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O'KEEFE & COMPANY

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The Supreme Court of Newfoundland and Labrador  
P.O. Box 937  
313 Duckworth Street,  
St. John's, NL  
A1C 5M3

And To:

Service List Attached hereto as **Schedule "A"**

13 July 2022

To the Registry of the Supreme Court:

Re: **The Companies Creditors Arrangement Act R.S.C., 1985 c. C-36 and Edward Collins Contracting Ltd.; Classic Security Limited, FGC Holdings Limited, 51037 Newfoundland and Labrador Inc. and H&E Designs Ltd.**

Please find the following documents enclosed herewith:

1. Application pursuant to s.11 of the *Companies Creditors Arrangement Act* R.S.C., 1985 c. C-36;
2. Affidavit of Mr. Francis Collins; and
3. Our Firm cheque in the amount of \$123.00.

We note that the Royal Bank of Canada has filed an application to appoint a Receiver pursuant to s.243 of the *Bankruptcy and Insolvency Act* which is presently scheduled for 10:00 a.m. on July 19<sup>th</sup>, 2022. We would respectfully ask that this matter be called on the same date for the purpose of setting filing and hearing dates.

Yours very truly,



**DARREN D. O'KEEFE**  
darren@okeefeandcompany.com  
adc/encl.

**SCHEDULE "A"  
SERVICE LIST**

ROYAL BANK OF CANADA  
1 PVM - 2E ETAGE, AILE EST  
MONTREAL QC H3C 3A9  
CANADA

ROYAL BANK OF CANADA  
180 WELLINGTON STREET WEST, 5TH FLOOR  
TORONTO ON M5J1J1  
CANADA

ROYAL BANK OF CANADA  
10 YORK MILLS ROAD  
TORONTO ON M2P 0A2  
CANADA  
FAX #: 416-512-6650

ROYAL BANK OF CANADA  
300-5575 NORTH SERVICE RD  
BURLINGTON ON L7L 6M1  
CANADA

ALL C/O  
STEWART MCKELVEY  
ROYAL BANK OF CANADA  
C/O STEWART MCKELVEY  
100 NEW GOWER ST,  
ST. JOHN'S NL  
A1C 6K3  
ATTN: NEIL JACOBS, QC  
BY EMAIL: NJACOBS@STEWARTMCKELVEY.COM

DAIMLER TRUCK FINANCIAL SERVICES CANADA CORPORATION  
2680 MATHESON BLVD. E. STE 202  
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RODCO MECHANICAL (2014) LTD.  
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P.O. BOX 169  
CONCEPTION BAY SOUTH  
NL CANADA  
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IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF the *Companies Creditors Arrangement Act* R.S.C., 1985 c. C-36 as Amended (the "CCAA")

AND IN THE MATTER OF an application of Edward Collins Contracting Ltd., Classic Security Limited, FGC Holdings Limited, 51037 Newfoundland and Labrador Inc. and H&E Designs Ltd. (collectively, "ECC" or the "Company"); and

NOTICE OF MOTION

(Company Creditors Arrangement Act)

The Company (hereinafter the "Applicant") will make a motion before the presiding Judge in Bankruptcy and Insolvency on the \_\_\_\_\_ of July 2022 at \_\_\_\_\_, or so soon thereafter as the motion can be heard at the Courthouse, Duckworth Street, St. John's, Newfoundland and Labrador.

On the hearing of this Motion, the Applicant intends to apply for the following relief:

1. A first day initial order (the "First Day Order") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), substantially in the form attached at **Schedule "B"** hereto, *inter alia*:
  - (a) Abridging the notice periods pursuant to Section 11 of the CCAA and the *Rules of the Supreme Court, 1986*, Rule 3.03(1), Rule 6.04(2) and Rule 6.06;
  - (b) Pursuant to Section 11 of the CCAA, directing that the service on the service list set out in **Schedule "A"** hereto is sufficient for the purposes of this Application;

- (c) Declaring that Edward Collins Contracting Ltd., Classic Security Limited, FGC Holdings Limited, 51037 Newfoundland and Labrador Inc. and H&E Designs Ltd. (collectively, the "**Company**") is a debtor company to which the CCAA applies;
- (d) Staying all actions, suits or proceedings and remedies taken or that might be taken against or in respect of the Company, any of its Property (as defined below) or business, or its director and officers, except as otherwise set forth in the Initial Order or as otherwise permitted by law (the "**Stay**"), for an initial period of ten (10) days in accordance with the CCAA (the "**Stay Period**");
- (e) appointing S.R. Stack & Company Ltd. (the "**Proposed Monitor**") as the monitor of the Company in these proceedings (the "**CCAA Proceedings**");
- (f) approving and ratifying the execution by the Company, of a debtor-in-possession facility loan agreement (the "**DIP Financing Agreement**") with **Newport Capital Corporation Inc. ("Newport")** (the "**DIP Lender**"). The DIP Lender has agreed to advance to the Company a total amount of up to One Hundred and Fifty Thousand Dollars (\$150,000.00) (the "**DIP Facility**"), which will be made available to the Company during these CCAA Proceedings, of which an initial amount of One Hundred Thousand Dollars (\$100,000.00) will be advanced to the Company during the initial 10 day Stay Period (the "**Initial Advance**"), and granting in favour of the DIP Lenders a priority charge against the assets, property and undertakings (the "**Property**") of the Company in order to secure the Company's obligations under the DIP Financing Agreement (the "**DIP Lender Charge**");
- (g) granting an "**Administration Charge**" against the Property in favour of the Monitor an initial amount of \$150,000.00, as security for the payment of the professional fees and disbursements incurred and to be incurred by the Proposed Monitor, counsel to the Proposed Monitor and counsel to the Company, in connection with the CCAA Proceedings both before and after the making of the Initial Order;

2. Prior to the expiry of the Stay Period, on a further motion on notice to affected parties that will take place before the Court on the \_\_\_\_ day of July, 2022 (the "**Comeback Hearing**"), the Proposed Monitor will also seek:
  - (a) an amended and restated initial order (the "**ARIO**", together with the First Day Order, the "**Initial Order**"), among other things;
  - (b) reconfirming the appointment of S.R. Stack & Associates Limited as Monitor of the Company in these proceedings;
  - (c) an order (the "**Restructuring Order**"), seeking, among other things:
    - i. approval of the process and implementation of the proposed Restructuring Plan (the "**Plan**") by the Monitor, with the assistance of the Company, and approval to execute on the procedures further described in the Plan (the "**Restructuring Procedures**");
    - ii. extending the Stay to the 15<sup>th</sup> of August 2022; and
    - iii. increasing the amounts which may be borrowed by the Company under the DIP Financing Agreement to \$300,000.00, which, together with the other obligations of the Company under the DIP Financing Agreement will be secured by the DIP Lender Charge;
    - iv. Such further and other relief as this Honourable Court deems just.

**THE GROUNDS FOR THIS APPLICATION ARE AS FOLLOWS:**

3. As of the date of this Application, the Company is insolvent and is an entity to which the CCAA applies. The claims against the Company exceed Five Million Dollars (\$5,000,000.00).
4. The Company has been experiencing liquidity challenges and experienced substantial operating losses over the calendar year of 2021 and into 2022.

5. The Company has secured the DIP Financing to allow the Company and the Proposed Monitor to pursue the Restructuring Procedures in accordance with the Plan, as further described therein.
6. The Company requires the protection of this Honourable Court to allow it to pursue the Restructuring Procedures in accordance with the Plan for which the Company is seeking the Court's approval.
7. If an Order is made under the CCAA, the Company will be given the opportunity to restructure or liquidate its operations through the Plan and will be able to continue as a going concern, and thereby continue to be a valuable contributor to the Newfoundland and Labrador economy.

**STAY OF PROCEEDINGS:**

8. The Proposed Monitor, on behalf of the Company, requires a Stay as part of the First Day Order for an initial period of ten (10) days, which it intends to seek the extension thereof at the Comeback Hearing.
9. This Stay is necessary and in the best interests of the Company as it will allow the Proposed Monitor to stabilize the Company's operations, allow it to continue operating in the ordinary course, to complete and implement the Plan, which will ultimately preserve and maximize the value of the Company's estate for its secured creditors and other stakeholders.
10. The pursuit of the Plan will allow the Proposed Monitor, on behalf of the Company, to determine whether an offer can be obtained in respect of its assets, or a re-finance of its debt completed for the benefit of its creditors and other stakeholders.
13. It is envisaged that the stakeholders of the Company, including its creditors, would benefit from these proceedings, and thus the Stay (as it may be extended) and ancillary interim relief sought at the CCAA Proceedings are reasonable and necessary requests in the circumstances.

**DIP FINANCING AGREEMENT & DIP CHARGE:**

14. The 13-week Cash Flow prepared by the Company with the assistance of the proposed Monitor indicates that the Company needs interim financing to fund these CCAA proceedings, including during the initial ten (10) day Stay Period.
15. On the basis of various discussions with the DIP Lender, the Proposed Monitor, on behalf of the Company, intends to enter into the DIP Financing Agreement with the DIP Lender, pursuant to which the DIP Lender has agreed to provide the DIP Facility to the Company in the maximum principal amount of One Hundred and Fifty Thousand Dollars (\$150,000.00) (with an initial tranche of \$100,000.00) and to be secured by a super-priority charge on all present and after acquired property of the Company.
16. The DIP financing will be used by the Company to, *inter alia*, finance its working capital requirements, implement restructuring or liquidation procedures, finance professional fees and other purposes, including but not limited to post-filing expenses, and costs during the Stay.
17. Given the current financial state of the Company, the DIP Facility is the only feasible financing alternative available to the Proposed Monitor and the Company.
18. The Proposed Monitor requests, given the Company's immediate liquidity needs, the following;
  - (a) That the DIP Financing Agreement be approved at the hearing of the First Day Order, and that the Monitor be authorized to borrow thereunder for a maximum of up to One Hundred and Fifty Thousand Dollars (\$150,000.00) (being all that is required to sustain operations during the short period), subject to a corresponding DIP Lender Charge approved for the DIP Lender; and
  - (b) That liberty be granted to the Proposed Monitor to seek the approval and ratification of the remainder of funding envisaged under the DIP Financing Agreement at the subsequent hearing of the Proposed Monitor's request for a

Comeback Hearing, and that the Proposed Monitor be authorized to borrow thereunder the balance made available under the DIP Financing Agreement, subject to the corresponding DIP Lender Charge.

**ADMINISTRATION CHARGE:**

19. In addition to the foregoing, the Proposed Monitor is respectfully seeking this Honourable Court's approval of an Administration Charge as part of the First Day Order in order to secure the professional services required to complete this CCAA proceeding, maintain the Company's continued operations in the ordinary course of business during the Stay, and complete and implement the Plan.
20. During these proceedings, the Proposed Monitor will need assistance from the following professionals, for whom the Administration Charge is required:
  - (a) The Monitor and its legal counsel; and
  - (b) The Company's legal counsel.
21. The relief sought in the First Day Order, including in respect of the aforementioned charges, is considered to be reasonable, necessary and appropriate in the circumstances, and the Proposed Monitor requests its inclusion in the First Day Order.

**APPOINTMENT OF THE MONITOR:**

22. The Proposed Monitor has consented to act as the Monitor of the Company, subject to this Honourable Court's approval;
23. The Proposed Monitor is a trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, as amended (the "BIA") and is not subject to any of the restrictions on who may be appointed as Monitor set out in section 11.7(2) of the CCAA.


24. The Proposed Monitor has been assisting the Company in connection with the development of contingency plans, and the exploration of various formal and informal restructuring and liquidation alternatives.
25. The Proposed Monitor has experience in matters of this nature and is therefore well-suited to this mandate.
26. Given its knowledge base in regard to the operations and finances of the Company and its ability to perform monitoring functions without delay, it is believed to be in the best interests of the Company that the Proposed Monitor be appointed.

**OTHER GROUNDS:**

27. The provisions of the CCAA, including s. 11, 11 .001, 11 .02(2) thereof; and
28. Such further and other grounds as counsel may advise and this Honourable Court may permit.
29. The following documentary evidence will be used at the hearing of this Application:
  - (a) The Affidavit of Frank Collins dated the 13<sup>th</sup> day of July, 2022;
  - (b) The consent of S.R. Stack & Company Ltd. to act as Monitor, attached as **Schedule "C"**;
  - (c) The Pre-Filing Report of the Proposed Monitor and associated affidavits; and
  - (d) Such further and other evidence as counsel may advise and this Honourable Court may permit.

**DATED** at St. John's, Newfoundland and Labrador, this 13<sup>th</sup> day of July, 2022.

**O'KEEFE & COMPANY**



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Counsel for the Company  
Whose address for service is:

84 Airport Road,  
St. John's, NL  
A1A 4Y3  
Attn: Darren D. O'Keefe

**TO:**

**ROYAL BANK OF CANADA**  
c/o Stewart McKelvey  
100 New Gower St,  
St. John's NL  
A1C 6K3  
Attn: Neil Jacobs, QC  
By Email: njacobs@stewartmckelvey.com

**AND TO:**

Service List attached hereto as **SCHEDULE "A"**

**SCHEDULE "A"**

**Service List**

SCHEDULE "A"  
SERVICE LIST

ROYAL BANK OF CANADA  
1 PVM - 2E ETAGE, AILE EST  
MONTREAL QC H3C 3A9  
CANADA

ROYAL BANK OF CANADA  
180 WELLINGTON STREET WEST, 5TH FLOOR  
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300-5575 NORTH SERVICE RD  
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CANADA

ALL C/O  
STEWART MCKELVEY  
ROYAL BANK OF CANADA  
C/O STEWART MCKELVEY  
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RODCO MECHANICAL (2014) LTD.  
257 CONCEPTION BAY HIGHWAY  
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CONCEPTION BAY SOUTH  
NL CANADA  
A0A 2R0

**SCHEDULE "B"**

**First Day Order**

2022 01G \_\_\_\_\_

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF the *Companies Creditors Arrangement Act* R.S.C., 1985 c. C-36 as Amended (the "CCAA")

AND IN THE MATTER OF an application of Edward Collins Contracting Ltd., Classic Security Limited, FGC Holdings Limited, 51037 Newfoundland and Labrador Inc. and H&E Designs Ltd. (collectively, "ECC" or the "Company"); and

INITIAL ORDER

THIS APPLICATION, made by Edward Collins Contracting Ltd., Classic Security Limited, FGC Holdings Limited, 51037 Newfoundland and Labrador Inc. and H&E Designs Ltd. (collectively, "ECC" or the "Applicant") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an Order substantially in the form filed with the Application was heard this \_\_\_ day of July, 2022.

ON READING the affidavit of Francis Collins sworn the \_\_\_ day of July, 2022 (the "Collins Affidavit") and the Exhibits thereto, the consent of S.R. Stack & Company Ltd. ("SR Stack") to act as Court- appointed monitor of ECC (in such capacity, the "Monitor"), and the Pre-Filing Report of SR Stack;

ON HEARING the submissions of counsel for the Company, and such other counsel that were present, no one else appearing for any party although duly served as outlined in the affidavit of service dated the \_\_\_\_\_ day of July, 2022, and on reading the consent of SR Stack to act as Monitor;

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Materials filed, as set out in the affidavit of service is hereby deemed adequate notice so that this Application is properly returnable today and hereby dispenses with further service thereof.

### APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that Edward Collins Contracting Ltd., Classic Security Limited, FGC Holdings Limited, 51037 Newfoundland and Labrador Inc. and H&E Designs Ltd. (collectively, "ECC" or the "Company") is a Company to which the CCAA applies.
3. Capital terms not otherwise defined herein shall have the meaning ascribed to them in Schedule "A"

### POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Company shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Honourable Court, the Company shall continue to carry on business in a manner consistent with the preservation of its business (the "Business") and Property. The Company is authorized and empowered to continue to retain and employ the employees, consultants, independent contractors, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of its Business or for the carrying out of the terms of this Order.
5. **THIS COURT ORDERS** that the Company, shall be entitled to continue to utilize its cash management system currently in place, or replace it with another substantially similar cash management system (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Company of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Company, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any plan of

compromise or arrangement with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that the Company shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the Company in respect of these proceedings, at their standard rates and charges;
- (c) with consultation with the DIP Lender, amounts owing for goods and services supplied to the Company, if in the opinion of the Monitor, the supplier or vendor of such goods or services is necessary for the operation and preservation of the Business or Property

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein the Company shall be entitled but not required to pay all reasonable expenses incurred by the Company in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance, maintenance and security services and lease payments for mining equipment used in the operation of the Business; and
- (b) payment for goods or services actually supplied to the Company following the date of this Order.

8. **THIS COURT ORDERS** that the Company shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
  - (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Company in connection with the sale of goods and services by the Company, but only where such Sales Taxes are accrued or collected after the date of this Order, and
  - (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Company.
9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA the Company shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Company and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order. The Monitor, on behalf of the Company, may pay such Rent twice monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.
10. **THIS COURT ORDERS** that, except as specifically permitted herein the Company is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Company to any of its creditors as of this date; (b) to grant no security interests,

trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

**NO PROCEEDINGS AGAINST THE COMPANY OR THE  
PROPERTY**

11. THIS COURT ORDERS that until and including the \_\_ day of 15<sup>th</sup> of August, 2022 or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Company or the Monitor, or affecting the Business or the Property except with the written consent of the Monitor and the Company, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Company or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

12. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Company or the Monitor, or affecting the Business or the Property are hereby stayed and suspended except with the written consent of the Monitor and the Company, or leave of this Court, provided that nothing in this Order shall (i) empower the Monitor, on behalf of the Company, to carry on any business which the Company is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH RIGHTS**

13. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Company, except with the written consent of the Monitor and the Company, or leave of this Court.

#### **CONTINUATION OF SERVICES**

14. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Company or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Company, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Company, and the Company shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid the Company in accordance with normal payment practices of the Company or such other practices as may be agreed upon by the supplier or service provider and the Company or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

15. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Company. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

#### **APPOINTMENT OF MONITOR**

16. **THIS COURT ORDERS** that SR Stack is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Company with the powers and obligations set out in the CCAA or set forth herein and that the Company and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Company pursuant to this Order, and shall cooperate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

17. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
- (a) monitor the Company's receipts and disbursements;
  - (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
  - (c) assist, with consultation with the Company, in its dissemination of reports and other information to the DIP Lender (as defined herein) and their respective counsel, pursuant to and in accordance with the Definitive Documents, or as may otherwise be reasonably requested by the DIP Lender;
  - (d) execute the DIP Financing Agreement on behalf of the Company;
  - (e) advise, in consultation with the Company, in its preparation of the Company's cash flow statements and reporting required by the DIP Lender under the Definitive Documents, which information shall be reviewed with the Monitor and delivered to the DIP Lender and their respective counsel in accordance with the Definitive Documents;
  - (f) execute any and all documentation, on behalf of the Company, as reasonably necessary or required by the DIP Financing Agreement;
  - (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Company, to the extent that is necessary to adequately assess the Company's business and financial affairs or to perform its duties arising under this Order;
  - (h) be at liberty to engage with Company legal counsel or retain independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
  - (i) perform such other duties as are required by this Order or by this Court from time to time.

18. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property but as Monitor shall take part in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business, or any part thereof.
  
19. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.
  
20. **THIS COURT ORDERS** that nothing herein contained shall make the Monitor liable for any environmental and land rehabilitation-related liabilities or obligations in respect of or in any way related to the Property (or caused by or resulting from any matter or thing originating on or coming from the Property). For greater certainty:
  - (a) Notwithstanding anything in any Environmental Legislation, the Monitor is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
    - (i) before the Monitor's appointment; or

- (ii) after the Monitor's appointment unless it is established that the condition arose or the damage occurred as a result of the Monitor's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts the Monitor from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any Environmental Legislation, but subject to subparagraph (a) hereof, where an order is made which has the effect of requiring the Monitor to remedy any environmental condition or environmental damage affecting the Property, the Monitor is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
  - (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Monitor, if the order is in effect when the Monitor is appointed, or during the period of the stay referred to in clause (ii) below, the Monitor:
    - (A) complies with the order, or
    - (B) on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
  - (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Monitor, if the order is in effect when the Monitor is appointed, by,
    - (A) the court or body having jurisdiction under the law pursuant to which the order was made to enable the Monitor to contest the order; or
    - (B) the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or

- (iii) if the Monitor had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

21. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Company and the DIP Lender with information provided by the Company in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Company is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Company may agree.
22. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.
23. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and counsel to the Company shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Company as part of the costs of these proceedings. The Company is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, and counsel for the Company on a weekly basis and, in addition, the Company is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Company reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.
24. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose, the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Supreme Court of Newfoundland and Labrador in Bankruptcy and Insolvency.

25. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Company's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property which charge shall not exceed an aggregate amount of \$150,000.00, as security for their professional fees and disbursements incurred at their respective standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 35 and 37 herein.

**DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE  
MONITOR**

26. **THIS COURT ORDERS** that the Company and all its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf shall fully co-operate with the Monitor in the exercise its powers under this Order or any other Order of the Court, including by:
- (a) advising the Monitor of the existence of any Property of which such party has knowledge of;
  - (b) providing the Monitor with immediate and continued access to any Property in such party's possession or control;
  - (c) advising the Monitor of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Company, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information ("**Records**") of which such party has knowledge of; and
  - (d) providing access to and use of the Records, including any accounting, computer, software and physical facilities relating thereto, and including providing the Monitor with instructions on the use of any computer or other system as requested by the Monitor and providing the Monitor with any and all access codes, account names and account numbers that may be required

to gain access to the Records, provided however that nothing in this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Monitor due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

#### **LIMITATION ON THE MONITOR'S LIABILITY**

27. **THIS COURT ORDERS THAT** the Monitor is not and shall not, for any purposes, be deemed to be a director, officer, employee, receiver, receiver-manager, or liquidator of the Company.
28. **THIS COURT ORDERS THAT** the Monitor is not and shall not for the purposes of the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.) be deemed to be a legal representative or person to whom s. 150(3) of that Act applies.
29. **THIS COURT ORDERS THAT** that the rights, protections, indemnities, charges, priorities and other provisions in favour of the Monitor set out in the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, any other applicable legislation, and any other Order granted in these proceedings, all shall apply and extend to the Monitor in connection with the Monitor carrying out the provisions of this Order, amended as necessary to give effect to the terms of this Order.

#### **DIP FINANCING**

30. **THIS COURT ORDERS** that the Company is hereby authorized and empowered to execute, enter into and deliver the DIP Facility Loan Agreement (the "**DIP Financing Agreement**") dated the \_\_\_\_\_ day of July, 2022 between, the Company, as borrower, and **Newport Capital Corporation Inc.**, as lender (collectively the "**DIP Lender**"), and to borrow, in accordance with the terms and conditions of the DIP Financing Agreement, interim financing of up to One Hundred and Fifty Thousand (\$150,000.00) (the "**DIP Facility**") to, among other things, fund the Company's working capital requirements and other general corporate purposes of the Company during the ten (10) day Stay Period.

31. **THIS COURT ORDERS** that, in addition to the DIP Financing Agreement, the Company is also hereby authorized and empowered to execute and deliver such other credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively with the DIP Financing Agreement, the "**Definitive Documents**"), as are contemplated by the DIP Financing Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Company is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Financing Agreement and the other Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.
32. **THIS COURT ORDERS** that, as security for the Company's obligations under the Definitive Documents, the DIP Lender shall be entitled to the benefit of and are hereby granted a charge (the "**DIP Lender's Charge**") on the Property which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 35 and 37 herein.
33. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:
- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
  - (b) upon the occurrence of an event of default under the DIP Financing Agreement, the other Definitive Documents or the DIP Lender's Charge, upon five (5) days notice to the Monitor and the Company, the DIP Lender may exercise any rights and remedies against the Company or the Property under or pursuant to the DIP Financing Agreement, the other Definitive Documents and the DIP Lender's Charge, including, without limitation, to cease making advances to the Company and set off and/or consolidate any amounts that may be owing by the DIP Lender against the obligations of the Company to the DIP Lender under the DIP Financing Agreement, the other Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Company and for the appointment of a trustee in

bankruptcy of the Company; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Company or the Property.

- 34. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Company under the CCAA, or any proposal filed by the Company under the BIA, with respect to any advances made under the DIP Financing Agreement and the other Definitive Documents.
- 35. **THIS COURT ORDERS AND DECLARES** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the DIP Financing Agreement, the other Definitive Documents or the DIP Lender's Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a "**Variation**") whether by subsequent order of this Court on or pending an appeal from this Order, such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the DIP Lender, whether under this Order (as made prior to the Variation), under the DIP Financing Agreement or the other Definitive Documents with respect to any advances made or obligations incurred prior to the DIP Lender being given notice of the Variation, and the DIP Lender shall be entitled to rely on this Order as issued (including, without limitation, the DIP Lender's Charge) for all advances so made and other obligations set out in the DIP Financing Agreement and the other Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

- 36. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP Lender's Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First- the Administration Charge (to the maximum amount \$150,000.00);

Second- the DIP Lender's Charge

37. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect
38. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, except for any secured creditor of the Company who did not receive notice of the application for this Order. The Company shall be entitled, on a subsequent motion on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrances over which the Charges have not obtained priority pursuant to this Order.
39. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Company shall not grant any Encumbrances over any Property that rank in priority to, or pari passu with, any of the Charges, unless the Company also obtains the prior written consent of the Monitor and of the applicable chargee(s) entitled to the benefit of the Charges (collectively, the "**Chargees**"), or further Order of this Court.
40. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Company, and notwithstanding any provision to the contrary in any Agreement:

- (a) Neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Financing Agreement or the other Definitive Documents shall create or be deemed to constitute a breach by the Company of any Agreement to which it is a party;
  - (b) None of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Company entering into the DIP Financing Agreement, the creation of the Charges, or the execution, delivery or performance of the other Definitive Documents; and
  - (c) The payments made by the Company pursuant to this Order, the DIP Financing Agreement or the other Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.
41. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Company's interest in such real property leases.

#### **SERVICE AND NOTICE**

42. **THIS COURT ORDERS** that the Monitor shall (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner by electronic means, a notice to every known creditor who has a claim against the Company of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

#### **GENERAL**

43. **THIS COURT ORDERS** that the Monitor, on behalf of the Company, may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

44. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from subsequently acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Company, the Business or the Property.
45. **THIS COURT ORDERS** that each of the Company and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
46. **THIS COURT ORDERS** that a hearing for the balance of the relief sought by the Company in the Notice of Motion is hereby scheduled before this Court for the \_\_\_\_\_ day of July, 2022 at \_\_\_\_\_ a.m/p.m or such other date as determined by this Court.
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**SCHEDULE "C"**  
**Monitor Consent to Act**

2022 01G \_\_\_\_\_

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF the *Companies Creditors  
Arrangement Act* R.S.C., 1985 c. C-36 as  
Amended (the "CCAA")

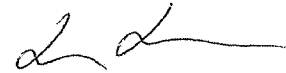
AND IN THE MATTER OF an application of  
Edward Collins Contracting Ltd., Classic  
Security Limited, FGC Holdings Limited, 51037  
Newfoundland and Labrador Inc. and H&E  
Designs Ltd. (collectively, "ECC" or the  
"Company"); and

CONSENT TO ACT AS MONITOR

The undersigned Sean Stack, CIRP, LIT, on behalf of S.R. Stack & Company Ltd. hereby consents  
to act as court-appointed monitor in the CCAA proceedings of ECC.

Sworn to at St. John's, Newfoundland and Labrador, this 13 day of July, 2022.

S.R. STACK & COMPANY LTD.



Per: Sean R. Stack, CIRP, LIT

Sworn before the undersigned  
Melissa Sarjoo, on the 13<sup>th</sup>  
Day of July 2022, at St. John's  
Newfoundland and Labrador:



Barrister, Solicitor, Notary or  
Commissioner for Oaths

**MELISSA SARJOO**

A Commissioner for Oaths in and for  
the Province of Newfoundland and Labrador.  
My commission expires on December 31, 2024