

**THE QUEEN'S BENCH  
Winnipeg Centre**

IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER PURSUANT  
TO SECTION 55 OF THE COURT OF QUEEN'S  
BENCH ACT C.C.S.M. c. C280

BETWEEN:

**FORTUNELLA SEVILLA**

Applicant,

- and -

**7483547 MANITOBA LTD. carrying on  
business under the firm name and style  
of FINE HAUS BUILDING CO. and the  
said FINE HAUS BUILDING CO., and  
JASON L.F. CIANFLONE**

Respondents.

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**SALE APPROVAL, VESTING AND DISTRIBUTION ORDER**

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**PKF LAWYERS**

9th Floor - 444 St Mary Avenue  
Winnipeg, MB R3C 3T1

**THOMAS G. FROHLINGER /  
RENATO Y. MAMUCUD**

Telephone No. (204) 956-0490  
Facsimile No. (204) 947-3747  
Email: rmamucud@pkflawyers.com

(File No. 14217-009)

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**SALE APPROVAL, VESTING AND DISTRIBUTION ORDER**

**THIS MOTION**, made by Lazer Grant Inc., court-appointed Interim Receiver ("**Interim Receiver**") of all the assets, property and undertaking (collectively, the "**Property**") of 7483547 MANITOBA LTD. carrying on business under the firm name and style of FINE HAUS BUILDING CO. and the said FINE HAUS BUILDING CO., and JASON L.F. CIANFLONE ("**Fine Haus**"), for an Order approving the sale transaction contemplated by the Offer to Sell Real Estate agreement ("**Sale Agreement**") between Three Way Builders Ltd., UDT Interiors Inc., and Trotco Electric Inc. (collectively the "**Purchaser**") and the Interim Receiver ("**Fine Haus Land Transaction**") was heard July 16, 2020 and by way of teleconference, this day, at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

ON READING the First Report of the Interim Receiver dated February 5, 2020 ("**First Report**"), the Second Report of the Interim Receiver dated May 15, 2020 ("**Second Report**"), the Affidavit of Candace Joy Graham, dated July 7, 2020, the Affidavit of Service of Renato Y. Mamucud, dated July 7, 2020, and on hearing the submissions of counsel for the Interim Receiver, in the presence of the Interim Receiver, Ms. A. Neufeld on behalf of the Town of Niverville, Jacqueline Tetrault, and Patrick Tetrault, as self represented litigants, no one appearing for any other person, although properly served as appears from the Affidavit of Service of Renato Y. Mamucud, dated July 7, 2020.

## SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the supporting materials herein is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

## SALE APPROVAL AND VESTING

2. THIS COURT ORDERS AND DECLARES that the Fine Haus Land Transaction is hereby approved, and the execution of the Sale Agreement by the Interim Receiver is hereby authorized and approved, in the form presented by the Interim Receiver. The Interim 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 Fine Haus Land Transaction to the Purchaser.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of an Interim Receiver's certificate to the Purchaser substantially in the form attached as **Schedule "1"** hereto (the "**Interim Receiver's Certificate**"), all of Fine Haus' right, title and interest in and to the real property located at 26 Briarfield Court, Niverville, Manitoba, and legally described as LOT 31 PLAN 58591 WLTO EXC OUT OF WITHIN LIMITS OF BRIARFIELD COURT PLAN 55370 WLTO: ALL MINES, MINERALS AND OTHER MATTERS AS SET FORTH IN THE CROWN LANDS ACT IN SE 1/4 30-7-4 EPM ("**26 Briarfield**") hereby vests 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, agreements or options to purchase, caveats arising from prior agreements from a purchase and sale of land, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Fine Haus Land Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Kroft dated December

16, 2019; and (ii) all charges, security interests or claims evidenced by registrations pursuant to The Personal Property Security Act (Manitoba) or any other personal property registry system; and (iii) all mortgages and builders' liens evidenced by registrations pursuant to The Real Property Act (Manitoba), or otherwise, and, for greater certainty, this Court orders that all encumbrances affecting or relating to 26 Briarfield are hereby expunged and discharged.

4. THIS COURT ORDERS that upon the registration in the Winnipeg Land Titles Office ("**WLTO**") of a certified copy of this Order, a copy of the Interim Receivers Certificate in respect of the Fine Haus Land Transaction ("**Fine Haus Land Interim Receiver's Certificate**") and a Request/Transmission in the form prescribed by *The Real Property Act* (Manitoba) duly executed by the Fine Haus Land Purchaser or its solicitor, the District Registrar of the WLTO ("**Registrar**") is hereby directed to cancel Title No. 3031833/1 and to issue new title in the name of the Purchaser identified in the Fine Haus Land Interim Receiver's Certificate as the owner of the subject real property identified in **Schedule "2"** hereto ("**Fine Haus Land Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Fine Haus Land Real Property all of the Fine Haus Land Claims listed in **Schedule "3"** hereto.
5. THIS COURT ORDERS that for the purposes of determining the nature and priority of the Fine Haus Land Claims, the net proceeds from the sale of the Fine Haus Land Purchased Assets shall stand in the place and stead of 26 Briarfield, and that, save and except as otherwise herein Ordered, from and after the delivery of the Fine Haus Land Interim Receiver's Certificate all Fine Haus Land Claims and Fine Haus Land Encumbrances shall attach to the net proceeds from the sale of 26 Briarfield with the same priority as they had with respect to 26 Briarfield, as if 26 Briarfield had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
6. FOR GREATER CERTAINTY, the consent of the Builder's Lien claimants to compromise and discharge their Builder's Liens as listed in the Fine Haus Land

Claims under **Schedule "3"**, does not prejudice their rights that they may have to directly or indirectly claim the balance owing to them as against Fine Haus.

7. THIS COURT ORDERS that this Order shall be entered by the Registrar notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period is expressly waived.
8. THIS COURT ORDERS AND DIRECTS the Interim Receiver to file with the Court copies of all Interim Receiver's Certificates, forthwith after delivery thereof.
9. 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 Respondents or any bankruptcy order issued pursuant to any such applications; and
  - c. any assignment in bankruptcy made in respect the Respondents;

the vesting of any of 26 Briarfield to the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Respondents and shall not be void or voidable by creditors of the Respondents, nor shall it constitute nor be deemed to be a 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.

## **DISTRIBUTIONS**

10. THIS COURT ORDERS that the Interim Receiver is authorized to make the following distributions from the proceeds of sale ("**Sale Proceeds**") of 26 Briarfield:

- a. To pay to the Town of Niverville the sum of \$788.61, representing the property taxes and utilities owing as of July 16, 2020;
  - b. To pay the Interim Receiver's legal fees pertaining to the conveyancing of 26 Briarfield, in an amount not to exceed the sum of \$2,500.00 (plus taxes and disbursements);
  - c. To pay to UDT Interiors Inc. the sum of \$7,182.00;
  - d. To pay to Plumb-X Plumbing Inc. the sum of \$1,397.38;
  - e. To pay to HeatX Heating and Cooling Inc. the sum of \$721.28;
  - f. To pay to 6027318 Manitoba Ltd. the sum of \$519.40;
  - g. To pay to McMunn & Yates Truss Manufacturing Ltd. the sum of \$2,416.98;
  - h. To pay to McMunn & Yates Building Supplies Ltd. the sum of \$8,870.69;
  - i. To pay to EMCO Corporation the sum of \$899.86;
  - j. To pay to Springhill Lumber Wholesale Ltd. the sum of \$1,406.10;
  - k. To pay to Trotco Electric Inc. the sum of \$2,038.40; and
  - l. The balance of the proceeds to be held in trust in the Interim Receiver's trust account.
11. 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 Interim 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 Interim Receiver as may be necessary or

desirable to give effect to this Order or to assist the Interim Receiver and its agents in carrying out the terms of this Order.

Date: \_\_\_\_\_

D.J. Kroft,

J.

\_\_\_\_\_  
KROFT, J.

Digitally signed by D.J. Kroft, J.  
Date: 2020.07.22 11:51:24  
-05'00'

**Schedule 1 — form of Interim Receiver's Certificate**

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said FINE HAUS BUILDING CO., and  
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Respondents.

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**INTERIM RECEIVER'S CERTIFICATE**

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Respondents.  
Respondents.

**INTERIM RECEIVER'S CERTIFICATE**

**RECITALS**

- A. Pursuant to the Interim Order of the Honourable Mr. Justice Kroft of the Manitoba Court of Queen's Bench ("**Court**") dated December 16, 2019, LAZER GRANT INC. was appointed the Interim Receiver ("**Interim Receiver**") of all the assets, property and undertaking of 7483547 MANITOBA LTD. carrying on business under the firm name and style of FINE HAUS BUILDING CO. and the said FINE HAUS BUILDING CO., and JASON L.F. CIANFLONE (collectively and respectively, "**Fine Haus**")
- B. Pursuant to an Order of the Court dated July 16, 2020, the Court approved the Offer to Sell Real Estate agreement made as of May 20, 2020 (the "**Sale Agreement**") between the Interim Receiver and Three Way Builders Ltd., UDT Interiors Inc., and Trotco Electric Inc. (collectively the "**Purchaser**") and granted for the vesting in the Purchaser of Fine Haus' right, title and interest in and to 26

Briarfield provided that (i) the payment by the Purchaser of the Purchase Price for 26 Briarfield; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Interim Receiver and the Purchaser; and (iii) the transaction contemplated by the Sale Agreement (the "**Fine Haus Land Transaction**") has been completed to the satisfaction of the Interim Receiver.

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

**THE INTERIM RECEIVER CERTIFIES** the following:

1. The Purchaser has paid, and the Interim Receiver has received the Purchase Price for 26 Briarfield payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Interim Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Interim Receiver. This Certificate was delivered by the Receiver at [TIME] on [DATE].

LAZER GRANT INC.

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

Name:

Title:

**Schedule 2 — Fine Haus Land Real Property**

**Real Property Legal Description:**

**26 Briarfield**

Title No. 3031833/1      LOT 31 PLAN 58591 WLTO EXC OUT OF WITHIN LIMITS  
OF BRIARFIELD COURT PLAN 55370 WLTO: ALL MINES,  
MINERALS AND OTHER MATTERS AS SET FORTH IN  
THE CROWN LANDS ACT IN SE 1/4 30-7-4 EPM

**Chattels:**

Nil.

### **Schedule 3 — Fine Haus Land Claims**

1. Builders Lien No. 5121411/1, in favour of UDT Interiors Inc.;
2. Builders Lien No. 5123577/1, in favour of PLUMB-X PLUMBING INC.
3. Builders Lien No. 5123817/1, in favour of HeatX Heating and Cooling Inc.
4. Builders Lien No. 5123825/1, in favour of 6027318 Manitoba Inc.
5. Builders Lien No. 5124377/1, in favour of McMunn & Yates Truss Manufacturing Ltd.
6. Builders Lien No. 5124378/1, in favour of McMunn & Yates Building Supplies Ltd.
7. Builders Lien No. 5124468/1, in favour of EMCO Corporation
8. Builders Lien No. 5125575/1, in favour of Springhill Lumber Wholesale Ltd.
9. Builders Lien No. 5125581/1, in favour of Trotco Electric Inc.
10. Caveat No. 5125139/1, in favour of Ulrich F. E. S. Avognon & Marie-Joyeuse Dusabe

#### **Schedule 4 — Fine Haus Land Permitted Encumbrances**

1. Easement No. 4453797/1, in favour of THE MANITOBA HYDRO-ELECTRIC BOARD, MTS INC., SHAW CABLE
2. Easement No. 4453798/1, in favour of CENTRA GAS MANITOBA INC.
3. Caveat No. 4676860/1, in favour of THE TOWN OF NIVERVILLE
4. Easement No. 4676861/1, in favour of FIFTH AVENUE ESTATES INC.
5. Easement No. 4676862/1, in favour of FIFTH AVENUE ESTATES INC.
6. Caveat No. 5120713/1, in favour of FIFTH AVENUE ESTATES INC.