc. ("**Versitec USA**") and 1635536 Ontario Inc. o/a Versitec Marine & Industrial ("**Versitec Canada**" and together with Versitec USA, the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, for an order approving the sale transaction (the "**Transaction**") contemplated by a purchase and sale agreement (the "**Sale Agreement**") between the Substitute Receiver and Crug Ltd. (the "**Purchaser**") dated April 14, 2021 and appended to the second report of the Substitute Receiver

dated April 23, 2021 (the "**Report**"), and vesting in the Purchaser the Debtors' right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard virtually by "Zoom" videoconference on this day in Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Substitute Receiver and counsel to such other parties as reflected in the counsel slip, no one else appearing for any other person on the service list, although properly served as appears from the affidavit of Amanda Adamo, sworn April 23, 2021, filed:

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

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

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Exhibit "A" hereto (the "**Substitute Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets as described and defined in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Gilmore dated March 9, 2020; (ii) any encumbrances or charges created by the Orders of the Honourable Justice Koehnen dated February 21, 2021, (iii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal

property registry system; and (iv) those Claims listed on Exhibit “C” hereto (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Substitute Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

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

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of either or both of the Debtors and shall not be void or voidable by creditors of either or both of the Debtors, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

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

9. **THIS COURT ORDERS** that this order is effective from today's date and is enforceable without the need for entry and filing.

A handwritten signature in blue ink, appearing to read 'C. Justice Gilmore', is written above a horizontal line.

The Honourable Justice Gilmore

EXHIBIT "A"

FORM OF SUBSTITUTE RECEIVER'S CERTIFICATE

Court File No.: CV-20-00637427-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

LIQUID CAPITAL EXCHANGE CORP.

Applicant

-and-

**163556 ONTARIO INC. O/A VERSITEC MARINE & INDUSTRIAL,
VERSITEC MARINE HOLDINGS INC., VERSITEC MARINE USA INC.,
DAVID TAYLOR, REUBEN BYRD and DAVID CARPENTER**

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ACT, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE
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SUBSTITUTE RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Gilmore of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated March 9, 2020, Morgan & Partners Inc. was appointed as the receiver (the "**Receiver**") of receiver (in such capacity, the "**Receiver**") over all of the assets, undertakings and properties of Versitec Marine USA Inc. ("**Versitec USA**") and certain assets of 1635536 Ontario Inc. o/a Versitec Marine & Industrial ("**Versitec Canada**") and together with Versitec USA, the "**Debtors**";

B. Pursuant to Orders of the Honourable Justice Koehnen of the Court dated February 12, 2021, the Receiver was discharged from its active duties and BDO Canada Ltd. was appointed substitute receiver (the "**Substitute Receiver**") of all assets, undertakings and property of the Debtors that was acquired for or used in relation to a business carried on the by the Debtors;

C. Pursuant to an Order of the Court dated May 4, 2021, the Court approved the purchase and sale agreement dated April 14, 2021 (the "Sale Agreement") between the Substitute Receiver and Crug Ltd. or an affiliate of Crug Ltd. (in either scenario, the "Purchaser") and provided for the vesting in the Purchaser of the Debtors' right, title and interest in and to the Purchased Assets (as defined therein), which vesting is to be effective upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing set out in the Sale Agreement have been satisfied or waived by the Substitute Receiver and the Purchaser; and (iii) the transaction contemplated by the Sale Agreement has been completed to the satisfaction of the Substitute Receiver.

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

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Substitute Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. the conditions to Closing set out in the Sale Agreement have been satisfied or waived by the Substitute Receiver and the Purchaser; and
3. the transaction contemplated by the Sale Agreement has been completed to the satisfaction of the Substitute Receiver.
4. This Certificate was delivered by the Substitute Receiver at <●> on <●>, 2021.

**BDO CANADA LTD., in its capacity as
Court-appointed substitute receiver of all
assets, undertakings and property of the
1635536 Ontario Inc. and Versitec Marine
USA Inc., and not in its personal capacity**

Per: _____
Name: Peter Crawley
Title: Vice President

LIQUID CAPITAL EXCHANGE CORP.

-and-

1635536 ONTARIO INC., et al.

Applicant

Respondents

Court File No. CV-20-00637427-00CL

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

Proceedings commenced at Toronto

**SUBSTITUTE RECEIVER'S
CERTIFICATE**

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LIQUID CAPITAL EXCHANGE CORP.

-and-

1635536 ONTARIO INC., et al.

Applicant

Respondents

Court File No. CV-20-00637427-00CL

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

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

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