



No. S230764  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

ROYAL BANK OF CANADA

PLAINTIFF

AND:

CANWEST AEROSPACE INC., CAN WEST GLOBAL  
AIRPARTS INC., THOMAS GEORGE JACKSON

DEFENDANTS

**NOTICE OF APPLICATION**

**Name of applicant:** Deloitte Restructuring Inc., in its capacity as receiver and receiver-manager (in such capacity the “**Receiver**”) of Canwest Aerospace Inc. and Can West Global Airparts Inc. (together, “**CanWest**” or the “**Companies**”)

To: The Service List attached as Schedule “A”

And To: The Notice Parties listed at Schedule “B”

TAKE NOTICE that an application will be made by the applicant to the Honourable Justice Gomery at the courthouse at 800 Smithe Street, Vancouver, British Columbia on April 2, 2024 at 10:00 a.m. for the orders set out in Part 1 below.

The applicant estimates that the application will take **1 day**.

This matter is not within the jurisdiction of an associate judge. Justice Gomery is seized of these proceedings. The time for this application has been set with Scheduling.

**Part 1 ORDERS SOUGHT**

1. An approval and reverse vesting order substantially in the form attached as Schedule “C” (the “**RVO**”), among other things:
  - (a) abridging the time for service of this notice of application to the extent necessary such that it is properly returnable on April 2, 2024; and
  - (b) approving the subscription agreement between the Receiver, as vendor, and 0854271 B.C. Ltd. (“**0854 BC**”) and 2155537 Ontario Inc. (“**2155 ON**”, and together with 0854 BC, the “**Purchaser**”), as purchaser, dated March 8, 2024 (the “**Agreement**”), and implementing the transactions contemplated by the Agreement,

including the issuance of shares, cancellation of existing equity interests, and vesting of liabilities and claims in Residual Co. (collectively, the “**Transaction**”).

2. A sealing order in substantially the form attached as Schedule “D” (the “**Sealing Order**”) sealing the Confidential Supplement to the Receiver’s Second Report dated March 19, 2024 (the “**Confidential Supplement**”).
3. Such further and other relief as the Receiver may advise and this Court may deem just and convenient in the circumstances.

## **Part 2 FACTUAL BASIS**

### **Overview**

4. Capitalized terms used but not otherwise defined in this application have the meanings given to them in the Agreement.
5. This action began over a year ago as enforcement proceedings. It was then transitioned first into failed proceedings under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”), and then into a receivership. Throughout, the Companies have been marketed under various sales processes, and the Court’s officers have each determinedly pursued transactions that failed to complete. The Receiver now seeks approval of the RVO in a final attempt to complete a transaction for the benefit of the Companies’ stakeholders.
6. Completing a transaction has proved challenging because the Companies operate in a highly-regulated industry. The reverse-vesting order structure is required to complete the Transaction order to preserve the Companies’ various licenses, certificates, and existing contracts. As further described below, notice of this application has been given to all parties that may be affected by the Transaction with as much time as possible in the circumstances.

### **Background**

7. CanWest Aerospace Inc. (“**CAI**”) and Can West Global Airparts Inc. (“**CGAI**”) are BC-based businesses that provide specialized aircraft and helicopter maintenance, repair and overhaul services, both locally and internationally.
8. Thomas Jackson is the sole director, officer and shareholder of the Companies. Tara Lundy acted as Chief Financial Officer of the Companies up until October 16, 2023, when the Receiver terminated all employees except for Mr. Jackson.<sup>1</sup> Ms. Lundy is also the sole director and beneficial owner of 0854 BC, a Purchaser entity.<sup>2</sup>
9. The Companies operate from two locations:

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<sup>1</sup> First Report of the Receiver, dated November 10, 2023 (the “**First Report**”), paras. 14, 15, 159.

<sup>2</sup> Second Report of the Receiver, to be filed (the “**Second Report**”), para. 71.

- (a) offices and a hangar located airside at Boundary Bay Airport in Delta, B.C. (the “**Delta Premises**”), which are leased by Advance Aerospace Inc. to CAI pursuant to a lease agreement dated April 19, 2023 (the “**Delta Lease**”); and
  - (b) two workshops and related storage areas located on a property owned by Ms. Lundy in Abbotsford, B.C. (the “**Abbotsford Premises**”, and together with the Delta Premises, the “**Premises**”), which are leased by Ms. Lundy to CAI pursuant to a lease agreement dated April 1, 2022 (the “**Abbotsford Lease**”).<sup>3</sup>
10. The Companies’ primary assets are the Aviation Certificates (defined below), accounts receivable, work-in-progress under existing contracts, and prepaid expenses for deposits and associated costs.<sup>4</sup>
11. The Companies operate within the heavily regulated aerospace industry. Aviation generally is regulated by Transport Canada Civil Aviation (“**TCCA**”). The Company’s business also involves controlled goods falling within the Controlled Goods Program (“**CGP**”), which is administered by Public Services and Procurement Canada (“**PSPC**”). CAI holds several certificates issued by these and other (including foreign) governing bodies, including, among others (collectively, the “**Aviation Certificates**”):
- (a) a Certificate issued by Public Works and Government Services Canada (the “**CG Certificate**”) allowing it to carry on business pursuant to the CGP, pursuant to the *Controlled Goods Regulations*, SOR/ 2011-32 (“**CG Regulations**”);
  - (b) a Certificate of Approval as an Approved Maintenance Organization (the “**AMO Certificate**”), issued by the TCCA pursuant to the *Canadian Aviation Regulations*, SOR/96-433 (“**CARS**”); and
  - (c) equivalent certificates issued under bilateral certification programs by the United States and the European Union.<sup>5</sup>
12. The Receiver understands that the Aviation Certificates are not transferrable. Further, the Receiver understands that the CG Regulations and CARS require certain persons within licensee companies to be designated persons for the purposes of ensuring regulatory compliance, and that Mr. Jackson is such designated person in respect of the Aviation Certificates for and on behalf of the Companies.<sup>6</sup>
13. As further detailed in the First and Second Reports filed in these proceedings, the Receiver has been in contact with representatives at the TCCA and PSPC regarding the CG and AMO Certificates, and understands that both remain either extant or capable of being renewed should the Transaction complete.<sup>7</sup>

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<sup>3</sup> Second Report, paras. 22-25.

<sup>4</sup> First Report, para. 11. The Companies’ assets are described in detail in the First Report at paragraphs 41-97.

<sup>5</sup> First Report, paras. 98-99, 106-107.

<sup>6</sup> First Report, paras. 100-102, 111; Second Report, para. 32 and 40.

<sup>7</sup> Second Report, paras. 35 and 44.

## Procedural History

14. On January 17, 2023, the Companies' first secured creditor, Royal Bank of Canada ("**RBC**") made demand for payment from the Companies and delivered notice of its intention to enforce its security.
15. On March 8, 2023, the Companies obtained an initial order pursuant to the CCAA following competing applications, including RBC's seeking the appointment of a receiver.
16. On March 17, 2023, this Court granted an amended and restated initial order in the CCAA proceeding, among other things, authorizing FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor (in such capacity, the "**Monitor**") to undertake a sale and investment solicitation process in respect of the Companies with the support of Mr. Jackson (the "**CCAA SISP**").<sup>8</sup>
17. On July 6, 2023, this Court granted, among others, an order approving a share purchase agreement between the Companies and Mr. Jackson, as vendors, and MAR ONE Aviation LLC ("**MAR**"), as purchaser, whereby MAR agreed to purchase Mr. Jackson's shares in the Companies for the price of USD \$1.7 million (the "**MAR Agreement**").<sup>9</sup>
18. Pursuant to the MAR Agreement, MAR provided to the Monitor a deposit in the amount of USD \$225,000, which became non-refundable once the required court-approvals were obtained. Such approvals were obtained, but the transaction under the MAR Agreement failed to close.<sup>10</sup> The CCAA proceedings collapsed in about the summer of 2023.
19. On August 29, 2023, on the renewed application of RBC, this Court granted an order appointing the Receiver (the "**Receivership Order**").
20. On November 10, 2023, the Receiver filed its First Report of the same date (the "**First Report**").
21. On November 17, 2023, this Court granted, among others, orders: (i) directing Mr. Jackson and Ms. Lundy to grant certain access to the Companies' assets, and to provide certain information to the Receiver; (ii) authorizing the Receiver to attend the Premises to remove property of the Companies' considered to be economically viable; and (iii) declaring that no rent shall be payable by the Receiver to Ms. Lundy under the Abbotsford Lease pending further court order.

## Receiver's Marketing Efforts

22. The Receiver's activities in relation to marketing the Companies and their assets is set out in greater detail in the First and Second Reports, as well as the Confidential Supplement.

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<sup>8</sup> Second Report, para. 47.

<sup>9</sup> Second Report, para. 48.

<sup>10</sup> Second Report, para. 49.

23. Given that the Companies and their assets had been exposed to the broader market during the CCAA SISP, the Receiver focussed its efforts on leveraging the Companies' contacts to source viable transactions.
24. In general terms, since its appointment the Receiver has pursued transactions with, among others, the following parties: (i) Axxeum Inc. (“**Axxeum**”), an aerospace company based in Huntsville, Alabama; (ii) Mark McGregor, the owner of a helicopter maintenance business based in Malaysia; (iii) Irshad Haroon, an aerospace businessperson based in Toronto, Ontario; and (iv) Ms. Lundy.
25. Briefly, to summarize the Receiver's dealings with these parties:
  - (a) McGregor/ Haroon LOI: On about September 29, 2023, the Receiver entered into a conditional letter of intent with Mssrs. McGregor and Haroon, whereby they provided a non-refundable deposit to the Receiver in the amount of USD \$50,000, and agreed to purchase the shares of the Companies through a reverse-vesting order transaction for the price of USD \$800,000. This transaction progressed to the exchange of definitive documents, but ultimately fell through when Mr. McGregor stepped away from it in about mid-October 2023.<sup>11</sup>
  - (b) Axxeum LOI: In about the end of December 2023, the Receiver entered into an LOI whereby Axxeum agreed to purchase certain assets of the Companies for a price comparable to that of the McGregor/ Haroon LOI. This transaction also progressed to the negotiation of an agreement, but ultimately fell through in about the end of January 2024, on account of various difficulties, including the parties being unable to agree on mutually acceptable terms for the identification, delivery and transfer of assets and information subject to regulatory restrictions.<sup>12</sup>

## Transaction

26. At a high level, the Transaction is similar to the transaction that failed to complete under the MAR Agreement in the CCAA proceedings; it will result in the Purchaser being the sole shareholder of the Companies, with the existing equity interests of Mr. Jackson being extinguished.
27. The key elements of the Transaction are as follows:
  - (a) Purchaser: 0854 BC and 2155 ON together comprise the Purchaser. These companies are controlled by Ms. Lundy and Mr. Haroon, respectively.<sup>13</sup>

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<sup>11</sup> First Report, paras. 150-156; Second Report, para. 55 and 56.

<sup>12</sup> Confidential Supplement, paras. 20-23.

<sup>13</sup> Second Report, para. 71.

- (b) Purchase Price: USD \$670,000, payable on the Closing Date, which amount is inclusive of a deposit in the amount of USD \$50,000 (the “**Deposit**”) which was paid to the Receiver on March 19, 2024.<sup>14</sup>
- (c) Subscribed Shares: On the Closing Date, the Purchaser (in various percentages) will acquire certain shares in the capital of the Companies, which on Closing shall comprise all issued and outstanding shares of the Companies.
- (d) Closing Date: This date shall be no later than four Business Days after the RVO, with the Outside Date being April 30, 2024, or such other date as the parties may agree to in writing.
- (e) Pre-closing reorganization: Prior to the Closing Date, among others, the following steps are proposed to be effected through the RVO and the Agreement:
  - (i) Residual Co. (i.e., 1206546 B.C. Ltd., a company controlled by Ms. Lundy) shall be transferred and vested with the Purchase Price, as well as the Excluded Assets, Excluded Contracts, Excluded Liabilities, and all Claims and Encumbrances (other than the Permitted Encumbrances);
  - (ii) The Companies shall retain the Retained Assets (including the Retained Contracts, discussed further below) and only the Assumed Liabilities (including, among others, the Cure Costs to be paid on Closing, and all obligations incurred prior to the Receivership Order in respect of extant employment contracts, including Mr. Jackson’s); and
  - (iii) Residual Co. shall replace the Companies as a defendant in these receivership proceedings; it is contemplated to subsequently be assigned into bankruptcy.
- (f) Releases: The Agreement and the RVO contemplate: (i) the release of Mr. Jackson by RBC; and (ii) the release of, among others, the Purchaser, and the Companies’ directors and officers from any claims relating to the Transaction, the Companies, or these receivership proceedings.
- (g) Conditions precedent: Closing of the Transaction is not subject to the Purchaser’s completion of due diligence, or any other non-standard condition. Court-approval of the RVO is the only material condition precedent to completion.

### **Reverse-Vesting Order**

28. The Transaction is required to be effected by reverse-vesting order for two primary reasons:

- (a) Aviation Certificates: These certificates, which are issued by foreign and domestic government bodies, are critical to the Companies’ business (and, accordingly, also

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<sup>14</sup> Second Report, para. 72(c).

to the Purchaser's willingness to enter into the Transaction). The Receiver has been advised by the TCCA that at least certain of the Aviation Certificates are not transferrable.<sup>15</sup>

- (b) Retained Contracts: The Companies are party to the contracts attached to the Agreement as Schedule "F", including with parties outside Canada and where counterparty consent is required to assign such contracts. The Receiver is of the view that it would be impracticable in the circumstances to force the assignment of an agreement outside of Canada, or to obtain all counterparties' consent to an assignment in a timely fashion, as would be required under any alternative transaction structure.<sup>16</sup>

29. For the foregoing reasons, the Receiver and Purchaser are of the view that the Purchaser must acquire the Companies' shares. Among other things, the Receiver understands that the Purchaser is not willing to conclude a transaction for the Companies' assets.<sup>17</sup>

### **The Notice Parties**

30. As described above, the Transaction contemplates, among other things: (a) the Companies' retaining the Retained Assets (including the Retained Contracts, as well as the Liabilities relating thereto) free and clear of all Claims and Encumbrances save for the Permitted Encumbrances; and (b) all Excluded Liabilities being vested into Residual Co., which is expected to be bankrupted.
31. As set forth in detail in the Second Report and as described further below, the Receiver is not aware of any stakeholder that would be worse off under the RVO than under any alternative, viable transaction. With that said, out of an abundance of caution the Receiver has provided notice of this application to the Notice Parties, which are listed either at Schedule "B" or otherwise on the Service List.
32. As set forth in the schedule of Notice Parties, they fall into roughly three groups: (a) Retained Contract counterparties; (b) parties whose registered charges against the Companies' assets will be vested off by the RVO, or whose statutory claims against such property will vest into Residual Co.; and (iii) the Canadian regulators.
33. The Receiver sourced the contact information for the Notice Parties from prior correspondence with them, from notice provisions in the Retained Contracts, or from BC Personal Property Registry searches. In the Receiver's view, the Notice Parties are most likely to receive notice of this application by its being sent to the contact information set forth at Schedule "B" (or in the Service List, as applicable), and that such notice is reasonable and sufficient in the circumstances.<sup>18</sup>

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<sup>15</sup> Second Report, para. 76(a)(i).

<sup>16</sup> Second Report, para. 76(a)(ii).

<sup>17</sup> Second Report, para. 76(a)(ii).

<sup>18</sup> Second Report, para. 82.

### Part 3 LEGAL BASIS

34. The Receiver relies on the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”), and the *Supreme Court Civil Rules*, B.C. Reg. 168/2009.

#### Urgency

35. The Receiver and RBC are of the view that effecting the Transaction as soon as practicable is in the best interest of the Companies’ stakeholders.<sup>19</sup> The Agreement was finalized on March 8, 2024, the Deposit was paid by the Purchaser on March 19, 2024, and this notice of application was provided to the Service List and caused to be sent to the Notice Parties on the same day. This provides 8 clear business days notice based on BC statutory holidays but, since the Court registry is closed on Friday, March 29 and Monday, April 1, pursuant to the *Rules*, provides 7 clear business days notice. In any event, the Receiver submits that notice has been provided as soon as practicable in the circumstances.
36. Pursuant to Rule 22-4(2) of the *Rules*, courts have the discretion to extend or shorten any period of time provided for, including the time for service of a notice of application.

Rule 22-4(2)

37. For the reasons set out above, the Receiver submits that it is appropriate for this Court to exercise its discretion to abridge the time required to serve the notice of application and other materials in support of this application such that the application is properly returnable on April 2, 2024.

#### The Transaction satisfies the *Soundair* principles

38. Paragraphs 2(k) through (m) of the Receivership Order empower the Receiver to market and sell the Companies’ property, and to apply for “any vesting order or other orders necessary to convey the Property...to a purchaser...free and clear of any liens or encumbrances” [Emphasis added].

Receivership Order, para. 2(k), (l), (m).

39. When determining whether or not to approve a sale in a receivership, the Court may consider the well-known considerations identified in *Royal Bank v. Soundair Corp.* (1991), 4 O.R. (3d) 1 (Ont. C.A.) [“*Soundair*”]:
- (a) whether the party conducting the sale made sufficient efforts to obtain the best price and did not act improvidently;
  - (b) the interests of all parties;
  - (c) the efficacy and integrity of the process by which offers were obtained; and

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<sup>19</sup> Second Report, para. 77.



- (d) whether there has been any unfairness in the sales process.

*Soundair*, para. 16; *Quest University Canada (Re)*, 2020 BCSC 1883, para. 176.

40. More generally, in analyzing whether a transaction should be approved taking into consideration the *Soundair* factors, a court is to consider the transaction as a whole and decide whether the sale is appropriate, fair and reasonable.

*Veris Gold Corp. (Re)*, 2015 BCSC 1204, para. 23.

41. All of the *Soundair* factors favour the approval of the Transaction. In particular:

- (a) As described above and in the First and Second Reports, the Companies and their assets were well exposed to the market over the course of the CCAA SISP and the Receiver's sale processes, and the Receiver actively pursued numerous transactions over the course of the receivership;
- (b) The interests of the Companies' stakeholders will be served by the completion of the Transaction; for instance, RBC will recover to the extent possible, Mr. Jackson will retain his employment, and the counterparties to the Retained Contracts will retain the benefits of same; and
- (c) The Companies and their assets were marketed fairly, and the Receiver dealt in good faith with the Purchaser and with all other offeror parties.

42. The Receiver has concluded, based on all information available to it, that the Purchase Price for the Subscribed Shares is commercially reasonable and will not prejudice any of the Companies' creditors or stakeholders.

43. The Receiver submits that the marketing and sale process that led to the Agreement were fair and reasonable in the circumstances. The Receiver is satisfied that the value achieved represents the best transaction available and that further marketing of the Companies' property would not result in better value for the Companies' stakeholders.

44. For the foregoing reasons, the Receiver respectfully submits that the Transaction is provident and the Agreement is commercially reasonable.

### **The RVO is necessary and appropriate**

45. The reverse vesting order structure has been implemented in various insolvency proceedings, including receiverships in order to: (a) permit a purchaser to become the sole shareholder of a debtor company; and (ii) vest a debtor company's unwanted assets and liabilities (in accordance with their preexisting priority) into another entity that is not acquired. In the result, a debtor company retains its assets, including contracts, permits and intangible assets.

*Harte Gold (Re)*, 2022 ONSC 653 [*"Harte Gold"*] at para 22.  
*Quest University Canada (Re)*, 2020 BCSC 1883 [*"Quest University"*] at para 168.

46. Although the BIA does not specifically provide the authority for reverse vesting orders, section 183 provides that the provinces' superior courts are invested with "such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy". Pursuant to section 183, this Court retains statutory discretion to apply the BIA in accordance with legal and equitable principles to give effect to the purpose of the legislation.

BIA, s. 183.

47. This Court has confirmed that this statutory discretion permits a reverse vesting order to be made in receivership proceedings.

*Peakhill Capital Inc. v. Southview Gardens Limited Partnership*, 2023 BCSC 1476, at paras 20 to 22.

48. While insolvency courts have repeatedly emphasized that the use of RVO's should not be regarded as the "norm" or "ordinary course", the same have set out a number of factors to be considered in determining whether one is appropriate, including the following:

- (a) Why is the RVO necessary in this case? As described above, the RVO is necessary because: (i) to the best of the Receiver's understanding, the Aviation Certificates are not transferrable; and (ii) the Companies are party to the Retained Contracts, which would be difficult or impracticable to assign. RVOs have been deemed appropriate in a number of cases involving debtor companies operating in heavily regulated industries having numerous and unique licensing requirements.

*Just Energy Group Inc. v. Morgan Stanley Capital Group Inc.*, 2022 ONSC 6354, paras. 33, 34, citing *Harte Gold*, and *Quest University*, among others.

- (b) Does the RVO structure produce an economic result at least as favourable as any viable alternative? Yes. Following a robust canvassing of the market, and multiple attempts to conclude a transaction, the Receiver has determined that the Transaction is the best viable transaction available, and that any alternative would result in materially less recovery for the Companies' stakeholders. Although the Purchase Price is not as high as under the MAR Agreement in the CCAA proceedings, it is comparable to the prices under the McGregor/ Haroom and Axxeum LOIs.
- (c) Is any stakeholder worse off under the RVO structure than they would have been under any viable alternative? No. In light of the outcome of the CCAA SISF and Receiver's sale processes, there are no viable alternatives that provide comparable recovery or go-forward benefit to stakeholders. The Receiver also notes that, following Closing, contract counterparties and regulators will retain their rights.
- (d) Does the consideration being paid for the business reflect the importance and value of the licenses and permits (or other intangible assets) being preserved under the RVO structure? The Receiver understands that given the business and performance risk associated with the Retained Contracts, the Purchase Price is reflective of their

value together with the Aviation Certificates. The Receiver submits that the market has been canvassed and has spoken as to the value of these assets.

*Harte Gold* at para 38.

**Residual Co. should be added as a respondent in these receivership proceedings**

49. Under the RVO, the Receiver seeks the addition of Residual Co. as a respondent in these proceedings, and the corresponding deletion of the Companies. Such is a common feature of RVO transactions.
50. The foregoing is required in order to complete the Transaction. In particular, the addition of Residual Co. will allow the Excluded Assets and Excluded Liabilities to vest in it, along with the claims of the Companies' stakeholders in their existing priority. In turn, this will allow the Purchaser to acquire all of the Companies' shares free and clear of all encumbrances.
51. As described above, upon completion of the RVO, Residual Co. is contemplated to be bankrupted. Upon vesting in it of the Excluded Assets and Liabilities, Residual Co. will be balance sheet insolvent.

**The Sealing Order is required and should be granted**

52. The Confidential Supplement contains information that is commercially sensitive to the Companies, including information relating to competing bids and their relative merits, as well as specific communications with bidders.<sup>20</sup>
53. The Sealing Order seeks to seal the Confidential Supplement on a limited basis; specifically, only until the earlier of: (i) the Closing of the Transaction; (ii) the completion of an alternative transaction involving the Companies or substantially all of their assets; or (iii) the discharge of the Receiver in these proceedings.
54. Court proceedings are presumptively open to the public. The test for ordering discretionary limits on openness as set out in *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41, was recently recast by the Supreme Court of Canada in *Sherman Estate v. Donovan*, 2021 SCC 25 [*"Sherman Estate"*], such that a person seeking a sealing order must establish that:
  - (a) court openness poses a serious risk to an important public interest;
  - (b) the sealing order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and
  - (c) as a matter of proportionality, the benefits of the sealing order outweigh its negative effects.

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<sup>20</sup> Second Report, para. 11.

*Sherman Estate*, 2021 SCC 25, para. 38.

55. In restructuring and liquidation proceedings under Canadian insolvency statutes, courts regularly grant time-bounded sealing orders over commercially sensitive information related to sale approval orders in order to avoid jeopardizing any subsequent sale process that might occur if the approved sale does not close.

56. Since *Sherman Estate*, the Ontario Court of Justice has confirmed that the protection of the integrity of a sales process and the maximization of recovery within such process is an important public interest that justifies the grant of a limited sealing order.

*Rose-Isli Corp. v. Frame-Tech Structures Ltd.*, 2023 ONSC 832, paras. 137-141; *Ontario Securities Commission v. Bridging Finance*, 2021 ONSC 4347, para. 24.

57. The Receiver submits that the Sealing Order is appropriate in the circumstances, including because, with reference to the *Sherman Estate* test:

- (a) court openness poses a serious risk to sale processes and the maximization of recovery in these proceedings (i.e., an important public interest), which risk is identified by the Receiver in the Confidential Supplement;<sup>21</sup>
- (b) the Sealing Order is necessary to prevent this risk in the absence of reasonable alternative measures; and
- (c) the Confidentiality Supplement is sought only to be sealed until the Transaction is completed; therefore, the Sealing Order is proportionate and its salutary effects outweigh any deleterious effects.

#### **Part 4 MATERIAL TO BE RELIED ON**

58. The First Report of the Receiver dated November 10, 2023;

59. The Second Report of the Receiver dated March 19, 2024;

60. The Confidential Supplement to the Second Report dated March 19, 2024 (to be filed subject to a sealing order); and

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

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application,

- (a) file an Application Response in Form 33,

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<sup>21</sup> Confidential Supplement, para. 5.

- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed Application Response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated: March 19, 2024

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Lisa Hiebert  
 Lawyer for the Receiver, Deloitte Restructuring  
 Inc.

***To be completed by the court only:***

Order made

in the terms requested in paragraphs ..... of Part 1 of  
 this Notice of Application

with the following variations and additional terms:

.....  
 .....  
 .....

Date:

.....  
 Signature of  Judge  Associate  
 Judge

The Solicitors for the Applicant are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 550 Burrard Street, Suite 2900, Vancouver, BC V6C 0A3 Telephone: +1 604 631 3131 Facsimile: +1 604 631 3232 E-mail: lhiebert@fasken.com (Reference: Lisa Hiebert/242587.00106)

## APPENDIX

### THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts
- none of the above

**SCHEDULE "A"**

Service List

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

ROYAL BANK OF CANADA

PLAINTIFF

AND:

CANWEST AEROSPACE INC.  
CAN WEST GLOBAL AIRPARTS INC.  
THOMAS GEORGE JACKSON

DEFENDANTS

**SERVICE LIST**

Updated: November 2, 2023

<b>Name of Counsel:</b>	<b>Name of Parties:</b>
Deloitte Level 19 - 410 West Georgia Street Vancouver, BC V6B 0S7  Attention: Paul Chambers Jeff Keeble  Email: pachambers@deloitte.ca jkeeble@deloitte.ca joryin@deloitte.ca  Tel: (604) 640-3368	<i>Receiver</i>
Fasken Martineau DuMoulin LLP 2900 – 550 Burrard Street Vancouver, BC V6C 0A3  Attention: Kibben Jackson Lisa Hiebert  Email: <a href="mailto:kjackson@fasken.com">kjackson@fasken.com</a> <a href="mailto:lhiebert@fasken.com">lhiebert@fasken.com</a> <a href="mailto:svolkow@fasken.com">svolkow@fasken.com</a> <a href="mailto:akumar@fasken.com">akumar@fasken.com</a>	<i>Counsel for the Receiver</i>



Name of Counsel:	Name of Parties:
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<p>DLA Piper (Canada) LLP Suite 2800, Park Place 666 Burrard St Vancouver, BC V6C 2Z7</p> <p>Attention: Colin Brousson Dannis Yang (Assistant)</p> <p>Email: colin.brousson@dlapiper.com; dannis.yang@dlapiper.com</p> <p>Tel: 604-643-6400</p>	<p><i>Counsel to the Monitor</i></p>
<p>Dentons Canada LLP 20th Floor, 250 Howe Street Vancouver, BC V6C 3R8</p> <p>Attention: Jordan Schultz Eamonn Watson Avic Arenas (Paralegal) Chelsea Denton (Assistant)</p> <p>Email: jordan.schultz@dentons.com; eamonn.watson@dentons.com; avic.arenas@dentons.com; chelsea.denton@dentons.com</p> <p>Tel: 604-691-6452 / 604-629-4997</p>	<p><i>Counsel to Royal Bank of Canada</i></p>
<p>Kornfeld LLP 1100 – 505 Burrard Street Vancouver, BC V7X 1M5</p> <p>Attention: Douglas Hyndman</p> <p>Email: <a href="mailto:dhyndman@kornfeldllp.com">dhyndman@kornfeldllp.com</a></p> <p>Tel: 604-331-8303</p>	<p><i>Counsel to Business Development Bank of Canada</i></p>

Name of Counsel:	Name of Parties:
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<p>CanWest Aerospace Inc.  4345 King Street  Delta, BC V4K 0A5</p> <p>Attention: Thomas Jackson, CEO  Tara Lundy, CFO</p> <p>Email: <a href="mailto:tomjackson346@gmail.com">tomjackson346@gmail.com</a>  <a href="mailto:taralundy7004@gmail.com">taralundy7004@gmail.com</a></p> <p>Tel: 604 532 0322</p>	
<p>Boughton Law Corporation  700 – 595 Burrard Street  Vancouver, BC V7X 1S8</p> <p>Attention: Martin Sennott  Sherri Evans</p> <p>Email: <a href="mailto:msennott@boughtonlaw.com">msennott@boughtonlaw.com</a>  <a href="mailto:sevans@boughtonlaw.com">sevans@boughtonlaw.com</a></p> <p>Tel: 604 687 6789</p>	<p><i>Counsel for Thomas George Jackson</i></p>

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**SCHEDULE "B"**

Notice Parties

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ROYAL BANK OF CANADA

PLAINTIFF

AND:

CANWEST AEROSPACE INC.  
CAN WEST GLOBAL AIRPARTS INC.  
THOMAS GEORGE JACKSON

DEFENDANTS

**NOTICE PARTIES**

<p><b>Air Ambulance Technology GmbH</b> Lamprechtshausener Str. 65, 5282 Ranshofen, Austria</p> <p>Attention: Robert Braunsberger</p> <p>Email: <a href="mailto:r.braunsberger@airambulancetechnology.com">r.braunsberger@airambulancetechnology.com</a></p> <p><i>Contract counterparty</i></p>	<p><b>Government of the People's Republic of Bangladesh, Ministry of Defence</b> <b>Directorate General Defence Purchase</b> New Airport Road, Tejgaon, Dhaka-1215, Bangladesh</p> <p>Email: <a href="mailto:info@dgdp.gov.bd">info@dgdp.gov.bd</a></p> <p><i>Contract counterparty</i></p>
<p><b>Bangladesh Airforce</b> New Airport Road, Tejgaon, Dhaka-1215, Bangladesh</p> <p>Attention: MD Zunaydul Islam</p> <p>Email: <a href="mailto:zislam.baf@gmail.com">zislam.baf@gmail.com</a></p> <p><i>Contract counterparty</i></p>	<p><b>Zara Trading</b> Road #33, House #497 (Flat: A-1), D.O.H.S., Mohakhali, Dhaka-1206, Bangladesh</p> <p>Attention: Hakim Khan Yusufzy</p> <p>Email: <a href="mailto:hakim@zaratradingbd.com">hakim@zaratradingbd.com</a></p> <p><i>Contract counterparty</i></p>

<p><b>Col M M Monwar Hossain (Retd)</b> House No-293, Road No-04, Mirpur DOHS, Mirpur, Dhaka-1216, Bangladesh</p> <p>Attention: Managing Director, Sayeedayn International Ltd.</p> <p>Email: <a href="mailto:sayeedayn@gmail.com">sayeedayn@gmail.com</a></p> <p><i>Contract counterparty</i></p>	<p><b>Advance Aerospace Inc.</b> 4345 King Street, Delta, BC V4K 0A5, Canada</p> <p>Attention: Farzun Malekani</p> <p>Email: <a href="mailto:farzun@advanceaerospace.ca">farzun@advanceaerospace.ca</a></p> <p><i>Landlord</i></p>
<p><b>Tara Lundy</b> 28629 58 Ave, Abbotsford, BC V4X 2E8, Canada</p> <p>Email: <a href="mailto:taralundy7004@gmail.com">taralundy7004@gmail.com</a></p> <p><i>Landlord</i></p>	<p><b>Tom Jackson</b> 28629 58 Ave, Abbotsford, BC V4X 2E8, Canada</p> <p>Email: <a href="mailto:tomjackson346@gmail.com">tomjackson346@gmail.com</a></p> <p><i>Shareholder/employee</i></p>
<p><b>Airworthiness</b> <b>Transport Canada / Government of Canada</b> TC Civil Aviation, 103-1785 Clearbrook Rd, Abbotsford, BC V2T 5X5</p> <p>Attention: Hugo Feunekes</p> <p>Email: <a href="mailto:hugo.feunekes@tc.gc.ca">hugo.feunekes@tc.gc.ca</a> <a href="mailto:aviation.pac@tc.gc.ca">aviation.pac@tc.gc.ca</a></p> <p><i>Regulator</i></p>	<p><b>Departmental Oversight Branch, Public Services and Procurement Canada, Government of Canada</b> L'Esplanade Laurier, West Tower, 300 Laurier Avenue West, Floor 10, Room 10149, Ottawa, ON K1A 0R5, Canada</p> <p>Attention: Bernie Martin</p> <p>Email: <a href="mailto:Bernard.Martin@tpsgc-pwgsc.gc.ca">Bernard.Martin@tpsgc-pwgsc.gc.ca</a></p> <p><i>Regulator</i></p>
<p><b>Controlled Goods Program</b> c/o PSPC Central Mail Room, Place du Portage, Phase III, 0B3 11 Laurier Street, Gatineau, QC K1A 0S5, Canada</p> <p>Email: <a href="mailto:dmc-cgd@tpsgc-pwgsc.gc.ca">dmc-cgd@tpsgc-pwgsc.gc.ca</a></p> <p><i>Regulator</i></p>	<p><b>Franco Aero Services Inc</b> 10054 Stirling Arm Crescent, Port Alberni, B.C. V9Y9C6, Canada</p> <p>Attention: Franco Gaiga</p> <p>Email: <a href="mailto:franco@francoaero.com">franco@francoaero.com</a></p> <p><i>Consignment agreement party – not retained</i></p>

<p><b>Mark McCooey</b> Email: <a href="mailto:mark@sei-ind.com">mark@sei-ind.com</a></p> <p><i>Consignment agreement party – not retained</i></p>	<p><b>XO Helicopters AS</b> Møbelvegen 1, 2860 Hov, Norway Attention: Mads Engen Sopp Email: <a href="mailto:mads@xohelicopters.com">mads@xohelicopters.com</a></p> <p><i>Consignment agreement party – not retained</i></p>
<p><b>Business Development Bank of Canada</b> 1500 – 1133 Melville Street Vancouver BC V6E 4E5</p> <p><i>Party with registered security interest</i></p>	<p><b>Coast Capital Equipment Leasing Ltd.</b> 800 – 9900 King George Blvd. Surrey BC V3T 0K7</p> <p><i>Party with registered security interest</i></p>
<p><b>TDF Group Inc.</b> 17631 103 Ave NW Edmonton AB T5S 1N8</p> <p><i>Party with registered security interest</i></p>	<p><b>Receivables Management Office – Tara Klingspohn</b> 1802 Douglas Street, 6<sup>th</sup> Floor Victoria BC V8T 4K6</p> <p><i>Party with registered security interest</i></p>
<p><b>Lawson Lundell LLP</b> 1600 – 925 West Georgia Street Vancouver BC V6C 3L2 Attention: William Roberts and Baylee Hunt</p> <p>Email: <a href="mailto:wroberts@lawsonlundell.com">wroberts@lawsonlundell.com</a> and <a href="mailto:bhunt@lawsonlundell.com">bhunt@lawsonlundell.com</a></p>	

**SCHEDULE "C"**

Draft Reverse Vesting Order



**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

ROYAL BANK OF CANADA

PLAINTIFF

AND:

CANWEST AEROSPACE INC.  
CAN WEST GLOBAL AIRPARTS INC.  
THOMAS GEORGE JACKSON

DEFENDANTS

**ORDER MADE AFTER APPLICATION**  
**(APPROVAL AND REVERSE VESTING ORDER)**

BEFORE THE HONOURABLE  
JUSTICE GOMERY

)  
)  
)

April 2, 2024

**ON THE APPLICATION** of Deloitte Restructuring Inc., in its capacity as Receiver and Receiver and Manager (in such capacity, the “**Receiver**”) of Canwest Aerospace Inc. and Can West Global Airparts Inc. (together, the “**Company**”), coming on for hearing at Vancouver, British Columbia on this 2nd day of April 2024; **AND ON HEARING** [●] counsel for the Receiver, and those other counsel listed on **Schedule “A”** hereto; **AND UPON READING** the material filed including, among other things, the Receiver’s First Report, dated November 10, 2023 (the “**First Report**”) and the Receiver’s Second Report dated March 19, 2024 (the “**Second Report**” and together with the First Report, the “**Reports**”); **AND PURSUANT TO** the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended (the “**BIA**”), the *British Columbia Supreme Court Civil Rules* and the inherent jurisdiction of this Honourable Court;

**THIS COURT ORDERS AND DECLARES THAT:**

## **SERVICE**

1. The time for service of the Notice of Application and supporting materials for this Order is hereby abridged such that the Notice of Application is properly returnable today, and service thereof upon any interested party other than those listed on the Service List is hereby dispensed with.

## **DEFINITIONS**

2. Unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meanings given to them in the Subscription Agreement dated March 8, 2024 between the Receiver and 0854271 B.C. Ltd. and 2155531 Ontario Inc. (together, the “**Purchaser**”) attached as **Schedule “B”** (as may be amended, supplemented or otherwise modified from time to time in accordance with the terms of that agreement and this Order, the “**Agreement**”).

## **APPROVAL AND VESTING**

3. The Agreement and the transactions contemplated therein (collectively, the “**Transactions**”) are hereby approved, and the Agreement is hereby declared to be commercially reasonable. The Receiver is hereby authorized and directed to perform its obligations under the Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions, including cancellation of the Existing Shares and the issuance of the Subscribed Shares to the Purchaser, including any additional documents contemplated by the Agreement or required to implement the Transactions.

4. This Order shall constitute the only authorization required by the Receiver to proceed with the Transactions including, without limitation, no director, shareholder or other approval shall be required and no authorization, approval or other action or filing is required for the due execution, delivery and performance by the Receiver and the Purchaser of the Agreement and the completion of the Transactions.

5. The following shall occur and shall be deemed to have occurred at the Effective Time (as defined below), all in accordance with the Closing Sequence set out in the Agreement and the steps contemplated thereunder:

- (a) the Purchaser shall pay to the Receiver the balance of the Transaction Price, being US\$620,000, to be held in escrow on behalf of the Company, and to be dealt with in accordance with this Closing Sequence;
- (b) 1206546 B.C. Ltd. (“**Residual Co.**”) shall be added as a Defendant in these Receivership Proceedings and all references in any Order of this Court in respect of these receivership proceedings to (i) the “Company” shall refer to and include Residual Co., *mutatis mutandis*, and (ii) “Property” shall include the current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of Residual Co., as applicable, including the Excluded Assets (the “**Residual Co. Property**”), and, for greater certainty, each of the charges granted by the Receivership Order made in these proceedings on August 29, 2023 and charges granted by the orders made in Action No. S-231354 shall constitute charges on the Residual Co. Property;
- (c) the Company shall transfer to and Residual Co. shall assume the Excluded Assets, the Excluded Contracts, and the Excluded Liabilities, and all Claims and Encumbrances, other than the Permitted Encumbrances (as defined in the Agreement and as also listed on Schedule “C” hereto), shall be discharged from and against the Company, all in accordance with this Order;
- (d) all of the Company’s right title and interest in and to the Excluded Liabilities, all Claims and Encumbrances, but specifically excluding the Assumed Liabilities and Permitted Encumbrances, shall be channeled to, assumed by and vest absolutely and exclusively in Residual Co., such that: (i) such Excluded Liabilities, Claims, and Encumbrances shall continue to attach to the Excluded Assets, the Excluded Contracts, and all other property and assets of the Residual Co., with the same nature and priority as they had immediately prior to the Effective Time; (ii) such Excluded Liabilities, Excluded Contracts, Claims, and Encumbrances shall be transferred to and assumed by Residual Co. in consideration for the Transaction Price, such that the Excluded Liabilities, Excluded Contracts, and all Claims and Encumbrances (other than the Assumed Liabilities and Permitted Encumbrances)

shall become obligations of Residual Co. which shall be deemed to have been party to the Contracts giving rise thereto and which shall stand in place and stead of the Company in respect of all such Liability or obligations, all of which shall no longer be a Liability or obligation of the Company, and the Company shall be and is hereby forever released and discharged from such Excluded Liabilities, Excluded Contracts, Claims and Encumbrances (other than the Assumed Liabilities and Permitted Encumbrances);

- (e) all Equity Interests, including all Existing Shares, shall be redeemed or terminated at the nominal price of \$0.00001 per common share, and all redeemed Existing Shares together with any agreement, contract, plan, indenture, deed, certificate, subscription rights, conversion rights, pre-emptive rights, options (including stock options or share purchase or equivalent plans), or other documents or instruments governing or having been created or granted in connection with the share capital or Equity Interests of the Company shall be deemed terminated and cancelled in accordance with this Order;
- (f) the Retained Assets will be retained by the Company free and clear of all Encumbrances and Claims, save and except Permitted Encumbrances and Assumed Liabilities;
- (g) the Company shall have paid, assumed or otherwise satisfied the Assumed Liabilities, in accordance with the terms of the Agreement;
- (h) the Company shall issue the Subscribed Shares and the Purchaser shall subscribe for and purchase the Subscribed Shares. All of the right, title and interest in and to the Subscribed Shares issued by the Company to the Purchaser shall vest absolutely in the Purchaser and will be retained by the Company, in each case free and clear of and from any and all Claims and Encumbrances (which term shall include the Permitted Encumbrances) and, for greater certainty, all of the Encumbrances affecting or relating to the Subscribed Shares and the Retained Assets are hereby expunged and discharged as against the Subscribed Shares and Retained Assets;

- (i) the Purchaser Release shall be released from escrow and shall become effective;
- (j) notwithstanding any other provision in this paragraph, the funds paid by the Purchaser pursuant to the Agreement, in the amount of the Transaction Price, shall vest in Residual Co., and all existing Claims and Encumbrances save and except Permitted Encumbrances and Assumed Liabilities shall attach to the Transaction Price in accordance with paragraph 7 hereof;
- (k) the Company will pay the Cure Costs in the fashion contemplated by paragraph 15 hereof;
- (l) the Company shall cease to be parties to the Receivership Proceedings and the Company will be deemed to be released from the purview of the Receivership Order and all other Orders of this Court granted in these Receivership Proceedings, save and except for this Order the provisions of which (as they relate to the Company) shall continue to apply in all respects; and
- (m) the Receiver shall deliver to the Purchaser an executed copy of the Receiver's certificate, substantially in the form attached as **Schedule "D"** hereto (the "**Receiver's Certificate**") confirming the Transactions contemplated in the Agreement have closed (the time and date of such delivery being the "**Effective Time**").

6. The Receiver shall issue and file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof in connection with the Transactions.

7. For the purposes of determining the nature and priority of Claims, from and after the delivery of the Receiver's Certificate, all Claims and Encumbrances shall attach to the Excluded Assets and the Excluded Contracts, including for greater certainty the Transaction Price, with the same priority as they had with respect to the Retained Assets immediately prior to the sale, as if the Excluded Assets, the Excluded Contracts and the Excluded Liabilities had not been transferred to Residual Co., as applicable, and remained liabilities of the Company immediately prior to the foregoing transfer.

8. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), the Receiver is authorized, permitted and directed to, at the Effective Time, disclose to the Purchaser all human resources and payroll information in the Company's records pertaining to past and current employees of the Company. The Purchaser shall maintain and cause the Company, after Closing, to maintain and protect the privacy of such information in accordance with applicable law 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 Company prior to Closing.

9. At the Effective Time and without limiting the provisions of paragraph 5 hereof, the Company and the Purchaser shall both be deemed released from any and all claims, liabilities (direct, indirect, absolute or contingent) or obligations with respect to any Taxes (including penalties and interest thereon) of, or that relate to, the Company, including, without limiting the generality of the foregoing, all taxes that could be assessed against the Company or the Purchaser (including its affiliates and any predecessor corporations) pursuant to section 160 of the *Income Tax Act* (Canada), or any provincial equivalent, in connection with the Company, provided, as it relates to the Company, such release shall not apply to (i) Taxes arising from the Transactions, or (ii) Taxes in respect of the business and operations conducted by the Company after the Effective Time.

10. Except to the extent expressly contemplated by the Agreement, or otherwise agreed by the Purchaser, all Retained Contracts to which the Company is a party upon delivery of the Receiver's Certificate will be and remain in full force and effect upon and following delivery of the Receiver's Certificate and no individual, firm, corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") who is a party to any such arrangement shall make or pursue any demand, claim, action or suit or exercise any right or remedy under any Contracts (excluding the Excluded Contracts) relating to:

- (a) the Company having sought or obtained relief under the *BIA* or the *Companies Creditors' Arrangement Act* (Canada);
- (b) the commencement of the Receivership Proceedings; or

(c) the insolvency of the Company,

and all such counterparties and persons shall be forever barred and estopped from taking such action.

11. The designation of any Claim as an Assumed Liability is without prejudice to the Company's right to dispute the existence, validity or quantum of any such Assumed Liability, and nothing in this Order or the Agreement shall affect or waive the Company's rights and defences, both legal and equitable, with respect to any Assumed Liability, including, but not limited to, all rights with respect to entitlements to set-offs or recoups against such Assumed Liability.

12. From and after the Effective Time:

- (a) the nature of the Assumed Liabilities retained by the Company, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of the Transactions or this Order;
- (b) the nature of the Excluded Liabilities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of their transfer to Residual Co.;
- (c) any Person that prior to the Effective Time had a valid right or claim against the Company under or in respect of any Excluded Contract or Excluded Liability (each an "**Excluded Liability Claim**") shall no longer have such right or claim against the Company but will have an equivalent Excluded Liability Claim against Residual Co., in respect of the Excluded Contract and Excluded Liability from and after the Effective Time in its place and stead, and nothing in this Order limits, lessens or extinguishes the Excluded Liability Claim of any Person as against Residual Co.; and
- (d) the Excluded Liability Claim of any Person against Residual Co. following the Effective Time shall have the same rights, priority and entitlement as such Excluded Liability Claim had against the Company prior to the Effective Time.

13. Notwithstanding:

- (a) these proceedings
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *BIA* in respect of the Company, and any bankruptcy order issued pursuant to any such applications; and
- (c) the Agreement, and the implementation of the Transactions (including without limitation the transfer and vesting of the Excluded Assets, Excluded Contracts and Excluded Liabilities in and to Residual Co., as applicable, and the issuance of the Subscribed Shares to the Purchaser),

any payments by the Purchaser authorized herein or pursuant to the Agreement shall be binding on any trustee in bankruptcy that may be appointed in respect of the Company, and shall not be void or voidable by creditors of the Company, nor shall they constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *BIA* or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

## **RELEASES**

14. Effective upon the delivery of the Receiver's Certificate: (i) the present and former directors, officers, employees, legal counsel and advisors of the Company; (ii) the Receiver and its legal counsel, and their respective present and former directors, officers, partners, employees and advisors; and (iii) the Purchaser, its directors, officers, employees, legal counsel and advisors (the Persons listed in (i), (ii) and (iii) being collectively, the "**Released Parties**") shall be deemed to be forever irrevocably released and discharged from any and all present and future claims whatsoever (including, without limitation, claims for contribution or indemnity), liabilities, indebtedness, demands, actions, causes of action, counterclaims, suits, damages, judgments, executions, recoupments, debts, sums of money, expenses, accounts, liens, taxes, recoveries, and obligations of any nature or kind whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) based in whole or



in part and in connection with the Transactions in respect of the Company or these Receivership Proceedings (collectively, the “**Released Claims**”), which Released Claims are hereby fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, and are not vested nor transferred to Residual Co. or to any other entity and are extinguished, provided that nothing in this paragraph shall waive, discharge, release, cancel or bar any claim for gross negligence, fraud or willful misconduct or any claim that is not permitted to be released pursuant to section 50(14) of the *BIA*.

### **CURE COSTS**

15. All Cure Costs payable in accordance with the Agreement shall be paid by or on behalf of the Company to the relevant counterparty to a Retained Contract on or before Closing or such later date as may be agreed to by the Company and the relevant counterparty to a Retained Contract.

### **RESIDUAL CO**

16. At the Effective Time, Residual Co. shall be added as a Defendant in these proceedings in place of the Company and the style of cause of these proceedings shall be changed by deleting the Company as Defendants and adding Residual Co. as a Defendant.

17. The administration of Residual Co. shall remain subject to the Court’s oversight and these proceedings.

18. The Receiver is authorized to assign or file voluntary assignments into bankruptcy in respect of Residual Co. and, in that regard, sign such documents in the name of Residual Co. and to take all such steps as are necessary to make the assignments into bankruptcy. For greater certainty, no resolutions or other authorizations from directors, officers or shareholders of Residual Co. will be required to commence the bankruptcy proceedings. The Receiver shall be entitled, but not obligated, to act as trustee of Residual Co. in such bankruptcy.

19. In addition, and without limiting the rights and protections afforded to the Receiver pursuant to the Receivership Order and the *BIA*, which continue to apply, the Receiver and its employees and representatives shall not incur any liability as a result of acting in accordance with

this Order or administering Residual Co., save and except for any gross negligence or willful misconduct on the part of such parties.

20. No action lies against the Receiver, by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court following a motion brought on not less than fifteen (15) days' notice to the Receiver and its legal counsel. Any persons related to the Receiver or belonging to the same group as the Receiver shall benefit from the protection arising under this paragraph.

### **GENERAL**

21. Following the Effective Time, the Purchaser shall be authorized to take all steps as may be necessary to effect the discharge of the Claims and Encumbrances (each as described herein) as against the Subscribed Shares and the Retained Assets.

22. This Order shall have full force and effect in all provinces and territories in Canada.

23. The Company and the Receiver shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States or elsewhere, for orders which aid and complement this Order. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Company and the Receiver as may be deemed necessary or appropriate for that purpose.

24. This Court shall retain exclusive jurisdiction to, among other things, interpret, implement and enforce the terms and provisions of this Order, the Agreement and all amendments thereto, in connection with any dispute involving the Company or Residual Co., and to adjudicate, if necessary, any disputes concerning the Company or Residual Co. related in any way to the Transactions.

25. This Order and all of its provisions are effective as of 12:01 a.m. Prevailing Pacific Time on the date hereof, provided that the transaction steps set out in paragraph 5 hereof shall be deemed to have occurred sequentially, one after the other, in the order set out in paragraph 5 hereof.

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

27. Endorsement of this Order by counsel appearing on this application, other than counsel for the Receiver is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

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[●], Lawyer for the Receiver

BY THE COURT

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**SCHEDULE "A"**

Appearance List

<b>Counsel Name</b>	<b>Party Represented</b>

**SCHEDULE "B"**

**Purchase Agreement**

**SCHEDULE "C"**

Permitted Encumbrances

None

**SCHEDULE “D”**

Form of Receiver’s Certificate

No.: S-230764  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

ROYAL BANK OF CANADA

PLAINTIFF

AND:

CANWEST AEROSPACE INC.  
CAN WEST GLOBAL AIRPARTS INC.  
THOMAS GEORGE JACKSON

DEFENDANTS

**RECEIVER’S CERTIFICATE**

**RECITALS**

- A. Pursuant to an Order of the Supreme Court of British Columbia (the “**Court**”) dated August 29, 2023, Deloitte Restructuring Inc. was appointed Receiver and Receiver and Manager (in such capacity, the “**Receiver**”) of Canwest Aerospace Inc. and Can West Global Airparts Inc. (collectively, the “**Company**”), pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 as amended (the “**BIA**”) and the *Law and Equity Act*, R.S.B.C. 1996, c 253.
- B. Pursuant to the Approval and Reverse Vesting Order granted by the Honourable Justice Gomery on April 2, 2024 (the “**Approval and Reverse Vesting Order**”), the Court approved the transactions contemplated by the Subscription Agreement between the Receiver and 0854271 B.C. Ltd. and 2155531 Ontario Inc. (the “**Purchaser**”) dated March 8, 2024, which provided for, among other things: (i) the vesting out of the Company’s Excluded Assets, Excluded Contracts and Excluded Liabilities (ii) the discharge of Encumbrances against the Company and the Retained Assets, except only the Permitted

Encumbrances; (iii) certain ancillary relief, with the steps set out in paragraph 5 of the Approval and Reverse Vesting Order to become effective upon the Receiver filing a certificate confirming that the Purchaser has paid the Transaction Price and all conditions to Closing set out in the Agreement have been satisfied or waived by the Receiver and the Purchaser.

- C. Unless otherwise indicated therein, capitalized terms used and not otherwise defined in this Receiver's Certificate have the meanings set out in the Approval and Reverse Vesting Order.

THE RECEIVER CERTIFIES that:

1. The Purchaser has paid the Transaction Price (as defined in the Agreement) in accordance with the Agreement;
2. The conditions to Closing as set out in the Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The transactions contemplated in the Agreement have closed.

This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**Deloitte Restructuring Inc. in its capacity as Receiver and Receiver and Manager of Canwest Aerospace Inc. and Can West Global Airparts Inc., and not in its personal capacity**

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



**SCHEDULE "D"**

Draft Sealing Order

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

ROYAL BANK OF CANADA

PLAINTIFF

AND:

CANWEST AEROSPACE INC.  
CAN WEST GLOBAL AIRPARTS INC.  
THOMAS GEORGE JACKSON

DEFENDANTS

**SEALING ORDER**

BEFORE THE HONOURABLE )  
JUSTICE GOMERY ) April 2, 2024

**ON THE APPLICATION** of Deloitte Restructuring Inc., in its capacity as Receiver and Receiver and Manager (in such capacity, the “**Receiver**”) of Canwest Aerospace Inc. and Can West Global Airparts Inc. (together, the “**Company**”), coming on for hearing at Vancouver, British Columbia on this 2nd day of April 2024; **AND ON HEARING** [ ] counsel for the Receiver, and those other counsel listed on **Schedule “A”** hereto; **AND UPON READING** the Second Report of the Receiver dated March 19, 2024 and the Confidential Supplement to the Receiver’s Second Report dated March 19, 2024; **AND UPON BEING ADVISED** that the parties on the Service List were given notice; **AND PURSUANT TO** the *Supreme Court Civil Rules* and the inherent jurisdiction of this Honourable Court;

**THIS COURT ORDERS THAT:**

1. The following documents are to be sealed by the Registrar of this Honourable Court for the duration noted:

Description:	Date filed, if applicable	Number of copies filed, including any extra copies for the judge.	Duration of sealing order: <i>(until further order of the Court; until the first day of trial; or until a specific date)</i>	Sought	Granted	
					YES	NO
1a) Specific Documents  <b>The Confidential Supplement to the Receiver's Second Report dated March 19, 2024</b>	To be filed	One copy to be sealed.	Until the earlier of: (a) completion of the Transaction as defined in the Receiver's Second Report dated March 19, 2024 and approved by Order of the Court made April 2, 2024 (the "RVO"), as evidenced by the Receiver filing the Receiver's Certificate attached as Schedule D to the RVO; or (b) completion of an alternative transaction, as evidenced by the Receiver filing a certificate with the Court confirming conclusion of the transaction; or (c) discharge of the Receiver in these proceedings, as evidenced by the Receiver filing a certificate confirming conclusion of the proceedings.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1b) Entire File				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) Clerk's Notes				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3) Order				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4) Reasons for Judgment				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Access to the sealed items are permitted by:

- a.  Parties
- b.  Counsel for a party
- c.  Other: Further Order of the Court

3. Endorsement of this Order by counsel appearing on this application other than counsel for the Petitioners is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

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Signature of   
Lawyer for the Receiver, Deloitte Restructuring Inc.

BY THE COURT

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REGISTRAR

**Schedule A – Appearance List**

Counsel	Party