

COURT FILE NUMBER 1603 09140
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF ROYAL BANK OF CANADA
DEFENDANT GRAHAM BROTHERS CONSTRUCTION GROUP LTD.
DOCUMENT **FIFTH REPORT OF THE RECEIVER,
DELOITTE RESTRUCTURING INC.,
DATED SEPTEMBER 9, 2016**

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF PARTY
FILING THIS DOCUMENT

Ogilvie LLP
1400, 10303 Jasper Avenue
Edmonton AB T5J 3N6
Attention: Kentigern A. Rowan, Q.C.
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File No.: 3089.57
**Service will be accepted by delivery or fax. No
other form of service will be accepted.**

1. On March 18, 2016, the Defendant, Graham Brothers Construction Group Ltd. ("Graham Brothers") filed a Notice of Intention to Make a Proposal, at which time Deloitte Restructuring Inc. ("Deloitte") was named as Proposal Trustee. Graham Brothers subsequently failed to file a proposal, and was deemed bankrupt on May 17, 2016, at which time Deloitte became the Trustee in Bankruptcy of Graham Brothers.
2. By way of Order granted on May 25, 2016, Deloitte (the "Receiver") was appointed Receiver over the property of Graham Brothers in this Action. A second Order was granted at that time which provided that the rights and obligations of Deloitte as Trustee are transitioned to this Action and become the rights and obligations of Deloitte as Receiver.
3. This is the fifth report of the Receiver, the purpose of which is to seek approval to sell assets and to disburse funds to Ford Credit Canada Limited ("Ford"), a secured creditor.
4. The Amended Supplemental Third Report and Fourth Report of the Receiver provides further background regarding the Receiver's appointment and activities to date.

5. On August 9, 2016 Nur Cetin of Ford filed an Affidavit (the "Cetin Affidavit") in the Proposal Proceedings (as defined in paragraph 2 of the Receiver's Supplemental Third Report) claiming Graham Brothers is indebted to Ford for:

- \$31,768.38 plus GST for account #49017915 which relates to a 2013 Ford 350 serial number 1FT8WBT9DEA82023; and
- The following amounts for four other accounts:

<u>Ford Acct No.</u>	<u>Serial No.</u>	<u>Buyout</u>
50703816	1FT7W2B64FEA91506	\$26,609.60
50705440	1FT7W2B63FEB08991	25,772.92
50705466	1FT7W2B65FEA05877	25,477.43
50816085	1FT7W2B68FEA36671	<u>26,181.04</u>
		<u>\$104,040.99</u>

The Receiver has been informed by the Receiver's Counsel that, in their opinion, Ford has first priority over equipment as described above.

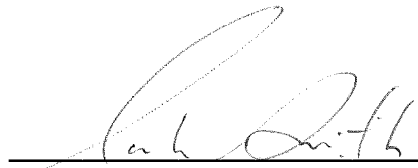
- 6. During the receivership period, the Receiver has (and continues to) rent three of the above noted vehicles to a third party wherein the Receiver has realized a total of approximately \$10,000 rental revenue to date
- 7. The Receiver has paid Ford \$33,135.45 relating to the 2013 Ford 350 serial number 1FT8WBT9DEA82023 (which was the amount owing to Ford at the date payment was made to Ford) and in turn sold this vehicle to the owner of Graham Brothers for the same amount. This selling price exceeds the appraised value received by the Receiver.
- 8. 1008786 Alberta Ltd. has offered to purchase eight Ford vehicles for \$178,000.00 plus GST. A copy of the Purchase and Sale Agreement is attached as Schedule 1. A comparison of the purchase offer to the indebtedness owing to Ford (per the Cetin Affidavit) is:

<u>Ford Acct No.</u>	<u>Serial No.</u>	<u>Buyout</u>	<u>Purchase Price</u>
50703816	1FT7W2B64FEA91506	\$26,609.60	\$27,000.00
50705440	1FT7W2B63FEB08991	25,772.92	26,000.00
50705466	1FT7W2B65FEA05877	25,477.43	26,000.00
50816085	1FT7W2B68FEA36671	26,181.04	27,000.00
N/A	1FT7W2B62EEA44635	0.00	20,000.00
N/A	1FT7W2B60EEA18664	0.00	20,000.00
N/A	1FT7W2B60EEA44634	0.00	20,000.00
N/A	1FTFW1EF8DKE63820	<u>0.00</u>	<u>12,000.00</u>
		<u>\$104,040.99</u>	<u>\$178,000.00</u>

9. The eight vehicles referred to in paragraph 8 above were appraised at \$235,000.00. After deducting estimated commissions and costs of relocating the vehicles, the offered purchase price of \$178,000.00 is reasonable as compared to the appraisal.
10. The Receiver seeks approval to sell the above noted trucks to 1008786 Alberta Ltd. for \$178,000.00 plus GST and to pay the outstanding indebtedness of \$104,040.99 owing to Ford on four of the trucks, plus per diem charges accruing since August 9, 2016. In doing so, the Receiver would retain all rental revenue from the use of these vehicles during the receivership period.

All of which is respectfully submitted.

DELOITTE RESTRUCTURING INC.,
In its capacity as Court appointed Receiver of
Graham Brothers Construction Group Ltd. and
not in its personal capacity.



Gordon Smith, CPA, CA, LIT, CBV, CFE

Schedule 1

THIS AGREEMENT MADE THIS 30 DAY OF AUGUST, 2016.

BETWEEN:

DELOITTE RESTRUCTURING INC., in its capacity as Court-Appointed Receiver of Graham Brothers Construction Group Ltd.

(the "Receiver")

OF THE FIRST PART

AND

1008786 ALBERTA LTD. operating as RPM Motors

("RPM")

OF THE SECOND PART

PURCHASE AND SALE AGREEMENT

WHEREAS the Receiver was appointed the Receiver of the property of Graham Brothers Construction Group Ltd. ("Graham Brothers") by Order of the Court of Queen's Bench of Alberta granted May 25, 2016 in Court of Queen's Bench Action No. 1603 09140;

AND WHEREAS prior to the appointment of the Receiver, Graham Brothers had entered into a lease, *inter alia*, of some of its motor vehicles, to Mortensen Canada Corporation ("Mortensen") (the "Mortensen Lease");

AND WHEREAS the eight (8) trucks described in **Schedule "A"** hereto (the "Trucks") are subject to the Mortensen Lease;

AND WHEREAS the Trucks are located on a Manitoba Hydro worksite in northern Manitoba (the "Worksite");

AND WHEREAS RPM wishes to purchase and the Receiver wishes to sell the Trucks;

NOW THEREFORE in consideration of the payment of the Purchase Price as hereinafter defined, and the terms, conditions and covenants contained herein, the parties hereto agree that:

A. SALE

1. RPM agrees to purchase the Trucks from the Receiver for the sum of \$178,000.00 plus \$8,900.00 of GST for a total purchase price of \$186,900.00 (the "Purchase Price").

B. PAYMENT OF PURCHASE PRICE

2. RPM agrees to pay the Purchase Price as follows:
 - (a) \$20,000.00 as a deposit on or before September 1, 2016 (the "Deposit"); and
 - (b) The balance of \$166,900.00 within seven (7) days of the approval by the Court of Queen's Bench of Alberta of the sale of the Trucks by the Receiver for the Purchase Price and on the terms and conditions herein contained.
3. RPM further agrees to pay any provincial sales taxes which may be applicable to the purchase and sale of the Trucks pursuant to this Agreement.

C. COURT APPROVAL

4. The Receiver agrees to make an application to the Court of Queen's Bench of Alberta for approval of the sale of the Trucks to RPM in accordance with the terms of this Agreement and for the Purchase Price herein stated within a reasonable time of the entering into of this Agreement by the Receiver and RPM and in any event, not later than October 1, 2016 or such later date as the parties hereto may agree.

D. POSSESSION

5. RPM acknowledges that the Trucks are and continue to be subject to the Mortensen Lease and that Mortensen is presently in possession of the Trucks.
6. RPM agrees that the Receiver shall be entitled to receive and retain all rental payments made by Mortensen to and including the end of the Mortensen Lease of the Trucks.
7. RPM acknowledges that the Trucks are presently located at the Worksite.
8. The Receiver agrees to deliver possession of the Trucks at the Worksite on the later of October 1, 2016 or seven (7) days after Court approval of the sale of the Trucks by the Receiver to RPM in accordance with the terms of this Agreement, provided that RPM has paid the entire Purchase Price and is otherwise not in breach of this Agreement.

E. WARRANTIES

9. RPM acknowledges that the Receiver is giving no warranty with respect to the Trucks including, but not limited to no warranty of merchantability, fitness for any purpose or warranty of title.
10. RPM agrees to accept the Trucks as-is-where-is without warranty whatsoever.

F. CONDITIONS

11. RPM acknowledges that it is a condition of this Agreement being completed that the Court of Queen's Bench of Alberta approve the sale of the Trucks to RPM for the Purchase Price herein stated and on the terms and conditions herein contained and that the Receiver has no obligations to proceed with the terms of this Agreement unless and until such approval is obtained.
12. If the Receiver is unable to obtain the approval of the Court of Queen's Bench of Alberta as herein contemplated, then the Receiver shall refund to RPM the Deposit.
13. If the Receiver obtains the approval of the Court of Queen's Bench of Alberta as contemplated herein, and RPM does not complete the purchase of the Trucks as herein contemplated and on the terms and conditions and for the Purchase Price herein stated, the Receiver shall be entitled to retain the Deposit as liquidated damages which RPM agrees are fair and reasonable in the circumstances and the Receiver shall be entitled to recover from RPM such further and other damages as the Receiver and/or the Estate of Graham Brothers may have suffered as a result of any breaches of this Agreement by RPM.

G. MISCELLANEOUS

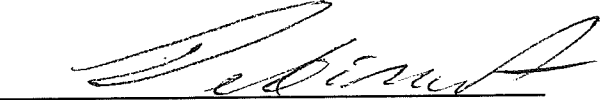
14. The parties hereto agree to execute such further agreements as may be necessary to carry into effect the intent of this Agreement.
15. RPM acknowledges that the Receiver is entering into this Agreement solely in its capacity as Court-Appointed Receiver of Graham Brothers and not in its personal capacity.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.



DELOITTE RESTRUCTURING INC.
In its capacity as Court-Appointed
Receiver of Graham Brothers Construction
Group Ltd.



1008786 ALBERTA LTD. operating as
RPM MOTORS

SCHEDULE "A"

MAKE	MODEL	SERIAL NUMBER
FORD	F-250	1FT7W2B64FEA91506
FORD	F-250	1FT7W2B63FEB08991
FORD	F-250	1FT7W2B65FEA05877
FORD	F-250	1FT7W2B68FEA36671
FORD	F-250	1FT7W2B62EEA44635
FORD	F-250	1FT7W2B60EEA18664
FORD	F-250	1FT7W2B60EEA44634
FORD	F-150	1FTFW1EF8DKE63820