

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

Commercial List File No. CV-14-10798-00CL

IN THE MATTER OF THE RECEIVERSHIP OF  
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,  
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

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**NOTICE OF MOTION**

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Lawyers for A. Farber & Partners Inc. in its capacity as the Court  
appointed Receiver of Crate Marine Sales Limited, F.S. Crate &  
Sons Limited, 1330732 Ontario Limited, 1323559 Ontario  
Limited and 1282648 Ontario Limited

**TO: THE SERVICE LIST**

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**TAB 1**

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

IN THE MATTER OF THE RECEIVERSHIP OF  
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,  
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

**NOTICE OF MOTION  
(for directions re: the Belleville travel lift)**

A. Farber & Partners Inc., in its capacity as the Court-appointed Receiver (the “**Receiver**”) of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively the “**Companies**”) will make a Motion to a Judge of the Commercial List, on Tuesday May 5, 2015 at 10:00 a.m. or soon after that time as the motion can be heard, at 330 University Avenue, 8th Floor, Toronto, Ontario.

**THE PROPOSED METHOD OF HEARING:** The motion is to be heard:

\_\_\_ in writing under subrule 37.12.1(1) because it is made without notice;

\_\_\_ in writing as an opposed motion under subrule 37.12.1(4); or

X  orally.

**THE MOTION IS FOR:**

1. An Order giving advice and directions in connection with the competing claims to a travel lift described as a “New Lift 50 BFM II S/N 3495-0713” (the “**Lift**”) at the Belleville marina in which one of the Companies, Crate Marine Sales Limited (“**CMS**”) may have an interest; and
2. Such further and other relief as this Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

**Background to the Lift**

1. CMS leased the Lift from 1889863 Ontario Inc. (“**188**”) by lease dated July 23, 2013 (the “**Lease**”);
2. The Lease provided for monthly payments in the amount of \$8,000 and a term of 48 months;
3. The Lease was not registered pursuant to the *Personal Property Security Act* (the “**PPSA**”);
4. The Lift appears to have been acquired by CMS for use by Crate Belleville Inc. (“**CBI**”), at the Belleville marina;
5. CBI appears to have had close financial and operational connections with CMS, including the provision by CMS to CBI of substantially all the funding required to begin operations, and also the provision of certain boat inventory owned by CMS to offer for sale;

**Insolvency and bankruptcy of CMS**

6. CMS initiated insolvency proceedings on November 14, 2014 by filing a Notice of Intention to Make a Proposal, and was eventually placed under receivership and in bankruptcy on December 8, 2014;
7. Crawmet Corp. (“**Crawmet**”) holds security over all of CMS’ personal property, which the Receiver has concluded is generally first in priority;

**Reported termination of the Lease in September, 2014**

8. 188 has, subsequent to the receivership and bankruptcy of CMS, advised that the Lease for the Lift had been terminated prior to that time, on or about September 14, 2014;

9. 188 has provided a notice of termination of the Lease dated September 14, 2014, but has advised that this document was created in January of 2015;
10. 188 has also provided an acknowledgement of the termination of the Lease signed by Greg Crate on behalf of CMS dated September 14, 2014, but has advised that this document was also created in January of 2015;
11. Greg Crate had no authority to sign documents on behalf of CMS in January of 2015 in view of the appointment of the Receiver on December 8, 2014;
12. The principal of 188 as well as Ryan Crate and Greg Crate have all provided affidavits that there was a verbal agreement among them in or about the end of August or beginning of September of 2014 that CMS would cease making payments of the Lease and that CBI would enter into a new arrangement with 188 for the Lift on terms equivalent to the Lease but on a month to month basis and would begin making payments;
13. CMS did not make further payments under the Lease on or after September 1, 2014;
14. CBI made payments to 188 in the same amount as CMS had made under the Lease (\$8,000) from September 1, 2014 to January 1, 2015;
15. CMS provided funds to CBI in the amounts of \$10,000 and \$5,000 by way of cheques at the end of August and beginning of September, 2014 and by way of retention of \$32,000 from the proceeds of sale of a boat owned by CMS thereafter, but the Receiver has not yet completed its review of the available CBI records to determine whether these funds provided by CMS are or might have been connected to the payments that CBI made to 188 for the Lift starting on September 1, 2014, and the Receiver will advise in that regard in its report to the Court;

#### **Competing claims of Crawmet and 188**

16. In the view of the Receiver, the issue for which Court direction is required is whether, in the foregoing circumstances (or on such other evidence as is put before the Court by the

Receiver, 188 or Crawmet) the arrangements by which 188, CMS and CBI are said to have terminated the Lease should be given legal effect as of December 8, 2014, because:

- a) if there was no valid termination of the Lease as of December 8, 2014, then it appears to the Receiver that Crawmet has a prior ranking security interest over the Lift because the Lease was not registered under the PPSA; and
  - b) if there was a valid termination of the Lease as of December 8, 2014, then it appears to the Receiver that CMS no longer has any interest in the Lease due to prior enforcement and disposition by 188 as of the date of receivership and bankruptcy of CMS;
17. Section 30 of the PPSA; and
  18. Such further and other grounds as counsel may advise and this Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1. The Eighth Report of A. Farber & Partners Inc. as Receiver; and
2. Such further and other documentary evidence as counsel may advise and this Court may accept.



**DATE:** April 13, 2015

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Lawyers for A. Farber & Partners Inc. in its capacity as the  
Court appointed Receiver of Crate Marine Sales Limited,  
F.S. Crate & Sons Limited, 1330732 Ontario Limited,  
1323559 Ontario Limited and 1282648 Ontario Limited

**TO: THE SERVICE LIST**

**IN THE MATTER OF THE RECEIVERSHIP OF  
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,  
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO  
LTD.**

Commercial List File No.: CV-14-10798-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at Toronto**

**NOTICE OF MOTION  
(for directions re: the Belleville travel lift)**

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Lawyers for A. Farber & Partners Inc. in its capacity as the Court appointed Receiver of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

TAB 2

Commercial List File No. CV-14-10798-00CL

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

IN THE MATTER OF THE RECEIVERSHIP OF  
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,  
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

**EIGHTH REPORT OF THE RECEIVER**

**APRIL 14, 2015**

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- “G” Cheques from CMS to CBI
- “H” E-mail from CBI to CMS dated August 29, 2014 requesting funds
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- “J” Letter from Counsel for 1889863 Ontario Inc. with attachments dated February 24, 2015

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

IN THE MATTER OF THE RECEIVERSHIP OF  
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,  
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

**EIGHTH REPORT OF THE RECEIVER**

**APRIL 14, 2015**

A. Farber & Partners Inc., in its capacity as the Court appointed Receiver (the “**Receiver**”) of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited 1282648 Ontario Limited 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively the “**Companies**”), hereby reports to the Court as follows:

**INTRODUCTION**

1. On November 14, 2014, the Companies each filed a Notice of Intention to Make a Proposal (the “**NOI’s**”) pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”).
2. On November 20, 2014, the largest secured creditor, Crawmet Corp. (“**Crawmet**”) filed motion material for a November 21, 2014 hearing seeking to (i) have the NOI’s immediately terminated; (ii) appoint A. Farber & Partners Inc., as a receiver over the properties, assets and undertakings of certain of the Companies and (iii) to substitute A. Farber & Partners Inc. as bankruptcy trustee of certain of the Companies. At the November

21, 2014 hearing, this motion was adjourned to December 1, 2014.

3. On November 21, 2014, A. Farber & Partners Inc. was appointed Interim Receiver of certain of the Companies pursuant to section 47.1 of the BIA (the “**Interim Receiver**”) to preserve and protect the assets, undertakings and properties of those Companies acquired for, or used in relation to the business carried on by the Companies, including all proceeds thereof pursuant to the November 21, 2014 Order of the Honourable Mr. Justice Penny.

4. Following two intervening hearings, on December 8, 2014, the Honourable Mr. Justice Newbould terminated the NOI proceedings of the Companies and appointed A. Farber & Partners Inc. as Receiver and also as trustee in bankruptcy (the “**Trustee**”) of the Companies.

5. Since December 8, 2014, the Receiver has taken the following steps and brought the following motions, all of which have been more fully set out in the First, Second, Third, Fourth, Fifth (including Supplementary Report), Sixth and Seventh, reports of the Receiver:

- (a) On December 12, 2014, the Receiver and Trustee brought a motion to correct a typographical error in the Order dated December 8, 2014 regarding a misdescription of 1282648 Ontario Limited, and for procedural consolidation of certain of the bankruptcy estates of the Companies and other administrative relief. Mr. Justice Newbould issued an Amended Order dated December 8, 2014, a copy of which is attached as **Appendix “A”**. Mr. Justice Newbould also issued an order dated December 12, 2014 in respect of the consolidation and administrative relief;
- (b) On December 23, 2014, the Receiver and Trustee brought a motion to (i) approve the Second and Third Report of the Interim Receiver and the activities of the Interim Receiver set out therein; (ii) approve the fees of the Interim Receiver and its counsel; (iii) discharge the Interim Receiver; (iv) increase the borrowing power of the Receiver; and (v) as discussed in more detail below, establish a property claims process pertaining to the proprietary and secured claims against tangible personal property of the Companies. Mr. Justice Penny issued Orders granting that relief;
- (c) On January 14, 2015, the Receiver and Trustee commenced an application against Steven Crate, Gregory Crate, Lynn Marko, Ryan Crate, and Robin Crate (a.k.a. Robin Silver) and sought and obtained a certificate of pending litigation without notice regarding properties held in their name in the vicinity of the lands owned by the Companies in Keswick but for which the Companies appear to have provided all funds for the acquisition and



maintenance of those properties;

- (d) On January 30, 2015 the Receiver and Trustee commenced a further application against Ryan Crate and sought and obtained a certificate of pending litigation with notice regarding further a property held in his name at 14 Highland Ave. in Belleville, but for which the Companies appear to have provided all funds for the acquisition and maintenance of that property;
- (e) On February 13, 2015, the Receiver brought a motion for approval of a stalking horse sales process, which is fully described in the Receiver's Third Report dated February 8, 2015. By order dated February 18, 2015, the Honourable Mr. Justice Pattillo granted that relief;
- (f) On February 19, 2015 the Receiver commenced applications for bankruptcy orders against Steven Crate, Gregory Crate, Lynn Marko and the estate of Lloyd Crate in connection with amounts owing by them to the Companies. These applications are disputed and will be proceeding for hearing on April 27 and April 28, 2015;
- (g) On March 13, 2015, the Receiver brought a motion to approve its and its counsel's fees and disbursements to February 8, 2015 and to increase the Receiver's Borrowing Charge, as defined in the Appointment Order, to \$2,000,000.00. The Honourable Madam Justice Conway granted the relief sought;
- (h) On March 20, 2015, after obtaining a preservation Order without notice from Mr. Justice Newbould respecting the subject matter of the motion, the Receiver brought a motion on notice seeking, inter alia, declarations that certain life insurance policies issued by Transamerica Life Canada and held by 1382415 Ontario Ltd. ("415") and 1382416 Ontario Ltd. ("416") on the lives of Steven Crate, Gregory Crate and Lynn Marko and the proceeds thereof are property of 415 and 416, and finding Steven Crate, Gregory Crate and Lynn Marko in contempt of the Order and Amended Order of Mr. Justice Newbould dated December 8, 2014. On March 20, 2015, Madam Justice Conway made an order which, among other things, adjourned the motion to April 29, 2015, continued the preservation Order and required the disclosure of records pertaining to transactions in respect those proceeds;
- (i) On March 31, 2015, the Receiver moved for approval of the agreement of purchase and sale at issue in the stalking horse process (excepting the portions for purchase of the premises at 210 Wynhurst Rd. and 7/8 Mac Ave.) and for approval of its activities in connection with the claims process, which relief was granted by Orders of Madam Justice Conway of that date; and

6. Since the date of the Sixth and Seventh Reports, the Receiver closed the agreement of purchase and sale as approved by the March 31, 2015 order described at paragraph 5(i),

above, on April 10, 2015.

## **PURPOSE OF THIS REPORT**

7. This is the Eighth report of the Receiver (the “**Eighth Report**”). Its purpose is to seek advice and directions in connection with the competing claims to a travel lift described as a “New Lift 50 BFM II S/N 3495-0713” (the “**Lift**”) at the Belleville marina in which one of the Companies, Crate Marine Sales Limited (“**CMS**”) may have an interest.

8. The competing claims are:

- (a) by Crawmet Corp. (“**Crawmet**”), which the Receiver believes is the general first ranking secured creditor of the personal property of CMS as discussed below, and which asserts that the Lift was property of CMS over which its security interest takes priority; and
- (b) by 1889863 Ontario Inc. (“**188**”) as the lessor of the Lift, which takes the position that it terminated the lease for the Lift prior to the date of appointment of the Receiver and bankruptcy of CMS, such that 188 had enforced against the Lift and CMS no longer had any interest in it as of that date.

## **LIMITATION OF REVIEW**

9. A. Farber & Partners Inc. in its capacity as Receiver has relied upon the financial records and information provided by the Companies, as well as other information supplied by management, appraisers, accountants, auditors and advisors, and has not, except as specifically noted in this Eighth Report, audited, reviewed or otherwise attempted to verify the accuracy or completeness of the above information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook. It has prepared this Eighth Report for the sole use of the Court and of the other stakeholders in these proceedings.

## **A) THE COMPETING CLAIMS TO THE LIFT**

### **Background to the Lift**

10. CMS leased the Lift from 188 by lease dated July 23, 2013 (the “**Lease**”). A copy of the Lease is attached as **Appendix “B”**.

11. The Lease provided for monthly payments in the amount of \$8,000 and a term of 48 months.
12. The Lease was not registered pursuant to the *Personal Property Security Act* (the “PPSA”).
13. The Lift appears to have been acquired by CMS for use by Crate Belleville Inc. (“CBI”), at the Belleville marina.

### **Insolvency and bankruptcy of CMS**

14. CMS initiated insolvency proceedings on November 14, 2014 by filing a Notice of Intention to Make a Proposal, and was eventually placed under receivership and in bankruptcy on December 8, 2014.
15. Crawmet holds security over all of CMS’ personal property, which the Receiver has concluded is generally first in priority as reported in the Third Report of the Receiver. A copy of the Third Report of the Receiver (without appendices) is attached as **Appendix “C”**. A copy of the opinion of counsel for the Receiver regarding Crawmet’s personal property security is attached as **Appendix “D”**.

### **Reported termination of the Lease in September, 2014**

16. 188 has, subsequent to the receivership and bankruptcy of CMS, advised the Receiver that the Lease for the Lift had been terminated prior to that time, on or about September 14, 2014;
17. 188 has provided to the Receiver a notice of termination of the Lease dated September 14, 2014, but has advised in its affidavit material on this motion that this document was created in January of 2015. A copy of this notice of termination is attached as **Appendix “E”**.
18. 188 has also provided to the Receiver an acknowledgement of the termination of the Lease signed by Greg Crate on behalf of CMS dated September 14, 2014, but has advised in its affidavit material on this motion that this document was also created in January of 2015; A copy of this acknowledgement is attached as **Appendix “F”**.

19. Greg Crate had no authority to sign documents on behalf of CMS in January of 2015 in view of the appointment of the Receiver on December 8, 2014.

20. The principal of 188 as well as Ryan Crate and Greg Crate have all provided affidavits that there was a verbal agreement among them in or about the end of August or beginning of September of 2014 that CMS would cease making payments of the Lease and that CBI would enter into a new arrangement with 188 for the Lift on terms equivalent to the Lease but on a month to month basis and would begin making payments.

21. CMS did not make further payments under the Lease on or after September 1, 2014.

22. 188 has advised that CBI made payments to 188 in the same amount as CMS had made under the Lease (\$8,000) from September 1, 2014 to January 1, 2015. This matches the information available to the Receiver.

### **Connections between CBI and CMS**

23. CBI appears to have had close financial and operational connections with CMS, including the provision by CMS to CBI of substantially all the funding required to begin operations, and also the provision of certain boat inventory owned by CMS to offer for sale.

24. In particular, CMS provided funds to CBI in the amounts of \$10,000 and \$5,000 by way of direct deposits on August 29, 2014 and September 3, 2014, respectively. Copies of those the banking records, with handwritten notations as made by CMS personnel, are attached as **Appendix “G”**. The Receiver has found an e-mail from the manager of CBI, Ryan Crate, to the controller of CMS, Kris Nicholson, dated August 28, 2014 requesting funds for purposes including the lease payment for the Lift, a copy of which is attached as **Appendix “H”**.

25. CMS also provided \$32,000 by way of retention on September 26, 2014 of that amount from the proceeds of sale of a boat owned by CMS.

26. The Receiver has been provided with the general ledgers for CBI in order to review whether there were other receipts or expenditures by CBI in the course of its business other than the provision of funds noted above by CMS and the payments for the Lift at the first of

each month from September to January. The records disclose other receipt from customers and a payment from an insurance company in the amount of \$71,191, which the Receiver assumes was for repairs for a boat owned by a customer. Copies of the general ledgers for CBI are not appended, because they run more than 150 pages for each month and six months' worth of ledgers were received.

27. There were a variety of assets owned by CMS that were stored at or otherwise in the possession of CBI at the Belleville marina as of the date of the receivership and bankruptcy of CMS on December 8, 2014. These assets included boats and rolling stock owned by CMS. Upon appointment, the principal of CBI, Ryan Crate, agreed to permit all CMS assets at the Belleville location of CBI to be kept in place until the end of Winter so that removal would be practical.

### **The Property Claims Procedure Order and the nature of the claims**

28. The Receiver sought and obtained the Property Claims Procedure Order on December 23, 2014, a copy of which is attached as **Appendix "I"**.

29. The Property Claims Procedure Order also extends to tangible personal property other than boats, and also extends to the interests of secured creditors, including those who have registrations under the *Personal Property Security Act*.

30. The basis for including the claims of creditors in the claims process was that the Companies appeared to have in many cases entered into loan or financing arrangements with lenders based upon certain understandings, including unregistered security agreements by which (for example) title to a boat was said to have been held by a lender in a fashion that might be security for the loan, or might be ownership. The reports of the Interim Receiver also noted that, in several cases involving Crawmet and other lenders, the Companies appear to have nonetheless sold the boat(s) purportedly held as security. The Property Claims Procedure Order accordingly extended to creditor claims in order to allow the Receiver to obtain a full understanding of the various secured creditors.

31. The claims of 188 have not been made by way of a Property Proof of Claim pursuant to that Order. The Receiver understands it to be the position of 188, as articulated in a letter

from counsel for 188 dated February 24, 2015, that the Property Claims Procedure Order does not apply because the Lift was not in the possession of CMS or someone on its behalf as of December 8, 2014 when the Receiver was appointed. A copy of that letter is attached as **Appendix “J”**.

### **The issue in the competing claims of Crawmet and 188 to the Lift**

32. In the view of the Receiver, the issue for which Court direction is required is whether, in the foregoing circumstances (or on such other evidence as is put before the Court by the Receiver, 188 or Crawmet) the arrangements by which 188, CMS and CBI are said to have terminated the Lease should be given legal effect as of December 8, 2014, because:

- (a) if there was no valid termination of the Lease as of December 8, 2014, then it appears to the Receiver that Crawmet has a prior ranking security interest over the Lift because the Lease was not registered under the PPSA; and
- (b) if there was a valid termination of the Lease as of December 8, 2014, then it appears to the Receiver that CMS no longer has any interest in the Lease due to prior enforcement and disposition by 188 as of the date of receivership and bankruptcy of CMS;

33. There are also other issues or possible issues on this motion, but in the view of the Receiver those issue are subordinate to and determined by the main issue noted above. For example, one such possible issue is whether 188 should have filed a claim under the Property Claims Procedure Order, but the Receiver believes that an adjudication of whether the Lease was terminated (and hence whether Crawmet’s security attached to it as of the date of bankruptcy and receivership) will effectively determine or overtake that issue as well.

### **B) CONCLUSION**

34. The Receiver therefore requests advice and directions from the Court regarding the competing claims of Crawmet and 188 to the Lift.

All of which is respectfully submitted this 14<sup>th</sup> day of April, 2015.

**A. FARBER & PARTNERS INC.**

**COURT-APPOINTED RECEIVER OF CRATE MARINE SALES LIMITED, F.S.  
CRATE & SONS LIMITED, 1330732 ONTARIO LIMITED, 1328559 ONTARIO  
LIMITED, 1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416  
ONTARIO LTD.**

A handwritten signature in black ink that reads "Stuart Mitchell". The signature is written in a cursive style with a large, looping initial "S".

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Per: Stuart Mitchell  
Senior Vice President

TAB A





ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE MR. )

JUSTICE NEWBOULD )

MONDAY, THE 8<sup>TH</sup> DAY

OF DECEMBER, 2014

BETWEEN:

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF CRATE  
MARINE SALES LIMITED

Court File No. 31-1932502

BETWEEN:

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF F.S.  
CRATE & SONS LIMITED

Court File No. 31-1932534

BETWEEN:

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 1330732  
ONTARIO LIMITED

Court File No. 31-1932548

BETWEEN:

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 1328559  
ONTARIO LIMITED

Court File No. 31-1932557

BETWEEN:

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 1282648  
ONTARIO LTD.

Court File No. 31-1932540

**AMENDED ORDER**

(Terminating the Proposal Debtors' Proposal Proceedings and Appointing a Receiver)

**THIS MOTION** made by Crawmet Corp. ("Crawmet") for an Order:

1. validating the service and filing of the consolidated reply motion record, factum and brief of authorities of Crawmet be filed solely in court file number 31-1932502;
2. pursuant to section 50.4(11) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c.B-3 (the "BIA"), declaring that the period for filing a proposal by Crate Marine

Sales Limited, F.S. Crate & Sons Limited, 1282648 Ontario Ltd., 1328559 Ontario Limited and 1330732 Ontario Limited (collectively, the "**Debtors**") be terminated;

3. pursuant to section 243(1) of the BIA and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing A. Farber & Partners Inc. ("**Farber**") as receiver (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario; and
4. substituting Farber as bankruptcy trustee (the "**Trustee**") of the Debtors and 1382415 Ontario Ltd. and 1382416 Ontario Ltd. (together with the Debtors, the "**Proposal Debtors**").

**ON READING** the affidavit of Benn-Jay Spiegel sworn November 20, 2014, the supplementary affidavit of Benn-Jay Spiegel sworn November 30, 2014, the Report of Dodick Landau Inc., in its capacity as Proposal Trustee of the Debtors (the "**Proposal Trustee**"), the Affidavits of Steven Crate each sworn November 28, 2014, the First Report of Farber in its capacity as Interim Receiver of the Debtors (the "**Interim Receiver**"), the Second Report of the Interim Receiver, the Supplementary Report to the Second Report of the Interim Receiver, the Second Report of the Proposal Trustee, the Affidavit of Steven Crate sworn December 5, 2014, the Affidavit of Benn-Jay Spiegel sworn December 7, 2014 and the Third Report of the Interim Receiver, on hearing the submissions of counsel for Crawmet, counsel for the Debtors, counsel for the Proposal Trustee, counsel for the Interim Receiver and such other counsel as are present, and on reading the consents of Farber to act as the Receiver and the Trustee,

#### **FILING**

1. **THIS COURT ORDERS** that the service and filing by Crawmet, the Proposal Trustee, the Interim Receiver and the Debtors of consolidated materials be hereby validated and directs that these materials be filed solely in Court File No. 31-1932502.

#### **TERMINATION OF THE PROPOSAL PROCEEDINGS**

2. **THIS COURT ORDERS AND DECLARES** that, pursuant to section 50.4(11) of the BIA, the period for filing a proposal by each of the Proposal Debtors in their respective proceedings be and hereby is terminated and that A. Farber & Partners Inc. be and hereby is substituted as the bankruptcy trustee of the Proposal Debtors.

#### **APPOINTMENT**

3. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, A. Farber & Partners Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Proposal Debtors acquired for, or used in relation to a business carried on by the Proposal Debtors, including all proceeds thereof (the "**Property**").

#### **RECEIVER'S POWERS**

4. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Proposal Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Proposal Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on

whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;

- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Proposal Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Proposal Debtors and to exercise all remedies of the Proposal Debtors in collecting such monies, including, without limitation, to enforce any security held by the Proposal Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Proposal Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Proposal Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Proposal Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000 provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Proposal Debtors;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Proposal Debtors, including, without limiting the generality of the

foregoing, the ability to enter into occupation agreements for any property owned or leased by the Proposal Debtors;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Proposal Debtors may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Proposal Debtors, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

5. **THIS COURT ORDERS** that (i) the Proposal Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver 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 Proposal Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due

to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE PROPOSAL DEBTORS OR THE PROPERTY**

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Proposal Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Proposal Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. **THIS COURT ORDERS** that all rights and remedies against the Proposal Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written

consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Proposal Debtors to carry on any business which the Proposal Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Proposal Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (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 THE RECEIVER**

11. **THIS COURT ORDERS** that 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 Proposal Debtors, without written consent of the Receiver or leave of this Court.

#### **CONTINUATION OF SERVICES**

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Proposal Debtors 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 Proposal Debtors 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 Receiver, and that the Receiver shall be entitled to the continued use of the Proposal Debtors' current 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 by the Receiver in accordance with normal payment practices of the Proposal Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

#### **RECEIVER TO HOLD FUNDS**

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the



collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

#### **EMPLOYEES**

14. **THIS COURT ORDERS** that all employees of the Proposal Debtors shall remain the employees of the Proposal Debtors until such time as the Receiver, on the Proposal Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### **PIPEDA**

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Proposal Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver 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*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver'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.

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

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

### **RECEIVER'S ACCOUNTS**

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in

priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

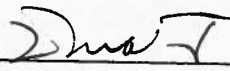
### **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<http://www.farberfinancial.com/insolvency-engagements/crate-marine-sales-limited-et-al>>'.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Proposal Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Proposal Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

**GENERAL**

27. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
29. **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 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
30. **THIS COURT ORDERS** that the Receiver 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 Receiver 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.
31. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

  
\_\_\_\_\_

**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an action having Court file number \_\_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[RECEIVER'S NAME], solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

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

Name:

Title:

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF CRATE MARINE SALES LIMITED, ET. AL.**

Court File No. 31-1932502

**ONTARIO  
SUPERIOR COURT OF ONTARIO  
IN BANKRUPTCY**

Proceedings commenced at TORONTO

**ORDER**

**CHAITONS LLP**  
Barristers and Solicitors  
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**Lawyers for Crawmet Corp.**



**TAB B**

**EQUIPMENT LEASE**

**LESSOR INFORMATION**

**CONTRACT No. 1199**

Lessor Name: 1889863 Ontario Inc.

**LESSEE INFORMATION**

Lessee's Name: Crate Marine Sales Limited  
Lessee Address: 290 The Queensway South Keswick, ON L4P 2B3

**LEASE DETAILS**

Vendor's Name: Canadian Marline Lift Service  
Vendor's Address: 210 Silverstar Blvd. Toronto, ON M1V 5J9  
Equipment Description: 1 New Lift 50 BFM II S/N 3495-0713  
Lease Term: 48 Months, paid in advance monthly

Assumed Price: First and last month's rent in the amount of \$16,000.00 is due on signing of this Lease.  
\$385,530.01 (\$341,177.00 + \$44,353.01 = \$385,530.01)

The Lessee is to transfer ownership of a 2013 Regal 24 Fast Deck Serial Number RGMGF219K213 to the Lessor in lieu of payment of \$50,000.00. The assumed price is therefore reduced by the said \$50,000.00 to \$335,530.01.

Net Rental: <sup>830.</sup> \$7,079.65/Month HST: \$920.35 Total Rental Payment: \$8,000.00 *Payment of \$50,000.00 will be paid no later than Sept 30, 2013 or earlier if boat sold by Crate Marine Sales.*

Purchase Option: The Lessee shall have an option to purchase the equipment on the one year anniversary of the Lease on July 29, 2014 for the option purchase price of \$273,400.00. At the end of the term of 48 months, the residual/option purchase price is \$57,580.00.

Payment Form: Pre-authorized payments or post-dated cheques

This Agreement to Lease (the "lease") the above equipment on the terms set forth herein is for valuable consideration entered into by the Lessor and the Lessee effective upon on signing below. This Agreement to Lease includes terms on the attached pages. The Lessee confirms by such signature that it has read, understands and agrees to such terms.

Dated at Keswick this 27 day of 27 July, 2013

1889863 Ontario Inc (Lessor)

[Signature]  
Witness

Per: [Signature]  
Name:  
Title:

I have the authority to bind the corporation

Crate Marine Sales Limited (Lessee)

[Signature]  
Witness

Per: [Signature]  
Name:  
Title:

I have the authority to bind the corporation

## LEASE TERMS

1. **Lease:** Lessor leases to Lessee, and Lessee leases from Lessor, the equipment described in the Lease Details (including any attachments hereto), including any parts, accessories, replacements, additions and accessions, tangible or intangible (including software), now and hereafter relating thereto or affixed thereon and including any documentation, manuals or information provided in connection therewith, (collectively the "Equipment"). THIS LEASE CANNOT BE CANCELLED OR PREPAID BY LESSEE. Lessee has not purchased the Equipment. Lessee irrevocably requests Lessor, as Lessor deems appropriate, to issue a purchase order, to enter into an agreement or to accept Vendor's invoice (any such document being a "Purchase Document"), or to otherwise acquire the Equipment, for the purpose of leasing it to Lessee. Lessee irrevocably offers to assign to Lessor its rights under any license or software, information or documentation related to the Equipment and under any agreement or warranty relating to the installation, maintenance or performance of the Equipment (any such license, agreement or warranty being a "Supporting Agreement"); Lessee is permitted to assign such rights to Lessor. LESSEE HAS PERSONALLY SELECTED THE EQUIPMENT AND LESSOR HAS ACQUIRED THE EQUIPMENT AT LESSEE'S REQUEST FOR THE SOLE PURPOSE OF LEASING IT HEREUNDER. LESSEE IS RESPONSIBLE FOR THE SUITABILITY OF THE EQUIPMENT AND ITS INSTALLATION AND DELIVERY; THE FAILURE OF THE EQUIPMENT TO OPERATE OR TO CONFORM TO LESSEE'S REQUIREMENTS SHALL NOT LESSEN LESSEE'S OBLIGATIONS HEREUNDER. Except for Lessor's obligation to pay Vendor for the Equipment if (but only if) the Lease Term commences, Lessee shall perform the purchaser's obligations under any Purchase Document and Supporting Agreement. Any information in the Vendor's invoice, the Purchase Document or in licensing information related to the Equipment may, in Lessor's discretion, be used to complete or augment the above Equipment description.

2. **Commencement:** This Lease is binding upon each party upon execution. This Lease's original term (the "Term") commences on the Start Date stated in the Delivery and Acceptance Certificate ("D&A") signed (or deemed to be signed) by Lessee and bearing the same Contract No. The Term ends on the corresponding day of the month following the number of months indicated as the "Term" in the Lease Details or, if later, following the last renewal made pursuant to Section 8. Upon delivery and, if applicable, installation of the Equipment, Lessee shall execute and deliver to Lessor a D&A in form provided by Lessor; if Lessee fails to do so, Lessor may, by notice in writing, deem the D&A to have been executed and the Start Date to have occurred on the date the Vendor states it completed Equipment delivery. Lessor may note the Start Date on the first page of this Lease and such notation shall, barring manifest error, be conclusive.

3. **Payments:** 3.1 During the Term Lessee shall, without notice or request, pay Lessor the total number of Rentals set forth in the Lease Details, plus any renewal Rentals. Rentals are payable, in advance, with the payment frequency noted in the Lease Details to Lessor at, until notice from Lessor, the address indicated above as follows: (A) first Rental upon Lessee's execution hereof (such first Rental being non-refundable unless Lessor elects not to proceed with this Lease and Lessee is not in Default) and (B), after the period covered by such first Rental, subsequent Rentals throughout the Term on the first, fifth, tenth, fifteenth or twentieth day of such period, whichever is closer to the Start Date. Amounts paid by Lessee prior to Term commencement which are in excess of such first Rental shall be credited towards Lessee's final Rental(s) in reverse order of occurrence, without interest. LESSEE'S OBLIGATION TO PAY ALL RENTALS AND OTHER AMOUNTS DUE UNDER THIS LEASE IS ABSOLUTE AND UNCONDITIONAL AND ALL RENTALS AND OTHER AMOUNTS DUE UNDER THIS LEASE ARE PAYABLE WITHOUT SET-OFF, COMPENSATION, DEDUCTION, DEFENSE, COUNTERCLAIM OR ABATEMENT. All amounts are in Canadian dollars unless otherwise stated.

3.2 -The Rentals stated in the Lease Details are calculated based on the Assumed Price (if, but only if, an Assumed Price is stated in the Lease Details) and on Lessor's cost of funds when this Lease is prepared and

Lessor may, by notice in writing, advise Lessee of any increase in Rentals necessary to maintain Lessor's profit margin if: (A) the amount paid by Lessor to acquire the Equipment is greater than the Assumed Price and: (i) the Purchase Document provides for payment in a currency other than Canadian dollars and a deterioration in the rate of exchange between such currency and the Canadian dollar has caused such price increase; or (ii) Lessee has consented in writing to such price increase; or (B) more than 30 days have passed since preparation of this Lease and Lessor's cost of funds has increased between the preparation of this Lease and the Start Date, and, barring manifest error (which must be raised by Lessee in writing within 21 days), such increased Rentals shall thereafter be the Rentals payable under this Lease.

3.3 - Lessee shall without notice pay interest at the rate of eighteen percent (18%) per annum, calculated daily and compounded monthly, on any amount which is not paid when due or which bears interest according to this Lease; in each case from the date any such amount becomes due or interest bearing, before and after maturity, default and judgment, until paid in full.

3.4 - Lessee's Bank is hereby irrevocably authorized and directed to: (A) debit Lessee's Bank account, as described in the above Lease Details, for all Rental and other Lease payments purporting to be drawn on Lessee for payment to Lessor and which are presented for payment by Lessor or Lessor's agent; and (B) make all such payments to Lessor or Lessor's agent from Lessee's Bank Account. Such payments may be requested in the form of magnetic or computer-produced tape and Lessee's Bank is hereby authorized and directed to treat them as signed by Lessee. Lessee agrees that Lessee's Bank shall not be liable for any loss or damage incurred by Lessee due to Lessee's Bank honouring this authorization. If Lessee's Bank account is transferred to another branch, this authorization shall be directed to such other branch. This authorization may not be revoked without Lessor's consent. Lessor is authorized, as Lessee's lawful attorney, to provide further evidence of this authorization to Lessee's Bank.

4. **Maintenance & Use:** Lessor is, at its expense, responsible for the maintenance, repair, parts replacement, delivery, installation, de-installation and re-delivery of the Equipment by qualified persons. Lessee shall at its expense keep the Equipment in good repair, condition and working order and any improvements resulting from such maintenance shall immediately form part of the Equipment. Except for such maintenance, Lessee shall not make any additions, changes, modifications or other alterations (collectively "Alterations") to the Equipment. All Alterations to Equipment shall immediately become property of Lessor, free and clear of any Encumbrances. Lessee shall use the Equipment carefully and shall, at Lessee's expense, comply with all applicable laws (including safety and inspection requirements), insurance policies and manufacturer's recommendations relating to the shipment, installation, ownership, possession, use or maintenance of the Equipment. Equipment shall only be used in connection with Lessee's business or in the carrying on of an enterprise and only for commercial, industrial, professional or handicraft purposes and not for any personal, family, household or farming purposes. Equipment shall not be used to transport people for a charge or to transport explosives, radioactive or flammable matter or any substance which is a prohibited, toxic or a restricted substance or hazardous waste under the Canadian Environmental Protection Act or any analogous legislation in effect in any relevant jurisdiction. Lessee is responsible for any person who has care or control of the Equipment during this Lease. Equipment shall remain at the Equipment Location except that Equipment which is, as expressly indicated by the Lease Details, a vehicle or other Equipment which will necessarily be used at different locations may, provided Lessor's first priority claim on the Equipment is not adversely affected: (A) be removed from the Equipment Location for normal daily usage; and (B) in the case of vehicles, provided absences from the Equipment Location shall not exceed 20 days in length or 30 days in any 45 day period, be used throughout Canada and the United States. Lessor may at any time inspect the Equipment and Lessee's maintenance, insurance, use and Tax records.

5. **Title:** Equipment is and shall remain the sole personal and moveable property of Lessor, shall not be affixed to any real or personal property and Lessee shall have no right, title or interest in the Equipment except for the

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right of use described in this Lease; Lessee shall not allow the Equipment to become subject to any Encumbrance in favour of any person, unless caused by Lessor. Lessee shall at its expense maintain markings required by Lessor on the Equipment to identify the Equipment as Lessor's property.

6. Net Lease: 6.1 - Lessee shall bear the entire risk of loss, damage, destruction, theft or governmental taking of the Equipment or any part thereof (any such case being a "Loss"), regardless of whether it is caused by any default or neglect of Lessee. No Loss shall relieve Lessee of its obligations under this Lease. Lessee shall immediately notify Lessor of any Loss and shall repair or replace the Equipment subject to the Loss.

6.2-ALL COSTS RELATING TO THE EQUIPMENT'S OWNERSHIP, USE, MAINTENANCE, POSSESSION OR DISPOSAL SHALL BE BORNE BY LESSEE, including all Taxes and all charges, licensing costs or fines arising in connection with the ownership or use of the Equipment. The Rentals and other amounts payable hereunder shall be absolutely net to Lessor, free of all expenses, deductions, Taxes, costs or outgoings of any kind whatsoever. If Lessee fails to perform any obligation hereunder, including its obligation to maintain adequate insurance coverage. Lessor may, as Lessee's lawful attorney or otherwise, do so on Lessee's behalf (including procuring insurance to protect Lessor's, but not Lessee's, interests), and Lessee shall immediately indemnify Lessor upon Lessor's request therefor for its costs of doing so, plus interest thereon until Lessor is compensated in full.

6.3 - Lessee shall pay all Taxes and, as required by law, file all Tax returns. Lessor is, unless otherwise required by applicable law or accounting principles, exclusively entitled to the benefit of depreciation, tax allowances, capital cost allowance, investment tax credits or other analogous claims arising from ownership of the Equipment.

6.4 - Lessee indemnifies Lessor and shall protect Lessor against all loss, costs, liabilities, damages, claims, legal proceedings and expenses arising in connection with: this Lease (including any out-of-pocket costs or fees associated with security searches, registrations, amendments and discharges and with Equipment appraisals and credit verifications); the Purchase Documents; any Supporting Agreement; the Equipment; the manufacture, selection, purchase, ownership, delivery, installation, possession, use, maintenance, Loss, disposal or return of the Equipment; Taxes; the Equipment's infringement of any patent, industrial or intellectual property right; any Default; or the exercise by Lessor of its rights hereunder.

6.5 - if, according to applicable law, the Equipment or its operator requires licensing or registration in any jurisdiction, Lessee shall, at its cost, comply with such licensing or registration requirements and shall immediately provide evidence thereof to Lessor (including original registration documents where available). Such licensing or registration shall show, to the extent permitted by applicable law: (A) Lessor as owner; and (B) Lessee as having care and control of the Equipment as lessee and, if Lessee is an individual, as Equipment operator. If Lessee is not an individual and the Equipment is to be operated by licensed individuals, Lessee shall advise Lessor of the name and address of its employees who will be Equipment operators) and shall give Lessor advance written notice of any change to such information. Lessee shall ensure that Equipment operators are duly licensed, competent to operate such Equipment and covered by Lessee's insurance coverage arranged pursuant to Section 7. If Lessor notifies Lessee that an operator is using Equipment in an unacceptable manner, Lessee shall immediately cause such person to cease operating such Equipment.

7. Insurance: Lessee shall, at its expense, maintain with insurers and on terms and conditions acceptable to Lessor:

(a) Comprehensive all risks, full replacement value property loss insurance on the Equipment with (i) loss payable to Lessor as first payee and, if Lessor requests, with Lessor named as an additional insured, and (ii) a waiver of subrogation in favour of Lessor; and

(b) General public liability and third party property damage insurance (in the case of vehicles, under a standard form automobile insurance policy and any "no fault" coverage required by applicable law) with limits of liability equal to at least \$2,000,000 per occurrence (or such greater amount as Lessor may require from time to time), exclusive of interest and costs and regardless of the number of claims arising from any one accident, and such insurance shall: (i) extend to all liabilities of Lessee

arising out of its or its agents use or possession of Equipment or out of Lessor's ownership of Equipment, (ii) include Lessor as additional insured, and (iii) include a cross-liability provision insuring each insured as if a separate policy had been issued.

Such insurance shall provide that: (A) evidence of renewal shall be provided to Lessor and thirty days written notice shall be given to Lessor before a policy expiration, alteration or cancellation; (B) coverage shall be primary and not contributory; and (C) Lessor's interest as additional insured shall not be adversely affected by any act or omission of Lessee or its agents. Lessee shall supply Lessor with evidence of satisfaction of these insurance covenants prior to delivery of the Equipment and thereafter upon request by Lessor. If Equipment is, in Lessor's reasonable opinion, an actual or constructive total loss. Lessor shall be entitled to retain its Liquidated Damages from the insurance proceeds and, if such proceeds are less than the Liquidated Damages, to recover any shortfall from Lessee. Lessee appoints Lessor as its attorney for the purpose of endorsing and negotiating all instruments payable to Lessee and executing all documents relating to the Loss of Equipment.

8. End of Lease: At the end of the Term (including any renewal), unless Lessee has purchased the Equipment pursuant to a Section 10 Purchase Option. Lessee shall give Lessor thirty (30) days prior written notice of its intent to return the Equipment and shall, at Lessee's risk and expense: (A) if Lessor requests, store (but not use) the Equipment for up to ninety (90) days until Lessor requests delivery of the Equipment; (B) return the Equipment to Lessor at the place in Canada specified by Lessor; or (C) if requested by Lessor, dispose of the Equipment in compliance with applicable law and as Lessor may direct. Returned Equipment shall be in good repair, condition and working order, normal wear and tear excepted. If Lessee at any time fails to give such notice or to return or purchase the Equipment as and when required, Lessee by such failure requests a renewal of this Lease for one (1) month and Lessor may, in its discretion: (i) demand the return of the Equipment pursuant to this Section and exercise its other rights hereunder; or (ii) accept such renewal request, including acceptance by Lessor continuing to withdraw Rentals by pre-authorized payment. This Lease (including this Section and the renewal provision herein) and Lessee's Lease obligations (including the obligation to pay Rentals as set forth herein) continue during any such renewal. If Lessee fails to return the Equipment as required hereunder Lessor may, without notice to Lessee or resort to legal process, take possession of the Equipment and, as Lessee's agent, enter any premises where the Equipment is located to remove or disable the Equipment.

9. Defaults: 9.1 - Each of the following is a default by Lessee (a "Default"):

- (a) failure to pay any Rental or other amount due hereunder within 10 days of its due date; or
- (b) failure to perform any obligation hereunder; or
- (c) a default under any other agreement between Lessor and Lessee or under any agreement between Lessee and any other financier; or
- (d) any representation or warranty made by Lessee herein or in respect of this Lease is incorrect or misleading; or
- (e) the value of Lessor's interest in the Equipment is materially impaired due to Loss; or
- (f) Lessee makes an assignment for the benefit of its creditors, is insolvent, commits an act of bankruptcy, takes any action to wind-up or dissolve, ceases or threatens to cease to do business as a going concern, amalgamates, is subject to a direct or indirect change in control or seeks any arrangement with its creditors; or
- (g) any proceeding in bankruptcy, receivership, winding-up, dissolution, liquidation or insolvency is commenced by or against Lessee or its property; or
- (h) Lessor in good faith believes and has commercially reasonable grounds to believe that the prospect of payment or performance by Lessee under this Lease is or is about to be impaired or the Equipment is or is about to be placed in jeopardy; or
- (i) any guarantor of Lessee's obligations hereunder disputes or seeks to determine or terminate its guarantee of Lessee's obligations or becomes subject to any of the events in clauses (f) or (g) above; or

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- (j) in the opinion of Lessor, acting reasonably, there has occurred a material adverse change in the business or financial condition of the Lessee or any Guarantor.

9.2 - Upon Default, in addition to Lessor's other rights under this Lease and at law or equity:

- (a) Lessee shall pay to Lessor as liquidated damages, and not as a penalty, an amount (the "Liquidated Damages") equal to the sum of:  
(i) All amounts then due and unpaid, including Rentals and interest; and  
(ii) the present value (calculated using a discount rate of three percent (3%) per annum, compounded monthly) of the remaining Rentals and all other amounts which are scheduled to be paid during the Term (including renewals then in effect); and  
(iii) if Lessor is unable to remarket Equipment for the full amount of its unrecovered residual investment, a sum equal to Lessor's then-current residual investment in the Equipment, less the net remarketing or insurance proceeds actually received by Lessor (if any); and  
(iv) any Enforcement Costs; and  
(v) interest thereon pursuant to Section 3.3, if the Liquidated Damages include any Taxes, the Liquidated Damages shall be increased to ensure that the net amount of the Liquidated Damages retained by Lessor after remitting all Taxes will be equal to the amount calculated above;  
(b) upon Lessor's demand, Lessee shall, at Lessee's expense, return the Equipment to Lessor pursuant to Section 8;  
(c) Lessor may, immediately and without notice to Lessee or resort to legal process, take possession of or disable the Equipment pursuant to Section 8;  
(d) the rights of Lessee in respect of the Equipment shall cease and terminate absolutely; and  
(e) Lessor may, by notice in writing, terminate this Lease.

All rights of Lessor, either under this Lease or at law or equity, are cumulative and not alternative and shall not be extinguished by or merged into any legal proceeding or judgement. Lessor's costs and expenses due to a Default ("Enforcement Costs") (including costs due to collection, legal fees, repossession, Equipment repair, rights enforcement, Equipment disposition and other realization costs) shall be paid by Lessee, with interest, upon demand. After a Default Lessor may sell, re-lease or otherwise dispose of Equipment at public or private sale with or without notice to Lessee and upon such terms and in such manner as Lessor may determine. Lessee shall be liable for any deficiency after the disposition proceeds are applied to the Liquidated Damages. To the extent permitted by law, LESSEE WAIVES THE BENEFIT OF ALL LAWS WHICH WOULD LIMIT LESSOR'S RIGHTS UNDER THIS LEASE, including Lessee's rights under conditional sales, credit and other similar statutes such as The Limitation of Civil Rights Act, Saskatchewan, as amended.

10. **Purchase Option:** Provided no Default exists, the Purchase Option set forth in the Lease Details, if any, may be exercised by the Lessee giving Lessor written notice sixty (60) days prior to the Option Date of its election to exercise such option. After giving such notice Lessee shall pay Lessor the Option Price, plus Taxes, at least thirty (30) days before the Option Date. After such notice and payment, provided no Default exists, Lessee shall acquire Lessor's interest in the Equipment on the Option Date on an "as is, where is" basis without any condition, representation or warranty by Lessor of any kind whatsoever except that the Lessee acquires such interest from Lessor free of Encumbrances caused by Lessor.

11. **Warranties:** Lessor warrants that it is entitled to enter into this Lease. Lessee represents, warrants and covenants (and acknowledges Lessor's reliance thereon and that such representations, warranties and covenants shall survive without time limit) that: (A) its full legal name is set forth above and, if a body corporate, it is and will continue to be validly incorporated and organized; (B) it has all necessary power and authority to own its property and carry on its business and to execute, deliver and perform this Lease, each such action (i) having been duly authorized, (ii) not being in conflict with any law, the constituting documents, resolutions or by-laws of Lessee or any agreement to which it is a party, and (iii) not creating any Encumbrance on the Equipment; (C) this Lease is and will continue to be a legal, valid and binding obligation of Lessee, enforceable against it and effective against its creditors in accordance with its terms; and (D) there are no pending or threatened proceedings against Lessee before any court or other tribunal unless disclosed to Lessor in writing; and

(E) Lessee's financial information is prepared in accordance with generally accepted accounting principles and Lessee has made full disclosure to Lessor of all material facts related to its financial well being, business and affairs. Lessor does not warrant or represent as to the suitability, durability, quality or condition of the Equipment. Warranties or representations by Lessor or any other person do not, unless explicitly set forth herein, form part of this Lease or lessen Lessee's obligations hereunder. Lessor hereby assigns to Lessee, until Default or return of Equipment, the benefit of all assignable warranties, guarantees, service contracts and licenses given by any person to Lessor in respect of the Equipment ("Equipment Rights") and agrees that Lessee may, at Lessee's expense, enforce (but not waive or amend) such Equipment Rights during the term of such assignment; upon Equipment return or a Default, Lessee hereby immediately reassigns all Equipment Rights to Lessor. LESSOR IS NOT LIABLE FOR ANY LOSS, DAMAGE OR EXPENSE, DIRECT, INDIRECT OR CONSEQUENTIAL, CAUSED BY: THE EQUIPMENT; THE USE, MAINTENANCE OR POSSESSION THEREOF; THE INADEQUACY OF THE EQUIPMENT RIGHTS; OR ANY EQUIPMENT FAILURE.

12. **Assignment:** Lessee shall not sublet or give up possession or control of the Equipment or permit its use by any person other than Lessee or competent employees of Lessee. This Lease shall not be assigned by the Lessee and no such assignment shall release Lessee. Lessor may, in whole or in part, assign this Lease, or may enter into this Lease as agent for an undisclosed principal, without notice to or the consent of Lessee; such an assignee or principal shall be entitled to all of Lessor's rights hereunder and such an assignee shall be entitled to enforce this Lease free of any claims, defences, rights of set-off or other equities existing between Lessor and Lessee, if Lessor makes a partial assignment or is acting as agent, Lessor and its principal or partial assignee shall jointly and, as their interests may appear, severally have rights under this Lease. Lessee waives significance of the act of assignment and delivery of a copy of the assignment.

13. **Administration:** Subject to applicable law, Lessee authorizes Lessor to conduct a credit investigation of Lessee including making inquiries with its Bank and other persons; Lessee authorizes and directs such persons to answer Lessor's inquiries, Lessee shall provide Lessor with annual financial statements within 150 days after the end of each financial year (which have been reviewed or audited by an independent qualified professional accountant) and such other financial information as Lessor may reasonably request from time to time. Lessor may provide information about this Lease to any person. Lessee agrees to do all things required by Lessor to give effect to or to better evidence this Lease. Lessor may charge Lessee such fees as it generally establishes from time to time for the administration of leases. Lessee shall immediately notify Lessor in writing of any change in Lessee's name and of any change in Lessee's Lease Details address. Any notice must be in writing and shall be given by delivery, first class prepaid mail or by facsimile to, in any case, the applicable address first noted above (or to such other address specified by notice). Deemed receipt of notices shall occur on the business day first following the date it is delivered or sent by facsimile transmission or, if sent by mail, provided there is no interruption in postal services, on the fifth business day after mailing. Lessee acknowledges receipt of a copy of this Lease, confirms that Lessor may make all security registrations or filings it deems necessary or desirable in connection with this Lease and waives, to the extent permitted by law, its right to receive copies of financing statements, notices or filings made by Lessor in connection with this Lease.

14. **Personal Information:** If an individual, Lessee (i) acknowledges receipt of a copy of the Lessor Privacy Code; (ii) hereby confirms that he/she understands the reasons for the collection, use and disclosure of his/her personal information and (iii) consents to the collection, use and disclosure of his/her personal information as indicated in the Lessor Privacy Code, as amended from time to time. Lessee further, specifically, acknowledge that Lessor may assign this Lease in whole or part from time to time and that he/she expressly agrees and consents that any personal information collected may be disclosed to and used by any such proposed assignee or the bankers or funders of Lessor.

14 a) If a corporation or other legal entity, Lessee specifically acknowledges that Lessor may assign this Lease in whole or part from time to time and that it expressly agrees and consents that any information

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collected may be disclosed to and used by any such proposed assignee or the bankers or funders of Lessor.

15. **Definitions:** Terms used in the Lessee Information or Lease Details have, when used in these Lease Terms with an initial capital letter, the meaning given to such term in the Lessee Information or Lease Details. In this Lease: "including" means "including without limitation"; "Encumbrance" means any claim, lien, charge, encumbrance, levy, security interest, mortgage, hypothec, pledge, hypothecation, seizure, trust, attachment, execution, judicial process, ownership interest, license or leasehold interest, including any claim by a landlord or mortgagee that an asset has become a fixture; "Taxes" includes all taxes, imposts, levies, fees, duties and charges now or hereafter imposed by any taxation authority on Lessee, the Equipment or the purchase, sale, ownership, delivery, possession, use, maintenance, operation or lease of the Equipment or on Lessor in respect of any of the foregoing (including sales, excise, use, property, capital, business, transfer, goods and services and value added taxes and penalties or interest on Taxes), excluding taxes on Lessor's net income; and "Fair Market Value" means the delivered and installed, all-inclusive, purchase price for equipment in good repair in a sale between an arms length purchaser buying for its own use and a seller dealing in such equipment in the ordinary course of its business, as such purchase price is determined by Lessor acting reasonably.

16. **Interpretation:** This Lease constitutes the entire agreement between Lessor and Lessee with respect to its subject matter. Amendments to this Lease must be in writing, reference this Lease and be signed by Lessee and Lessor. Lessee acknowledges that the Vendor and any brokers and other financial intermediaries involved in arranging this Lease are independent contractors and are not agents of Lessor or authorized to enter into agreements, amendments or waivers on Lessor's behalf. This Lease shall be interpreted according to the laws of, and the parties submit to the non-exclusive jurisdiction of the courts of, the Province of Ontario. The parties exclude the application of the UNIDROIT Convention on International Financial Leasing (Ottawa, 1988). The singular shall include the plural and vice versa and words importing one gender shall include all genders. Time is of the essence. Headings are only for convenience and do not affect interpretation. This Lease shall enure to and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, permitted assigns and legal representatives. Any provision of this Lease not permitted by applicable law shall be ineffective and severed herefrom without invalidating the remaining provisions of this Lease. Failure by Lessor to exercise any right will not waive such right. Waiver of a Default is not a waiver of any other Default. All waivers must be in writing

and signed by an authorized representative. All unperformed obligations of Lessee which, by their nature, are not released by the termination of this Lease (including those under sections 4, 6, 8 and 9) and the rights of Lessor hereunder shall survive the termination of this Lease.

17. **Language:** The parties hereby acknowledge that they have required this contract, and all other agreements and notices required or permitted to be entered into or given pursuant hereto, to be drawn up in the English language only. Les parties reconnaissent avoir demandé que le présent contrat ainsi que toute autre entente ou avis requis ou permis être conclu ou donné en vertu des dispositions du présent contrat, soient rédigés en langue anglaise seulement.

18. **Joint and Several Liability:** If more than one person executes this Lease as Lessee, their obligations hereunder shall be joint and several and, in the Province of Quebec, solidary without benefit of division or discussion.

19. **Additional Equipment:** Lessee may from time to time agree to lease additional equipment pursuant to these Lease Terms and each such agreement shall be evidenced by a written schedule (a "Lease Schedule") incorporating by reference the Lease Terms set forth herein, signed by Lessee and Lessor and setting forth the particulars of such equipment lease transaction, including the matters addressed by the above Lease Details. These Lease Terms shall apply, mutatis mutandis, to the transaction specified in such Lease Schedule; these Lease Terms and each such Lease Schedule shall constitute a separate Lease and the entire agreement with respect to that transaction, shall be separately assignable and enforceable, shall be deemed to be a "Lease" to which these Lease Terms refer and shall not be affected by the amendment, termination or expiry of any other Lease made pursuant to these Lease Terms. The terms of any Lease Schedule evidencing a specific transaction shall prevail over these Lease Terms and the above Lessee Information to the extent of any conflict or inconsistency but only in respect of that transaction.

20. **Additional Collateral Security:** As a general and continuing collateral security for the payment and performance of all present and future debts, obligations and liabilities of the Lessee to Lessor from time to time, the Lessee hereby grants a continuing security interest in, and charges and hypothecates all its right, title and interest in and to all present and future equipment and assets with respect to which Lessor has provided or may provide any value (including without restriction, for its acquisitions, lease, use, operation or otherwise) together with all proceeds thereof of whatever nature and kind howsoever arising.

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

IN THE MATTER OF THE RECEIVERSHIP OF  
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,  
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

**THIRD REPORT OF THE RECEIVER**

**FEBRUARY 8, 2015**



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## **LIST OF APPENDICES**

- “A” Order dated November 21, 2014 of the Honourable Mr. Justice Penny appointing the Interim Receiver
- “B” Endorsement of the Honourable Mr. Justice Penny dated November 21, 2014
- “C” Order of the Honourable Mr. Justice Newbould dated December 8, 2014 appointing the Receiver and Trustee
- “D” Handwritten endorsement of the Honourable Mr. Justice Newbould dated December 8, 2014
- “E” First Report of the Receiver and Trustee (without appendices)
- “F” Amended Order of Mr. Justice Newbould dated December 8, 2014
- “G” Order dated December 12, 2014 of the Honourable Mr. Justice Newbould consolidating bankruptcy estates
- “H” Second Report of the Receiver (without appendices)
- “I” Interim Receiver Discharge Order of the Honourable Mr. Justice Penny dated December 23, 2014
- “J” Order of the Honourable Mr. Justice Penny dated December 23, 2014 approving increased borrowing
- “K” Property Claims Procedure Order of the Honourable Mr. Justice Penny dated December 23, 2014
- “L” Endorsement of the Honourable Mr. Justice Penny dated December 23, 2014
- “M” Organizational chart prepared by the Companies
- “N” Chart outlining the municipal addresses, land titles PINs and registered owners of the Keswick marina property
- “O” Corresponding geographical colour-coded map of the Keswick marina properties
- “P” Receiver’s Notice of Application for the Adjacent Properties issued January 13, 2015
- “Q” Order of the Honourable Mr. Justice Newbould dated January 14, 2015
- “R” Registered Certificate of Pending Litigation filed against the Adjacent Properties

- “S” Receiver’s Notice of Application for the Belleville property
- “T” Order of the Honourable Mr. Justice Newbould dated January 30, 2015
- “U” Registered Certificate of Pending Litigation filed against the Belleville Property
- “V” Opinion letter of Receiver’s counsel regarding the validity and enforceability of the charges registered against the lands owned by the Companies
- “W” Opinion letter of Receiver’s counsel regarding the validity and enforceability of the charges registered against the Adjacent Properties
- “X” Opinion letter of Receiver’s counsel regarding the validity of the security agreement granted by CMS in favour of Crawmet Corp.
- “Y” Opinion letter of Receiver’s counsel regarding the validity of the security agreement granted by CMS in favour of Marquis Yachts
- “Z” Stalking Horse Offer

Confidential Appendix “A” Appraisals done by the Companies before the NOI litigation

Confidential Appendix “B” Receiver’s analysis of the value of the assets being sold under the Stalking Horse Offer as compared to the value of the purchase price under that offer

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

IN THE MATTER OF THE RECEIVERSHIP OF  
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,  
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

**THIRD REPORT OF THE RECEIVER**

**February 8, 2015**

A. FARBER & PARTNERS INC. in its capacity as the Court-appointed Receiver (the “**Receiver**”) of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively the “**Companies**”) hereby reports to the Court as follows:

**INTRODUCTION**

1. On November 14, 2014, Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively the “**Companies**”) each filed a Notice of Intention to Make a Proposal (the “**NOI’s**”) pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”).
2. On November 20, 2014, the currently-known largest secured creditor, Crawmet Corp. (“**Crawmet**”) filed motion material for a November 21, 2014 hearing seeking to (i) have the NOI’s immediately terminated; (ii) appoint A. Farber & Partners Inc., as a receiver over the properties, assets and undertakings of the Companies and (iii) to substitute A. Farber &

Partners Inc. as bankruptcy trustee of the Companies. At the November 21, 2014 hearing, this motion was adjourned to December 1, 2014.

3. On November 21, 2014, A. Farber & Partners Inc. was appointed Interim Receiver of certain of the Companies pursuant to section 47.1 of the BIA to preserve and protect the assets, undertakings and properties of those Companies acquired for, or used in relation to the business carried on by the Companies, including all proceeds thereof (the “**Property**”) pursuant to the November 21, 2014 Order of the Honourable Mr. Justice Penny (the “**Interim Order**”). A copy of the Interim Order is attached at **Appendix “A”**. A copy of the endorsement dated November 21, 2014 is attached at **Appendix “B”**.

4. On December 8, 2014, The Honourable Mr. Justice Newbould terminated the NOI proceedings of the Companies and appointed A. Farber & Partners Inc. as Receiver and also as trustee in bankruptcy (the “**Trustee**”) of the Companies. A copy of the Order of that date is attached as **Appendix “C”**, and a copy of the handwritten Endorsement of that date is attached as **Appendix “D”**.

5. On December 12, 2014, the Receiver and Trustee brought a motion to correct a typographical error in the Order dated December 8, 2014 and for procedural consolidation of certain of the bankruptcy estates of the Companies and other administrative relief. The First Report of the Receiver and Trustee in that regard is attached (without appendices) as **Appendix “E”**. The Honourable Justice Newbould issued an Amended Order dated December 8, 2014 (the “**Appointment Order**”) and also issued an order dated December 12, 2014 in respect of the consolidation and administrative relief, copies of which are attached as **Appendix “F”** and **Appendix “G”**, respectively.

6. On December 23, 2014, the Receiver and Trustee brought a motion to (i) approve the Second and Third Report of the Interim Receiver and the activities of the Interim Receiver set out therein; (ii) approve the fees of the Interim Receiver and its counsel; (iii) discharge A. Farber & Partners Inc. as Interim Receiver; (iv) increase the borrowing power of the Receiver; and (v) establish a property claims process pertaining to the proprietary and secured claims against tangible personal property of the Companies. The Second Report of the Receiver and Trustee in that regard is attached (without appendices) as **Appendix “H”**. On December 23,

2014, the Honourable Justice Penny issued Orders discharging the Interim Receiver, increasing the Receiver's borrowing power and approving a property claims procedure process. These orders are attached as **Appendix "I"**, **"J"** and **"K"**, respectively. A copy of the endorsement dated December 23, 2014 is attached as **Appendix "L"**.

## **PURPOSE OF THIS REPORT**

7. This is the third report of the Receiver (the **"Third Report"**). Its purpose is to seek an order:
- a) approving the First, Second and Third Reports of the Receiver and the activities of the Receiver described therein;
  - b) approving the agreement of purchase and sale dated February 8, 2015 entered into between the Receiver and 2450902 Ontario Limited (the **"Stalking Horse Offer"**) for the purpose of conducting the sales process described herein; and
  - c) approving the Sales Process described in this Report, the Sales Process Terms (as defined below) and in the draft Order sought.

## **LIMITATION OF REVIEW**

8. A. Farber & Partners Inc. in its capacity as Receiver has relied upon the financial records and information provided by the Companies, as well as other information supplied by management, appraisers, accountants, auditors and advisors, and has not, except as specifically noted in this Third Report, audited, reviewed or otherwise attempted to verify the accuracy or completeness of the above information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook. It has prepared this Third Report for the sole use of the Court and of the other stakeholders in these proceedings.

## **A) OVERVIEW OF THE ASSETS AND BUSINESS OF THE COMPANIES**

9. In order to better convey the activities of the Receiver and the considerations in favour of the Stalking Horse Offer, an explanation of the assets and business of the Companies is

required.

### **Marina business**

10. The principal business of the Companies had been the operation of marinas at multiple locations, at which boats were stored (both in slips in the water and on land in the winter), maintained and serviced, and also bought and sold. To the knowledge of the Receiver, the sole operating entity among the Companies was Crate Marine Sales Limited (“CMS”). Some of the boat sales operations were done by CMS as purchaser or vendor (and in many cases in both capacities due to trade-ins of boats being accepted from purchasers), and in other cases CMS acted like a broker in selling or purchasing boats on behalf of third parties.

11. The corporate relationships among the Companies are set out in the organizational chart prepared by the Companies prior to these proceedings, a copy of which is attached as **Appendix “M”**. The Companies other than CMS either owned land used in the marina operations (primarily at Keswick), or owned other of the Companies as set out in the organization chart attached as Appendix “M”.

### **Marina locations**

12. The locations of the marina operations of the Companies prior to these proceedings were the following:

- a) Keswick, Ontario, on Lake Simcoe;
- b) Willow Beach, Ontario, on Lake Simcoe;
- c) Lagoon City, Ontario, on Lake Simcoe;
- d) Port McNicholl, Ontario, on Georgian Bay;
- e) Port Credit, Ontario, on Lake Ontario; and
- f) Saint.-Paul-de-L’Ile-aux-Noix, Quebec, on the Richelieu River north of Lake Champlain.

13. The marina locations other than at Keswick are leased.

14. The Port McNicholl location appears to have been abandoned prior to the appointment of the Receiver. There is no active business there, and the only significant asset of note is a

travellift, which appears to be leased. A property proof of claim in the amount of \$324,000 has been filed by the equipment lessor. The Receiver believes that there is no equity in the equipment lease. The state of the lease with the landlord is not known.

15. The Willow Beach location is leased from 2192422 Ontario Inc. (“**219**”), which is a company that is owned 50% by 1382416 Ontario Ltd. (one of the Companies) and 50% by Dwight Powell Investments Inc. (“**DPII**”), who along with Dwight Powell is a creditor of the Companies. That lease appears to be in good standing as of the appointment of the Receiver.

16. The Lagoon City location is leased from 2124915 Ontario Inc., which is an arm’s length landlord under the management of Talisker Corporation. It appears that there were long-standing arrears of rent at this location prior to the appointment of the Receiver. The lease expires by its terms on April 30, 2015, and the landlord has advised that it has leased the premises to a third party (Pride Marine Group) commencing May 1.

17. The premises used for the Keswick marina operations are owned by a combination of the Companies and individuals related to the Companies. Attached as **Appendix “N”** is a chart listing the lands by municipal address, Land Titles PIN, and registered owner. Attached as **Appendix “O”** is a map that graphically depicts the information set out in the chart, with the colours corresponding to the colours also listed in the chart.

### **Non-marina business**

18. In addition to the marina business and landholdings as noted above, the Receiver has identified that the Companies had interests in other businesses or ventures, as follows:

- a) CMS appears to have provided all funds necessary to acquire and service the lands registered in the names of members of the Crate family in the vicinity of the Keswick marina location, as depicted in Appendices “N” and “O” (the “**Adjacent Properties**”), which funds were recorded on the books of CMS as either expenses against income or notional advances to shareholders;
- b) CMS appears to have similarly provided all funds necessary to acquire and service the property at 14 Highland Ave. in Belleville, apparently as a residence for Ryan Crate who was managing the marina at Belleville that was owned by Crate Belleville Inc., and in whose name that property is registered;



- c) CMS appears to have loaned funds to Crate Belleville Inc. to start up and operate a marina at Belleville, Ontario; and
- d) CMS appears to have provided funds in respect of loans or equity contributed by 1800239 Ontario Limited, which appears to be owned by Steven Crate, Greg Crate and Lynn Marko, for the franchise, land and construction of the Boston Pizza restaurant on the Queensway in Keswick, the full particulars of which are not yet known.

## **B) THE RECEIVER'S ACTIVITIES SINCE APPOINTMENT**

### **Taking Possession**

19. After the issuance of the Appointment Order, the Receiver took possession of the various Crate properties in Ontario (Keswick, Lagoon City, Willow Beach and Port Credit) and Quebec (Saint- Paul de- L'Ile-aux-Noix) and secured ongoing utility, insurance and other services in the Receiver's name. The Receiver retained certain staff to assist in the ongoing security of the Keswick Facility.

20. The Receiver contacted the insurer to arrange ongoing coverage, review the adequacy of the pre-existing coverage, and have the Receiver added as a named insured.

21. The Receiver contacted the Quebec landlord for the off-site storage facility where a number of the Quebec boats are stored. The Receiver also contacted Balsdon's Trucking in Pickering, Ontario, which is storing the 50' Marquis boat which is subject to litigation in the receivership. The Receiver has asked Balsdon's Trucking to retain this boat, which the Receiver intends to continue doing pending either agreement by the competing secured creditors or adjudication by the court as to entitlement to the boat or its proceeds.

22. The Receiver entered into discussions with the landlords of the Willow Beach and Lagoon City properties regarding issues and possible arrangements or agreements that may be reached to enhance administration of the estates of the Companies. As noted above, the Lagoon City landlord has leased that location to a new tenant when the current lease ends on April 30, 2015. The attempted negotiations with this landlord were ultimately unsuccessful as the landlord proceeded to enter into that new lease before continuing suggested discussions with the Receiver. Discussions with this landlord are ongoing regarding the resolution of outstanding issues as between the landlord and the Receiver on behalf of the Companies.

### **Third Party Property**

23. The Companies were storing approximately 700 customer-owned boats and about 40 boats owned by CMS. The Receiver retained certain staff to prepare listings of the boats. The process has been difficult as the Companies' records did not include a comprehensive list of boats in storage. Further, the boats had been shrink-wrapped for winter storage so tracing a boat in the yard to an entry on the boat listings has been difficult. These boats are discussed in more detail below.

### **Employees**

24. Subject to claims under s. 81.4 of the BIA, the Receiver paid the employees' arrears and arranged for final T4's and records of employment for all the employees

25. The Receiver prepared and submitted the employee data to Service Canada and the employees to facilitate the employee claims under the *Wage Earners' Protection Program Act*.

26. The Receiver retained certain staff to assist with, among other matters: (i) the statutory reporting duties of the Receiver, (ii) updating accounting records to provide updated accounts needed for the realization of the accounts receivable, (iii) dealing with customer calls on ongoing receivership issues and collection efforts for accounts receivable, (iv) winterization of the final boats not yet winterized as at December 8, 2014, (v) preparing listings of the Companies' boats and customers' boats, and (vi) invoices customers for unbilled items as of the date of the Appointment Order as well as for matters arising after the Appointment Order.

### **Communications**

27. The Receiver issued its Notice of Receivership and Receiver's Statement pursuant to s. 245(1) and s. 246(1) of the BIA.

28. The Receiver posted notice of its appointment on the doors of the premises occupied by the Companies. As well notices of the appointment and copies of the various materials filed with the Court and the Court orders were posted on the Receiver's website. The Receiver also posted its information circular addressing common questions from the various

stakeholders and boat owners. The Receiver continues to maintain the website and update it with ongoing documents and information updates on the receivership and bankruptcy proceedings.

29. The Receiver has spent considerable time speaking, corresponding and emailing with the boat owners on numerous topics including the status of the receivership, the bankruptcy, the status and winterization of their boats in storage, the impact on owners who pre-paid 2015 slip rentals, insurance, the Proof of Property Claim Process (as defined below), and the likelihood of operations next season.

## **Company Assets**

### Cash on Hand

30. CMS had seven bank accounts with three different banks. The Receiver contacted the various banks to close the accounts and arrange for the funds on hand to be transferred to the Receiver's account. The accounts, except for CMS' main chequing account at Bank of Montreal with a nominal value, have been closed. The Receiver received \$45,832.00 net of the refunded \$2,000.00 deposit which was received after the appointment of the Proposal Trustee and was still on hand as at the date of the receivership and bankruptcy.

31. The Receiver considered leaving the accounts open so customers could pay accounts receivable by credit card; however, the Receiver was concerned about potential chargebacks by Moneris Inc., the credit card processor, if customers filed claims for refunds of prepaid 2015 slip rentals and other potential payments. As of January 23, 2015 Moneris Inc. advised that they have over \$350,000.00 of chargebacks and will be amending their unsecured proof of claim accordingly.

### Accounts Receivable

32. The Interim Receiver's Supplementary Report to its Second Report reported on the difficulties in reconciling and assessing the accounts receivable. The Interim Receiver's estimated re-stated accounts receivable were approximately \$889,000.00 of which \$586,648.00 were estimated as collectible. The Receiver has sent letters to all the customers and retained former CMS staff to follow up on the outstanding balances. To February 4,

2015, only \$40,263.00 has been collected, which means that all other funding required to administer the Companies and the receiverships and estates in bankruptcy has come from Receiver's borrowing.

33. Many customers are claiming offsets for the amounts they prepaid for 2015 slip rentals and other reasons. In addition, many customers are having pre-filing amounts paid by credit card reversed. Some of the reversals relate to post-filing services such as 2015 slip rentals; however, other reversals are for services provided by CMS (i.e. service and winterization) and/or provided by the Receiver (i.e. winter storage). The Receiver is adjusting accounts receivable balances accordingly for chargeback amounts reported by Moneris Inc. The Receiver anticipates that, to the extent that the amounts in the accounts received are legitimate, payment may be enhanced when the 2015 boating season starts, which will be the time when customers require further services from the marinas or seek to retrieve their boats or other property.

#### Boat Inventory owned by CMS

34. In the Supplementary Report to the Second Report of the Interim Receiver dated December 4, 2014, the Interim Receiver reported at that time that it was unable to ascertain with certainty where each boat owned by CMS was located. While the shrink wrapping around the boats still poses challenges in identifying boats since serial numbers are in most instances covered, the Receiver has obtained maps of each of the marina properties in Keswick, Willow Beach and Lagoon City from staff of CMS along with the customer name, brand and location of each boat on the respective properties. . Boats owned by CMS are included on these maps and the Receiver has now had CMS staff verify where each specific inventory boat is located.

#### Parts Inventory

35. The Receiver has engaged former employees to update the accounting for the actual parts on-hand. The Receiver is advised that the parts and retail store inventory were physically counted on October 31, 2014 in anticipation of finalizing the year-end financial statements. The Receiver was advised that the inventory count sheets for certain of the parts

inventory went missing, reportedly just prior to the Receiver's appointment. The Receiver has arranged for its staff to recount the affected areas.

### Equipment

36. The Receiver has compiled a list of the machinery, equipment and vehicles used in the various locations.

37. The Receiver is also tracking the location of equipment that was not on the premises, including a truck and trailer that were in Florida at the time of the receivership. The truck and trailer had been sent to Florida to pick up new boats in October 2014, but the supplier would not release the boats until they had been paid for. Ultimately, the boats were not paid for and the truck and trailer remain secured in the suppliers' yard in Florida pending further instructions from the Receiver.

38. The Receiver has also obtained an appraisal of the equipment, parts and boat inventories noted above from Hilco Asset Sales Canada ("**Hilco**") and Services FL ("**SFL**").

### **Books and Records**

39. The Receiver has gone through the relevant portions of the information available in the Companies' books and records in order to fulfil its duties and obligations under the Appointment Order. The books and records were poorly maintained, and were stored on old computer hardware using old software making it difficult to manage and retrieve data. There were undisclosed (and hence unprocessed) transactions and it appears that certain books and records were removed just prior to the appointment of the Receiver.

40. Examples of undisclosed transactions include:

- i) the redirection of a \$42,000.00 commission due to CMS on the sale of a brokered boat to Mr. Steven Crate personally as described in the Third Report of the Interim Receiver;
- ii) the receipt of \$5,500.00 cash by Mr. Greg Crate from a customer for 2015 slip rental which was not recorded in the books and records; and
- iii) an offset granted to a customer with a large accounts receivable balance due to the Companies. The offset being claimed by the customer was

allegedly in exchange for a pool installed on a property held in the name of Mr. Greg Crate.

41. In addition, there appear to have been significant payments from the Companies' accounts for the benefit of related parties, the bases of which do not appear fully documented.

42. The Receiver is also reviewing the 2014 boat sales (sales from inventory and brokered boat sales) given the boat and payment issues identified in the various Interim Receiver's reports.

43. The Receiver and the Trustee continue their investigations into the affairs of the Companies, including contacting various accountants, consultants and lawyers that previously provided services to the Companies.

### **Adjacent Properties**

44. The Receiver's review of the books and records indicated that CMS had financed most, if not all, of the purchase and maintenance of the Adjacent Properties. However, the properties were held in the name of the principals of the Companies and related parties. The Receiver also became aware that certain of these Adjacent Properties had been put up for sale by the registered owners.

45. On January 13, 2015, the Receiver filed a Notice of Application seeking various relief including certificates of pending litigation against the Adjacent Properties and an order vesting title to the Adjacent Properties in the Receiver. On January 14, 2015, the Receiver brought a motion to obtain a certificate of pending litigation against the Adjacent Properties, which was granted by the Honourable Mr. Justice Newbould that day. The Receiver had the certificate of pending litigation registered on title to the Adjacent Properties.

46. A copy of the Receiver's Notice of Application for the Adjacent Properties is attached as **Appendix "P"**. A copy of the Order of January 14, 2015 is attached as **Appendix "Q"**. A copy of the registered certificate of pending litigation is attached as **Appendix "R"**.

### **Belleville Property Registered in the Name of Ryan Gregory Crate**

47. Upon a further review of the Companies' books and records, the Receiver discovered

a property at 14 Highland Ave. in Belleville, Ontario registered in the name of Ryan Gregory Crate, the son of one of the directors of the Companies, which also appears to have been financed by CMS. The property is listed for sale.

48. On January 30, 2015, the Receiver issued an application seeking various relief including a certificate of pending litigation against this property and an order vesting title to it in the Receiver. That day, the Receiver brought a motion for a certificate of pending litigation against the Belleville property, which was granted by the Honourable Mr. Justice Newbould. The Receiver has filed a certificate of pending litigation against the Belleville property.

49. A copy of the Receiver's Notice of Application in respect of this property is attached as **Appendix "S"**. A copy of the Order of January 30, 2015 is attached as **Appendix "T"**. A copy of the registered certificate of pending litigation is attached as **Appendix "U"**.

#### **Possible amounts owing by former management**

50. The Receiver continues to review the books and records of the Companies to determine whether there are amounts that may be owing by Steven Crate, Greg Crate and/or Lynn Marko as former management and directors of the Companies.

51. The Receiver has identified that loans of approximately \$1.8 million in total are outstanding to the estate of Lloyd Crate (deceased), Steven Crate, Greg Crate and Lynn Marko on the books of 1382415 Ontario Ltd., which appears to have been for certain amounts paid by CMS for the benefit of those individuals.

52. The Receiver is also reviewing allegations of cash or other payments made by third parties to individuals including Steven Crate, Greg Crate and Lynn Marko for services or materials acquired from CMS.

#### **Third Party Assets**

53. The Receiver reviewed the available books and records and, as set out in the Interim Receiver Reports and the Receiver's Second Report, the potential ownership claims of certain boats and other tangible personal property were uncertain. As a result, the Receiver and Trustee sought relief for a proposed property claims process as described in the Second Report

(the “**Proof of Property Process**”). The Proof of Property Process was approved by the order of the Honourable Mr. Justice Penny dated December 23, 2014 (the “**Property Claims Procedure Order**”). As noted above, a copy of the Property Claims Procedure Order is attached as Appendix “K”.

54. The Receiver complied with paragraph 8 (a) of the Property Claims Procedure Order by posting a proof of property claim document package on its website and sending a copy to each of the Known Claimants (as defined in the Property Claims Procedure Order) for which it had addresses.

55. Paragraph 8(b) of the Property Claims Procedure Order directed the Receiver to cause to be published, on two separate days on or before January 9, 2015, a notice of the claims process in each of a local Keswick newspaper and a Canadian national newspaper. The Receiver had the required notices published in the Globe & Mail on January 7 and January 9, 2015. The local papers were only published weekly, so the Receiver had the required notices published in the Georgina Advocate (Keswick), the Innisfil Journal, the Barrie Advance and Orillia Today on January 8 and 15, 2015.

56. The Receiver sent numerous proof of property packages to additional parties as the Receiver became aware of them or as additional addresses were located prior to January 30, 2015. Some further proof of property packages are still being requested and supplied. The majority of the Receiver’s communications with property claimants at this point are for updates on the process.

57. As of January 30, 2015, the Receiver has received approximately 700 claims. The deadline to submit a claim for the Proof of Property Process was January 30, 2015. The Receiver is conducting a detailed review of claims received prior to the deadline to assess which boats and other property may or may not have competing claims. The Receiver will provide in a subsequent report additional information on the status of the Proof of Property Process.

## **Sales Options**

58. The Receiver reviewed the composition of the assets that were available for sale and



determined that the best realizations were likely from a sale of the business as an operating marina.

59. Furthermore, the value of the customer base to a potential operator would be more likely to be maintained if a sales process demonstrated that a new operator would soon be in place. This would give customers some comfort that an operator would run the marina business next season, and accordingly, the customers would be more likely to keep their business at the Companies' former premises. The value would be more likely maintained as well if the marina operations were sold early enough in 2015 so a new operator could contact customers before the boats started being taken out of winter storage in anticipation of the 2015 boating season. It is not clear that it would be financially or operationally prudent for the Receiver to attempt to operate the marina business itself in the 2015 boating season.

60. It is also possible that the Companies' real estate in the Keswick area (along with the interest, if any, of the Companies in the Adjacent Properties) will be of interest to real estate developers and the Receiver therefore intends as part of the Sales Process to make the purchase opportunity known to certain real estate developers.

61. The Receiver spent considerable time negotiating the Stalking Horse Offer (as described more fully below). This was a complicated process due to a number of factors including (i) there are multiple Companies with different real estate holdings and multiple cross-collateralized mortgages (ii) the uncertainty of potential claims on the CMS-owned boats (iii) the state of the books and records and (iv) the issues identified by the Receiver related to properties adjacent to the Keswick facility and other business activities of the Companies, as outlined above.

62. The Receiver was ultimately successful in obtaining the Stalking Horse Offer and has now finalized its proposed sales and marketing process to seek potential higher offers for the purchased assets in that agreement. The Sales Process and Stalking Horse Offer are discussed in more detail below.

### **Security review**

63. Counsel for the Receiver has provided several security opinions to the Receiver, as

follows:

- a) a restated opinion subject to the normal assumptions and qualifications regarding the validity and enforceability of the charges registered against the lands owned by the Companies, including those granted to Crawmet, DPII and Dwight Powell and which would be assumed by the Purchaser under the Stalking Horse Offer discussed below, a copy of which is attached as **Appendix “V”**;
- b) a restated opinion subject to the normal assumptions and qualifications regarding the validity and enforceability of the charges registered against the Adjacent Properties, a copy of which is attached as **Appendix “W”**. Counsel has advised that in respect of 292 Wynhurst (one of the Adjacent Properties), which is registered in the name of Lynn Marko, the charge registered as instrument no. YR1670154 in the face amount of \$1,000,000.00 in favour of Romith Investments Limited does not create or convey any interest in such property as a result of a *Planning Act* contravention, and the same consideration may mean that this charge might not create convey any interest in respect of 200 Wynhurst;
- c) a restated opinion subject to the normal assumptions and qualifications and certain variances referred to regarding the validity, enforceability and perfection of the general security agreement granted by CMS in favour of Crawmet, a copy of which is attached as **Appendix “X”**; and
- d) an opinion subject to the normal assumptions and qualifications regarding the validity, enforceability and perfection of the security agreement granted by CMS in favour of Marquis Yachts, LLC a copy of which is attached as **Appendix “Y”**.

64. Insofar as there is a motion by Marquis Yachts, LLC and Northpoint Commercial Finance, LLC, as the assignee of its interest, regarding the 50’ yacht presently being held by Balsdon’s Trucking, and given that the Receiver has determined that both the personal property security granted in favour of Marquis Yachts and also in favour of Crawmet are valid and enforceable as against the Receiver (subject to the normal assumptions and qualifications), the Receiver takes no position on that motion. The Receiver notes, however, that Crawmet has recently filed materials suggesting that the boat may have been sold outright to CMS rather than financed, which, if established, could affect the Receiver’s position. As the priority issue between Marquis/Northpoint and Crawmet has already been brought before the Court, the Receiver has not reviewed that matter and expresses no opinion in that regard.

65. As noted in the opinion regarding the general security agreement granted by CMS in

favour of Crawmet, based on advice from Quebec counsel it would appear that since Crawmet has not effected a moveable security registration in Quebec, this general security agreement would not be effective against the Receiver and Trustee as far as the assets located in Quebec are concerned. Such assets in Quebec are, however, of modest value relative to the Purchase Price in the Stalking Horse Offer discussed below. In considering the Stalking Horse Offer, the Receiver has made an allowance for such non-effectiveness regarding the Quebec assets.

## **Other**

### Funding

66. The Receiver has issued two Receiver's Certificates to Crawmet for a total of \$1,000,000.00, as permitted by the December 23, 2014 Borrowing Order. The funds obtained were used for the ongoing costs of the receivership and the fees and expenses of the Interim Receiver and its counsel as approved in the December 23, 2014 Interim Receiver Discharge Order. Funds were also used for certain fees and disbursements of the Receiver and its counsel between the Appointment Order and December 31, 2014.

### Bankruptcy

67. The Trustee has been administering the bankruptcy estates, including chairing the first meetings of creditors and first meetings of inspectors on January 20, 2015. The activities of the Trustee will be reported on separately as provided for in the BIA.

## **C) STALKING HORSE OFFER**

68. The Stalking Horse Offer that has been negotiated and signed by the Receiver, subject to approval by this Court, is attached at **Appendix "Z"**.

69. The purchaser under the Stalking Horse Offer is 2450902 Ontario Limited (the "**Purchaser**"). The principals of the Purchaser are Benn-jay Spiegel and Dwight Powell, who are respectively principals of Crawmet and DPII, who are secured creditors of the Companies as described in the opinions of the Receiver's counsel referred to above and attached to this Third Report.

## **What is to be sold**

70. The Stalking Horse Offer is for substantially all of the assets of the Companies. There are three main exclusions from the assets of the Companies that would be conveyed under the Stalking Horse Offer:

- a) cash on hand at closing;
- b) boats in the possession of the Companies for which there are, or were, boat slip leases or other bailment arrangements (the Receiver will bring a separate motion to the Court to deal with such boats after the Proof of Property Process has gone further); and
- c) anything that the Purchaser may choose to exclude from the assets that would otherwise be subject to the Stalking Horse Offer (but if so there are no adjustments to the purchase price) .

71. In addition to the assets of the Companies relating to the business they operated, the assets that will be sold under the Stalking Horse Offer include claims that the Companies, the Receiver or the Trustee may have, including the applications that the Receiver and Trustee have commenced regarding the Adjacent Properties and the property at 14 Highland Ave. in Belleville. Also included will be any claims that CMS or other of the Companies have in respect of the funds paid by CMS for the interest of 1800239 Ontario Limited in the Boston Pizza business, the amounts owing by Crate Belleville Inc. as well as any amounts that may be owing by individuals including the estate of Lloyd Crate, Steven Crate, Greg Crate and Lynn Marko, for reasons including the shareholder loans listed as outstanding to 1382415 Ontario Ltd..

72. The Trustee will bring its own motion for approval to sign the Stalking Horse Offer and will file a separate report in that regard.

## **The Purchase Price**

73. The Purchase Price under the Stalking Horse Offer is set out in section 2.2 of the Stalking Horse Offer, but is essentially comprised of:

- a) the amounts owing under the mortgages granted to Crawmet, DPII and Dwight Powell, and all but \$1,000,000.00 of the amounts secured under the general security agreement and owing in favour of Crawmet, as more fully

set out in Schedule “E” to the Stalking Horse Offer (the “**Assumed Secured Debt**”), which the Purchaser will assume;

- b) cash for any and all amounts secured by the Receiver’s Charge and the Receiver’s Borrowings Charge at Closing;
- c) cash in an amount that the Receiver will estimate for the aggregate of the fees, expenses, and disbursements of the Receiver and the Trustee, and of their counsel for the period after Closing until their discharge, but if the amount of such fees, expenses and disbursements are less than the estimated amount then the Purchaser shall be paid the surplus;
- d) cash payments in the amounts of:
  - (i) Five Hundred and Fifty Thousand (\$550,000) Dollars in respect of the portion of the Lands, as defined in the Stalking Horse Offer, municipally known as 7 and 8 Mac Ave., Keswick and legally described in PIN 03475-0135 (LT) (in addition to the assumption by the Purchaser of the Assumed Secured Debt registered against title thereto), and
  - (ii) Seven Hundred and Ten Thousand (\$710,000) Dollars in respect of the portion of the Lands, as defined in the Stalking Horse Offer, municipally known as 210 Wynhurst Ave., Keswick and legally described in PINs 03475-1967 (LT) and 03475-1972 (LT);
- e) any and all other amounts and claims on account of realty tax arrears, utility arrears and source deductions, if any, which rank in priority to the mortgages in favour of Crawmet, DPII and Dwight Powell, or the Crawmet GSA or against the assets being purchased; and
- f) There are to be no adjustments to the Purchase Price in respect of any matter whatsoever.

74. The Receiver estimates that the Purchase Price as at March 31, 2015, assuming that is the Closing Date, will be approximately \$25,951,784.00, made up as follows:

Description	Price
Assumed Secured Debt	\$22,973,033.00
Cash for the Receiver’s Borrowings Charge at Closing, inclusive of 12% interest	\$1,0029,752.00
Cash for Receiver’s Charge at Closing	\$1,000,000.00

Estimated fees, disbursements and expenses of the Receiver and Trustee and their counsel from Closing to discharge	\$300,000.00
Payment for 7/8 Mac Ave.	\$550,000.00
Payment for 210 Wynhurst Ave.	\$710,000.00
amounts and claims on account of realty tax arrears, utility arrears and source deductions ranking in priority to the Assumed Secured Debt	\$389,000.00
<b>Total</b>	<b>\$25,951.784</b>

75. The Receiver has been advised the Purchaser will provide the \$250,000.00 deposit within one business day of the acceptance by the Receiver of the Stalking Horse Offer as required by its terms. If that does not take place, the Receiver will provide a further report to the Court and the Service List prior to the return of the Receiver's motion.

**Review of the credit bid portions of the purchase price**

76. Since the Stalking Horse Offer is in large part comprised of a credit bid through the Assumed Secured Debt, the details of which are set out in Schedule "E" to the Stalking Horse Offer, the Receiver with the assistance of its counsel has conducted various due diligence to attempt to verify the amount of the Assumed Secured Debt in order to consider whether the credit at issue qualifies to make up part of the consideration of the Stalking Horse Offer and whether that offer is reasonable in comparison with the value of the assets to be sold.

77. As noted above, counsel for the Receiver has provided opinions subject to the normal assumptions and qualifications that the charges registered in favour of Crawmet, DPII and Dwight Powell are valid and enforceable as against the Receiver, as is the general security agreement in favour of Crawmet (except respecting assets in Quebec). The priority of the charges is addressed in the opinions, and the Receiver is not aware of any other secured creditor with a general security agreement.

78. The Receiver has reviewed the amount of the Assumed Secured Debt claimed by DPPII, Dwight Powell and Crawmet. Based upon a review of information and documentation provided by DPPII, Dwight Powell and Crawmet, the affidavits filed in the NOI proceedings, and also through a review of the books and records of the Companies, the Receiver has verified that, in the circumstances and subject to a number of discrepancies that the Receiver does not believe are material, those amounts are reasonably supportable.

79. In respect of facility “D” of Crawmet (see Schedule “E” to the Stalking Horse Offer), as was noted in the affidavit of Benn-Jay Spiegel sworn November 20, 2014, the advances under this facility were initially personally extended by Mr. Spiegel to CMS. The loans for the amounts so advanced were assigned by Mr. Spiegel to Crawmet by an assignment dated November 3, 2014. The Receiver believes that these amounts are supportable as part of the Assumed Secured Debt in reliance on the following:

- a) The definition of “obligations” in the general security agreement in favour of Crawmet includes all obligations, debts and liabilities of CMS to Crawmet, wheresoever and howsoever incurred and, among other things, “whether arising from dealings between [Crawmet] and [CMS] or from other dealings or proceedings by which [Crawmet] may be or become in any manner whatever a creditor, obligee or promisee of [CMS]”; and
- b) It appears that it was the contemporaneous intention of CMS and Crawmet that Crawmet loan these amounts. The general counsel of Crawmet, Allan Lyons, has provided the Receiver with an affidavit in which he stated that, among other things, CMS requested these loans from Crawmet on a basis that was stated to be urgent, and Crawmet agreed to provide them, but Mr. Spiegel temporarily issued personal cheques to CMS since the other signing officers of Crawmet were not available to sign cheques at the time that the advances were made.

### **Evaluation of the prudence of proceeding with the Stalking Horse Offer**

80. The Receiver considers that value of the assets of the Companies is enhanced because the Stalking Horse Agreement (i) allows a mechanism to attempt to obtain *en bloc* offers and encourage further bids (without a break fee or payment of expenses of the Purchaser), and also (ii) provides assurances to customers of the Companies that there will likely be an operator in place for the marina locations in time for the 2015 boating season.

81. Since it is not known whether any Superior Bids, as defined in the Stalking Horse

Offer, will be made, the Receiver has considered the value being offered in the Stalking Horse Offer and concludes that it is appropriate value for the assets being purchased taking into account:

- a) the value of the properties owned by the Companies as set out in the appraisals conducted by the Companies before the NOI litigation and for the stated purpose of financing, which was sealed in the NOI litigation and is attached as **Confidential Appendix “A”**;
- b) the value of the properties referred to in (a) were likely optimistic and also reflect (by their terms) an orderly sales process rather than a distressed or forced sales process of the sort that the Receiver would implement but for the Stalking Horse Offer;
- c) there would be sale costs consisting of real estate commissions estimated to be in the range of 5% commission and lawyers’ fees and other closing costs for the properties referred to in (a);
- d) the value of inventory (boats), parts, vehicles and equipment on the books and records of CMS is overstated as compared to liquidation estimates provided by Hilco and SFL;
- e) there is likely modest value for goodwill at best, given the adverse publicity and repeated instances of funds not being kept in trust and customers of the Companies having lost funds due to the actions of prior management;
- f) there is likely some value to the claims in respect of the Adjacent Properties and 14 Highland Ave. in Belleville, and the valuation of the Adjacent Properties was also included in Confidential Appendix “A” by the Companies when they commissioned it, but discounts are likely warranted for some litigation risk, expense of litigation and also the factors noted in items (b) and (c) above regarding adjustments as against appraised value (note that the valuation at Confidential Appendix “A” does not include 262 Queensway, which is one of the Adjacent Properties, but that was purchased on September 29, 2014 so the Receiver has considered its purchase price as an indication of value subject to adjustment);
- g) there is a wide range of potential value in respect of possible claims that CMS may have in respect of the funds it paid for 1800239 Ontario Limited’s interests in the Boston Pizza business, but this is subject to greater litigation risk given that the Receiver’s investigation is not yet complete, subject to adjustment for the cost of any proceeding, and subject to adjustment because the recovery of any debt owing or equity held is also not guaranteed;
- h) there is a wide range of potential value in respect of possible claims that the Companies may have against individuals, including the estate of Lloyd



Crate, Steven Crate, Greg Crate and Lynn Marko, for matters including the approximate \$1.8 million listed as owing to 1382415 Ontario Ltd., but this is again subject to greater litigation risk given that the Receiver's investigation is not yet complete, subject to adjustment for the cost of any proceeding, and subject to adjustment because the recovery of any debt owing or equity held is also not guaranteed (particularly in light of the stated intent of several creditors, including the registrations on title by Canada Revenue Agency to pursue the assets of Messrs. Crate and Ms. Marko); and

- i) there would be greater ongoing costs of the receivership if the Receiver were to sell the assets under an alternative forced sales process.

82. The Receiver has prepared a detailed analysis of the estimated ranges of the value of the assets being sold under the Stalking Horse Offer as compared to the value of the estimated Purchase Price under that offer, and has concluded that the Purchase Price in the Stalking Horse Offer is superior to the estimated ranges of recoverable value of the assets in a disposition through an alternative forced liquidation sales process. A copy of this analysis is attached as **Confidential Appendix "B"**.

#### **Commentary on allocation of purchase price**

83. The Receiver is cognizant that the allocation of the purchase price in the Stalking Horse Offer to the properties municipally known as 7/8 Mac Ave. and 210 Wynhurst Ave. in Keswick is likely to provide for less value than the charges registered against those properties by Cesaroni Management Limited ("**Cesaroni**"), Romith Investments Limited ("**Romith**") and Uplands Charitable Foundation ("**Uplands**").

84. The Receiver has been advised by the Purchaser that its investigations into the market value for those properties is considerably less than the value of the amounts owing under the charges in favour of Cesaroni, Romith and Uplands, and that the amounts allocated are what the Purchaser is prepared to pay in order to acquire those properties. The amounts offered are different than the appraisal information available to the Receiver as set out in Confidential Appendix "A".

85. The Receiver has reviewed the consideration being offered in the Stalking Horse Offer and the benefit of a mechanism to coherently market the assets being conveyed in it in a bidding process, and has concluded that the interests of the creditors and stakeholders of the

Companies on the whole is best served by accepting the Stalking Horse Offer.

86. Part of the Receiver's considerations in that regard are that it is the Receiver's understanding that the amounts owing by the Companies to Cesaroni and Romith are also secured against some or all of the lands municipally known as 200 and 292 Wynhurst and registered in the name of Lynn Marko, such that the likelihood of repayment of those amounts is reasonable having regard to the values given to those lands in Confidential Appendix "A".

87. The position of Cesaroni, Romith and Uplands on the Stalking Horse Offer and the Receiver's motion is not yet known, but will be developed in discussions among counsel prior to the return of the motion.

88. The Receiver is also cognizant that the allocation of the Purchase Price in the Stalking Horse Offer will yield no recovery allocable to the Quebec assets of the Companies, yet the Assumed Secured Debt appears to have no enforceable security against those assets. The Receiver believes that the Stalking Horse Offer nonetheless is supportable and commercially reasonable having regard to:

- a) the relative value of the Quebec assets (as set out in Confidential Appendix "B"), both in terms of cost value on the books and records of the Companies, and also in terms of fair market and forced sale values as reported by Hilco and SFL, as compared to the overall consideration offered in the Stalking Horse Offer; and
- b) the realizable value of the Quebec assets is likely minimal (or even negative) having regard to the priority amounts payable such as the portion of the Receiver's Charge and Receiver's Borrowing Charge allocable to those assets.

#### **D) PROPOSED SALES PROCESS**

89. The sales process timeline that the Receiver has proposed has been designed to attempt to ensure that the process will be complete and a buyer of the assets in place for as soon as possible following the end of March. The Receiver has done so because the value in the assets would be more likely maintained if the marina operations were sold early enough in 2015 so that a new operator can contact customers before the boats start being taken out of

winter storage in anticipation of the 2015 boating season. It is not clear that it would be financially or operationally prudent for the Receiver to attempt to operate the marina business itself in the 2105 boating season

90. The proposed sales process is set out more fully in the draft Order attached as Schedule “A” to the Receiver’s Notice of Motion, including the sales process terms attached as Schedule “A” to that Order (collectively the “**Sales Process**”), but the following is a summary the Sales Process:

Description	Date
Order re: Stalking Horse and Sales Process	February 13, 2015
Receiver sends teaser letter to parties in the same industry as the Companies and to other potential purchasers identified by the Receiver	As soon as possible after February 13, 2015
Ads in the Globe & Mail (national edition)	February 23, 2015
Ads in in the Georgina Advocate, Barrie Advance, Innisfil Journal and Orillia Today	March 2, 2015
Superior Bids must be submitted to the Receiver	March 18, 2015 at 5:00pm (Toronto time)
If no Superior Bids	
motion for an Approval and Vesting Order for the Stalking Horse Offer	By March 27, 2015
Closing of the Stalking Horse Offer	By March 31, 2015
If one or more Superior Bids	
Receiver to send invitations to the Auction to all persons submitting Superior Bids and to the Stalking Horse Bidder	By March 20, 2015 at 3:00pm (Toronto time)
Auction at the offices of the Receiver	March 23, 2015 at 10:00 am (Toronto time)
motion for an Approval and Vesting Order for the Winning Bid	By April 1, 2015
Closing of the Winning Bid	By April 8, 2015

If the Winning Bid fails to close: Motion for Approval and Vesting Order for the Back-up Winning Bid and Closing of the Back-up Winning Bid	By April 20, 2015
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**E) SEALING ORDER**

91. The release of the information at Confidential Appendices “A” and “B” would be detrimental to the interests of the stakeholders of the Companies prior to the closing of a transaction under the Sales Process Terms. The release of that that information would also be prejudicial to the prosecution of the claims that the Companies may have as described in the Third Report, either by the Receiver or by a purchaser. The Receiver accordingly requests that these documents be sealed until further Order of the Court.

**F) CONCLUSION**

92. A. Farber & Partners Inc. in its capacities as Receiver and Trustee accordingly seeks the Order attached as Schedule “A” to its Notice of Motion.

All of which is respectfully submitted this 8<sup>th</sup> day of February, 2015.

**A. FARBER & PARTNERS INC.**

**COURT-APPOINTED RECEIVER OF CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED, 1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED, 1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.**



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Per: Stuart Mitchell  
Senior Vice President

TAB D

January 28, 2015

A. Farber & Partners Inc.  
150 York Street  
Suite 1600  
Toronto, Ontario  
M5H 3S5

**Attention: Stuart Mitchell, Senior Vice-President**

Dear Sir:

**Re: Review of certain security granted by Crate Marine Sales Limited (“Crate Marine”) in favour of Crawmet Corp. (“Crawmet”)**

In connection with your acting as Receiver and as Trustee in Bankruptcy with respect to Crate Marine pursuant to the *Bankruptcy and Insolvency Act* (Canada) and the Amended Order of Justice Newbould of the Ontario Superior Court of Justice (Commercial List) dated December 8, 2014 terminating the bankruptcy proposal proceedings, you have asked us to provide our views in respect of the Loan Documents (as defined below).

In light of additional documentation which has recently been provided by counsel for Crawmet, this opinion revises, replaces and re-states our earlier opinion of January 15, 2015.

This opinion is provided to you in your capacity as Receiver and as Trustee in Bankruptcy and is limited to our review of copies of the following documents entered into by Crate Marine:

- (a) a letter loan agreement dated December 22, 2011, made between Crawmet, as lender, and Crate Marine, as borrower, extending a revolving loan to the borrower in the maximum principal amount of \$2,000,000.00, at an interest rate of 10% per annum calculated and compounded monthly (the “**Loan Agreement**”);

- (b) a general security agreement dated as of December 22, 2011, granted by Crate Marine, as debtor, in favour of Crawmet, as secured party (the "**GSA**");<sup>1</sup>
- (c) a revised and re-stated letter loan agreement dated December 19, 2012, made between Crawmet, as lender, and Crate Marine, as borrower, replacing and re-stating the Loan Agreement, extending a term loan to the borrower in the maximum principal amount of \$2,085,244.24 at an interest rate of 10% percent per annum calculated and payable monthly, maturing and repayable in full on the earlier of a change in control of the borrower and January 1, 2018 (the "**Restated Loan Agreement**");
- (d) a loan agreement dated June 1, 2014, made between "Crawmet" [sic], as lender, and "Crate Marine" [sic], as borrower, extending a term loan to the borrower in the principal amount of \$318,440.00 at an interest rate of 10% percent per annum calculated monthly, maturing and repayable in full on June 1, 2015 (the "**Facility "B" Loan Agreement**");<sup>2 3 4</sup>
- (e) a promissory note dated June 3, 2014, given by "Crate Marine Sales" [sic] in favour of "Crawmet" [sic] in the amount of \$318,440.00 bearing interest at 10% per annum, calculated yearly not in advance, maturing and being repayable in full on June 1, 2015 (the "**Promissory Note**"); and,<sup>5</sup>
- (f) an assignment agreement dated as of November 3, 2014 given by Benn Spiegel, as assignor, and Crawmet, as assignee, as debtor, pertaining to the assignment of the Indebtedness (as defined therein) (the "**Assignment Agreement**").

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<sup>1</sup> The GSA provides that it secures all obligations, debts and liabilities of the debtor, whether present or future, which language is sufficient to secure the obligations under the Loan Agreement as well as the obligations under the later Restated Loan Agreement. As well, the Restated Loan Agreement specifically provides that the "Security for the revolving boat loan shall be the same as given for the original revolving boat loan dated 22 December 2011..." which is in itself a form of reconfirmation. The reference to "revolving boat loan" in section 5 of the Restated Loan Agreement is likely an error as the loan agreement otherwise evidences that the earlier provided revolving provisions were removed and that a maturity dated had been inserted.

<sup>2</sup> The Facility "B" Loan Agreement appears to the "Facility B" loan referred to in paragraph 27 of the Affidavit.

<sup>3</sup> Although the Facility "B" Loan Agreement is given by "Crawmet" [sic] to "Crate Marine" [sic], we were provided with a copy of an uncanceled cheque bearing number 1681 and dated 03/06/2014, issued by Crawmet Corporation to Crate Marine Sales Limited in the amount of \$318,440.00, as evidence of the actual parties to the Facility "B" Loan Agreement. Assuming the advance of funds can be established by bank statement or cancelled cheque, then the loan amount would be secured by the GSA as a "debt and liability" of the debtor.

<sup>4</sup> The Facility "B" Loan Agreement provides in Section 9 that the loan is secured by a "Carver C40 Motor Yacht, Twin Cummin QSB 6.7 Diesels, Serial # CVRC7006L314 (the "Security"), and further that the lender will "...retain a security interest in the Security until payment of the full amount of the Loan is made by the Borrower.". No specific security agreement pertaining to the Security has been provided.

<sup>5</sup> The description of the calculation of the interest rate in the Promissory Note varies with the description of the calculation of the interest rate in the Facility "B" Loan Agreement;

The documents in (b), (c), (d) and (e) above are, collectively, referred to herein as the “**Loan Documents**”.

We note that:

- (a) the Loan Agreement applies to a revolving loan facility in the maximum principal amount of \$2,000,000.00. Benn-Jay Speigel, the general manager of Crawmet, has deposed in an affidavit filed in the proceedings and sworn on November 20, 2014 (the “Affidavit”) that this facility, “...did not ultimately operate as a revolving loan. For ease of administration, Facility “A” was subsequently converted by Crawmet to a term loan with an interest rate of 10% per annum payable in 60 monthly blended principal and interest payments of \$22,408.15.”;
- (b) It appears that the Restated Loan Agreement was intended to document the conversion of the loan to a non-revolving term loan and to provide for an increase in the principal amount of the loan. The Restated Loan Agreement specifically provides that it replaces all of the terms of the Loan Agreement with effect as of January 1, 2013; and,
- (c) Crawmet has not provided any agreements with respect to the loan facility described as Facility “C” in paragraph 27 of the Affidavit, which is said to be secured by the GSA, or with respect to the various personal loans (subsequently assigned to Crawmet as noted above) which are described in paragraph 30 of the Affidavit.

In conducting our review and for the purposes of the opinions given herein, we have made the assumptions contained herein and as set out in Schedule “A” attached hereto (collectively, the “**Assumptions**”). Additionally, our opinions herein are subject to the qualifications and limitations contained herein and as set out in Schedule “B” attached hereto (collectively, the “**Qualifications**”). We confirm that the restrictions and limitations on this report, as herein contained, are satisfactory to you.

The undertaking, business, property, assets, interests, and rights of Crate Marine in which Crawmet has been granted a security interest pursuant to the terms of the GSA are collectively referred to herein as the “**Charged Property**”. In summary, the Charged Property consists of the property more particularly set forth in Schedule 1 to this Opinion.

We have made no investigation of the laws of any jurisdiction other than, and the opinions hereinafter expressed are restricted to, the laws of the Province of Ontario and the federal laws of Canada applicable therein as of the date hereof and, insofar as the laws of other jurisdictions are relevant, we express no opinion thereon. Without limiting the foregoing, we express no opinion with respect to:



- (a) the laws of any other jurisdiction (other than the laws of Ontario and the federal laws of Canada) to the extent such laws may govern any aspect of the Loan Documents or govern the validity, the perfection, the effect of perfection or non-perfection, or the enforcement of any Security Interests created thereunder as a result of the application of the conflict of laws rules of Ontario, including, without limitation, Sections 5 to 8.1 of the *Personal Property Security Act* (Ontario) (the "**PPSA**") and Section 7 of the *Canada Shipping Act, 2001* (Canada) (the "**CSA**");
- (b) whether, pursuant to the conflict of laws rules of any jurisdiction other than Ontario and other than the federal laws of Canada, that the laws of Ontario would govern the validity, the perfection, the effect of perfection or non-perfection, or enforcement of any security interests created by the GSA; or,
- (c) the application of conflict of laws rules or principles of paramountcy as between the PPSA and the CSA.

While we understand that most of the Charged Property is located in the province of Ontario, you have indicated to us that there is certain Charged Property in the province of Quebec. Although our opinion does not extend to the laws of Quebec, and without derogating from the disclaimer in the immediately preceding paragraphs, as instructed by you, we engaged a Quebec agent, BCF LLP ("BCF"), to conduct a personal property security search in Quebec (i.e., a search of movable property) against Crate Marine, the results of which are more particularly set forth in in Schedule 3 to this Opinion. Without expressing a formal opinion, BCF advised by email of January 6, 2015 that since Crawmet has not effected a movable security registration in Quebec (i.e., a hypothec registration), Crawmet's GSA, "...would not be opposable to [i.e., effective against] the Trustee/Receiver as far as the assets located in Quebec are concerned. Furthermore, the registered secured party's interest in the assets located in Quebec would have priority over [Crawmet's] GSA.". In a supplemental email BCF further advised that even if the personal property located in Quebec was transferred from Ontario to Quebec "...the answer would be the same unless the transfer was in the last 30 days."

In connection with this opinion, no review has been made of any of the transactions, agreements, indentures or other instruments of the Crate Marine for the purposes of identifying matters described in this opinion, other than a review of the Loan Documents. Furthermore, no review of the minute books of Crate Marine has been undertaken by our firm.

We have considered such questions of law as we have considered relevant and necessary as a basis for the opinions hereinafter expressed.

## OPINIONS

Subject to the assumptions, qualifications and comments we have made herein and in the Schedules attached hereto, and the Discussion contained below, we are of the opinion that:

1. Subject only to the variance in the names of the parties in the Facility "B" Loan Agreement and the Promissory Note as set out above, each of the Loan Documents constitutes a valid and binding obligation of Crate Marine, each enforceable against Crate Marine in accordance with its terms;
2. Subject only to the variance in the names of the parties in the Facility "B" Loan Agreement and the Promissory Note as set out above, Crate Marine has duly executed and delivered the Loan Documents;
3. The GSA creates in favour of Crawmet, a valid security interest in the Charged Property identified therein to which the PPSA applies; and,
4. The GSA has been registered, filed or recorded in all public offices where the registration, filing or recording thereof is required under the laws of the Province of Ontario to perfect the security interest created by the GSA in the applicable Charged Property to which the PPSA applies.

## RELIANCE

All opinions expressed herein are provided to you and are for the sole purpose of the performance of the duties of the Trustee and the Receiver in respect of its appointment by the Court, and including any future appointment in respect of Crate Marine, and may not be relied on by any other person, firm, corporation or entity without the prior written consent of Goldman, Sloan, Nash & Haber LLP. This opinion is given as of the date hereof and we do not undertake, and hereby expressly disclaim, any obligation to advise you of any change in any matters set forth herein.

## SEARCHES CONDUCTED

We have conducted, or have caused to be conducted, such public registration searches for filings or registrations made in Ontario, or federally in Canada, in the applicable offices of public record, against Crate Marine as we have deemed appropriate. These searches include corporate profile searches, PPSA searches and CSA searches, all as more specifically set out in **Schedule "C"** attached hereto. The searches were conducted in respect of the current legal name of Crate Marine, in each case as of the dates set forth in **Schedule "C"**. We note that given the specific mandate to assess the GSA and the fact that Crawmet is not a Schedule I or II bank within the meaning of the *Bank Act* (Canada), we have not conducted searches relating to the *Bank Act* (Canada) or registered judgments or writs of execution, or other searches typically conducted in the context of a broad security review of all security interests asserted against a debtor.

We confirm your advice that our review based upon these searches, and our reliance upon such searches in giving the opinions set out herein, is satisfactory for your purposes at this time

We trust that the foregoing is satisfactory. Should you have any questions or comments, please do not hesitate to contact us.

Yours truly,

Goldman, Sloan, Nash & Haber LLP

GOLDMAN, SLOAN, NASH & HABER LLP

**SCHEDULE "A"****ASSUMPTIONS****A. Authenticity and Accuracy**

We have assumed the genuineness of all signatures and the authenticity and completeness of all documents submitted to us as copies thereof. We have also assumed the accuracy and currency of: (i) all indices, filing and registration systems maintained at the public offices where we have searched or inquired or have caused searches or inquiries to be conducted, as set forth herein; (ii) all search results obtained by electronic transmission; and (iii) the results of any printed or computer search of any office of public record.

The online Vessel Registration Query System ("VRQS") under the CSA only generates an uncertified response with respect to an "owner" query. We have therefore assumed that the online information provided by the VRQS system with respect to an "owner" query, is identical to the information which would be provided by the VRQS system for an "owner" query, if such system was a certified system of registrations.

**B. Authority**

We have assumed that:

- (a) Crate Marine was a duly incorporated and validly existing corporation at the time that each of the Loan Documents was authorized, executed and delivered, and that Crate Marine has continued to be duly incorporated and validly existing since that time;
- (b) Crate Marine had the requisite corporate power, capacity and authority to enter into and perform its obligations under each of the Loan Documents at the time each of the Loan Documents was authorized, executed and delivered;

- (c) all necessary corporate action and proceedings had been taken by Crate Marine to authorize the execution, delivery and performance of each of the Loan Documents<sup>6 7 8 9</sup>; and
- (d) with respect to each party to the Loan Documents other than Crate Marine, all necessary corporate actions or proceedings were taken to authorize the execution and delivery of the Loan Documents and that all of the Loan Documents have been duly and validly executed and delivered on behalf of the party executing or delivering such documentation, by an authorized signing officer or officers of such party, and each such document comprising the Loan Documents is enforceable in accordance with its terms.

### **C. Loan Documents**

We have assumed that none of the Loan Documents has been assigned, released, discharged or otherwise impaired, either in whole or in part, and there are no agreements that are relevant to the matters discussed in this letter than those identified herein.

### **D. Existence of Debt and Security Matters**

We have assumed that:

- (a) valuable consideration has been given to Crate Marine, and payment and other obligations remain outstanding by Crate Marine under the agreements identified herein;
- (b) advances of funds to Crate Marine, the quantum thereof, and the amount or repayment to date are as set forth in the Affidavit;

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<sup>6</sup> There is an authorizing resolution in respect of the Loan Agreement; however, it is limited to the initial loan of \$2,000,000.

<sup>7</sup> The authorizing resolution for the Loan Agreement dated December 22, 2011 provides that the security for the \$2,000,000 loan is "used boats on the terms and conditions as set out in the said Agreement". In contrast, the Loan Agreement states that the, "Security for the revolving boat loan shall be comprised of a general assignment by the Borrower of security interest in inventory, equipment, accounts, motor vehicles and other assets...".

<sup>8</sup> The authorizing resolution for the Restated Loan Agreement dated December 19, 2012 contains an error in the loan amount which is stated as \$2,000,000.00 rather than \$2,085,244.24. This is likely a mechanical error sourcing from the earlier authorizing resolution which is similar in text.

<sup>9</sup> The authorizing resolution for the Restated Loan Agreement contains the same variance noted above, i.e., it provides that the security for the \$2,000,000 loan is "used boats on the terms and conditions as set out in the said Agreement" whereas the Restated Loan Agreement states that the, "Security for the revolving boat loan shall be the same as given for the original revolving boat loan dated 22 December 2011 and comprised of a general assignment by the Borrower of security interest in inventory, equipment, accounts, motor vehicles and other assets...".

- (c) the terms of the indebtedness, including but not limited to the applicable interest rate and maturity date are as provided in the Affidavit and have not subsequently been varied <sup>10</sup>;
- (d) each of the Loan Documents was duly executed and delivered by Crate Marine;
- (e) all of the conditions precedent contained in each of the Loan Documents, if any, were satisfied or waived;
- (f) attachment of the security interests created by the GSA has occurred within the meaning of the PPSA;
- (g) Crate Marine has an interest in its collateral expressed to be subject to the GSA; and,
- (h) insofar as any obligation under any of the Loan Documents is to be performed in any jurisdiction other than Ontario and other than pursuant to the federal laws of Canada, its performance will not be illegal or unenforceable by virtue of the laws of that other jurisdiction.

#### **E. Factual Matters**

We have assumed that no fact exists, or has existed, that would entitle Crate Marine to assert or obtain a remedy at law or in equity (such as, without limitation, rectification, rescission or release from a contract through frustration) affecting the validity, legality, binding effect or enforceability of any of the Loan Documents.

#### **F. Entire Agreement**

We have assumed that there is no written or oral agreement or other facts or understanding and there is no trade usage or course of conduct or prior dealing, that would vary the interpretation, application or enforceability of any term or condition of any of the Loan Documents, and that except as expressly noted herein, there have been no amendments, restatements, deletions or other modifications to any of the Loan Documents.

#### **G. Choice of law**

We have assumed that the choice of the law of the Province of Ontario as the governing law of the Loan Documents will be given effect to in any legal proceedings.

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<sup>10</sup> Regarding assumptions (a), (b) and (c) we recommend that you review the relevant books and records of request Crate Marine to attempt to verify same.

**H. Marine Law**

We have assumed that any vessels owned by Crate Marine are pleasure crafts as defined in the CSA.

Based on the current provisions of the CSA and the assumption in the immediately preceding paragraph, we have assumed that there is no requirement to register notice of the GSA in the VRQS system, except on a voluntary basis.

**SCHEDULE "B"**  
**QUALIFICATIONS**

1. **Title:** We express no opinion concerning:
  - (a) title to any property that is purportedly subject to any security interest created by the GSA and such title has been assumed to the full extent necessary to express the opinions contained herein; and,
  - (b) the effectiveness of the GSA as security, where effectiveness depends on title or description of the property purported to be charged or assigned, as the case may be.
  
2. **Enforceability:** All opinions that expressly or by necessity relate to the enforceability of each of the Loan Documents (which, as used in this Schedule and as the context may require, includes validity, legality and binding effect) are subject to:
  - (a) applicable bankruptcy, insolvency, winding up, arrangement, liquidation, fraudulent preference and conveyance, reorganization, moratorium and realization laws and other similar laws (including, without limitation and notwithstanding any specific references herein, provisions of the PPSA or the CSA affecting the rights and remedies of creditors generally);
  - (b) equitable limitations on, and defences against, the availability of remedies and equitable principles of application to particular proceedings at law or in equity, and no opinion is expressed regarding the availability of any equitable remedy (including those of specific performance and injunction), which remedies are only available in the discretion of a court of competent jurisdiction;
  - (c) the power of a court to grant relief from forfeiture;
  - (d) applicable laws regarding limitations of action;
  - (e) the court's powers to stay proceedings and execution of judgments;
  - (f) the court's discretion to decline to hear any action or give effect to an obligation if to do so would be contrary to public policy or if it is not the proper forum to hear such action;
  - (g) limitations that may be imposed by law or equity on the effectiveness of terms exculpating a party from a liability or limiting the liability of a party;
  - (h) limitations upon the right of a creditor to receive immediate payment of amounts stated to be or which may become payable on demand;



- (i) limitations upon the right of a party to enforce a provision based upon a minor or non-substantive default;
- (j) implied obligations requiring good faith, fair-dealing and reasonableness in performance and enforcement of a contract; and,
- (k) the following limitations:
  - (i) provisions that purport to establish evidentiary standards, such as provisions stating that certain calculations or certificates will be conclusive and binding, may not be enforceable or may be limited in application;
  - (ii) the *Courts of Justice Act* (Ontario) limits interest on a judgment debt arising under the judgment of a court of competent jurisdiction located in Ontario to rates prescribed by regulation from time to time;
  - (iii) the *Currency Act* (Canada) precludes a court in Canada from rendering a judgment in any currency other than Canadian currency.
  - (iv) rights of indemnity may be limited by applicable law;
  - (v) determinations or demands made in exercise of a discretion may be unenforceable if made in an unreasonable or arbitrary fashion;
  - (vi) provisions providing for recovery of fees and expenses may be restricted by a court to a reasonable amount and counsel fees are subject to taxation;
  - (vii) no opinion is expressed as to the enforceability of any provision that purports to provide for a higher rate of interest after default than before;
  - (viii) no opinion is expressed as to the enforceability of a provision of any of the Loan Documents that provides that the provisions of another document govern in the event of any conflict or inconsistency between the provisions of the other document and such Loan Documents;
  - (ix) the validity and enforceability of provisions that purport to sever from the Loan Documents any provision that is prohibited or unenforceable under applicable law without affecting the enforceability or validity of the remainder of the agreement or instrument may be subject to the discretion of a court of competent jurisdiction;
  - (x) no opinion is expressed as to the enforceability of any provision purporting to exclude unwritten variations, amendments, waivers or consents;

- (xi) no opinion is expressed as to the enforceability of any provision that purports to restrict the access to, or waive the benefit of, legal or equitable rights, remedies or defences, including any right to receive notice (including notice of enforcement) or that purport to consent in advance to the taking of any action or the exercise of any right, remedy or defence;
- (xii) no opinion is expressed as to the enforceability of any power of attorney or non-judicial remedies provided for in any of the Loan Documents;
- (xiii) no opinion is expressed as to any licences, permits or approvals that may be required in connection with the enforcement or performance of each of the Loan Documents, or by Crate Marine, as applicable, or by any person on their behalf, whether such enforcement involves the operation of the business of Crate Marine or a sale, transfer or disposition of any of its property or assets;
- (xiv) no opinion is expressed as to the enforceability of any provision in any of the Loan Documents that purports to constitute a receiver or receiver and manager thereunder as agent of Crate Marine or absolve a receiver or receiver and manager of responsibility for its acts;
- (xv) no opinion is expressed as to the enforceability of any provision in the GSA that purports to grant a security interest or hypothec in federal Crown debts to which the *Financial Administration Act* (Canada) applies;
- (xvi) no opinion is expressed as to the enforceability of any provision that contemplates or provides for agreement at a later date;
- (xvii) no opinion is expressed as to the enforceability of any provision that purports to relieve any party thereto, or its agents, from liability for its own acts;
- (xviii) no opinion is expressed as to the enforceability of any provision that purports to bind or affect, or confer a benefit upon, persons who are not parties to the Loan Documents; and,
- (xix) remedies exercisable upon default in any of the Loan Documents must be exercised in good faith and in a commercially reasonable manner.

3. **Searches:** We have only conducted those searches described in Schedule "C" hereto. Except as set forth therein, we have not conducted any land titles office or other searches with respect to encumbrances against real or immovable property or any interests therein or any statutory lien, court registry or other searches, except as set

out in Schedule "C" hereto. We have only searched against the names set out in Schedule "C" hereto.

4. **Priority:** No opinion is expressed as to the rank or priority, or as to the effect of perfection or opposability to third parties on the rank or priority, of any security interest created by any of the GSA.
5. **Reviewable Transactions:** No opinion is given as to whether any security interest given under GSA constitutes a fraudulent preference or other attackable or reviewable transaction pursuant to the provisions of the *Bankruptcy and Insolvency Act* (Canada) or any applicable provincial legislation.
6. **Security Interests and Registrations:** We express no opinion:
  - (a) as to the validity, enforceability, creation, attachment or perfection of a security interest in:
    - (i) property consisting of a receivable, licence, approval, privilege, contractual right, franchise, permit or lease (collectively, "**Special Property**") to the extent that the terms of the Special Property, any applicable law or the nature of the business of Crate Marine prohibit its charging, assignment or hypothecation or require, as a condition of its charging, assignability or hypothecation, a consent, approval or other authorization or registration that has not been made or given;
    - (ii) any collateral to the extent that security agreements, hypothecs or assignments with respect to such collateral are governed by the laws of the Parliament of Canada, including, without limitation, any rolling stock and any trademark, trade name, copyright, patent, industrial design or other intellectual property right;
    - (iii) permits, quotas, licences, privileges, governmental authorizations or other property that are not personal property and that are held by or issued to or in favour of Crate Marine;
    - (iv) any interest in a right to damages in tort or at law;
    - (v) any interest in deposits/deposit accounts;
    - (vi) property for which, pursuant to applicable conflicts rules (including, without limitation, the conflicts rules of the PPSA, CSA and the *Securities Transfer Act* (Ontario)), the validity, perfection and the effect of perfection or non-perfection or enforcement are governed by the laws of a jurisdiction other than Ontario and other than in respect of the federal laws of Canada;

- (vii) property that is now or hereafter becomes a fixture, crop, timber, minerals, petroleum, natural gas or other deposits located therein or thereon, or any right of payment that arises in connection with an interest in land;
  - (viii) property or rights of a nature listed in section 4(1) of the PPSA; or
  - (ix) property that is Consumer Goods or a Security (as each is defined in the PPSA).
- (b) as to any registrations or filings by way of fixtures notice, floating charge on land or otherwise in any land title office in the Province of Ontario; and
  - (c) regarding the creation, validity, enforceability, attachment or perfection of any mortgage, charge, hypothec, security interest or other interest expressed to be created by or under the GSA with respect to any property of Crate Marine or any proceeds of such property that are not identifiable or traceable.
7. **Specific Collateral:** Any security interests created by the GSA in any equipment that is a Motor Vehicle (as defined in the PPSA) situate in the Province of Ontario have not been perfected or rendered opposable to third parties by registration against serial numbers or Vehicle Identification Numbers, as the case may be, as required thereunder. None of the GSA have been registered so as to protect and preserve any security interest, mortgage or charge thereof against nor have we searched for any encumbrances created by Crate Marine as against any coal, mineral, placer, mining or petroleum and natural gas lease, license or claim, owned or which may be acquired by Crate Marine. Accordingly, any hypothecs, security interests and mortgages on such property will be subject to the rights of third parties who at any time acquire and perfect or render opposable to third parties an interest in those assets.
8. **Maintaining Perfection:** We express no opinion with respect to maintaining perfection of any security interest created by any of the GSA.
9. **Maritime Collateral:** We have not conducted any investigations as to the existence of, and therefore can provide no assurances with respect to, any of the following maritime interests which could affect vessels owned by Crate Marine:
- (a) Maritime liens, such as but not limited to, salvage liens, damage liens, seamen's and master's wages liens, master's disbursement liens and pilotage liens;
  - (b) Statutory rights in rem, such as but not limited to, possessory liens, necessities liens, repairmen's liens, stevedore's liens, towage liens, cargo damage liens, charterer's liens, marine insurance premium claims or general average liens;
  - (c) Disbursements of the Admiralty Marshal;

- (d) Costs of the same, including the costs of the plaintiff in action for arrest, appraisal and sale; or,
  - (e) Possessory liens.
10. **Marine Mortgages:** Ownership registrations effected against pleasure craft vessels pursuant to the VRQS system are effect on a voluntary basis. Mortgage registrations under the VRQS system can only be effected in respect of a pleasure craft vessel, if the vessel has previously been registered to an owner under the VRQS system. We express no opinion on any equitable marine mortgage in respect of a pleasure craft vessel which has not been previously been registered under the VRQS system.
11. **Legal Opinions:** We were not provided with, and have not considered for the purposes of this opinion, copies of any opinion letters given by legal counsel in connection with the Loan Documents, the security interests created therein, or the perfection of such security interests.

**SCHEDULE "C"****LIST OF SEARCHES COMPLETED FOR CRATE MARINE****I. CORPORATION SEARCH**

A corporation profile report (the "Profile Report") dated December 8, 2014 was obtained for Crate Marine from the Ontario Ministry of Government Services. The Profile Report confirmed that Crate Marine is a corporation amalgamated in Ontario, is an "active" corporation, and the registered office address of the corporation is 290 The Queensway South, Keswick, Ontario L4P 2B3.

**II. PPSA SEARCH**

We have obtained a PPSA search against Crate Marine from the registry maintained by the Ontario Ministry of Government Services in order to determine whether registrations or filings have been made in connection with the relevant the GSA.

This search, with a file currency date of December 8, 2014, has disclosed the registrations set forth in detail in Schedule 2 which follows.<sup>11</sup>

**III. CSA SEARCH**

We have obtained an online uncertified VRQS owners search against Crate Marine from the registry maintained by Transport Canada, in order to determine whether registrations or encumbrances have been notified in connection with any pleasure craft owned by Crate Marine.

This search, with a file currency date of December 15, 2014, has disclosed one registration which is detailed in Schedule 2 which follows.<sup>12</sup>

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<sup>11</sup> The PPSA search revealed a debenture carried forward to the PPSA from the registration system for the *Corporation Securities Registration Act* (Ontario), since repealed, in favour of The Bank of Nova Scotia ("BNS"). While this registration could conceivably have priority over the GSA and Crawmet's registered financing statement under the PPSA, it seems unlikely that anything is owed since there has been no mention to date of a BNS claim and it has not asserted a secured claim. We suggest that the Receiver review Crate Marine's the books and records with respect to this matter. We also note that BNS would be subject to the limitations set forth in the *Limitations Act, 2002* (Ontario) in respect of the underlying debt, if any.

<sup>12</sup> This registration is in respect of the Simone II owned by Crate Marine Quebec. There is no indication as to whether Crate Marine Quebec is a separate entity or a division of Crate Marine.

**SCHEDULE 1****DESCRIPTION OF COLLATERAL IN GSA**

The "Collateral" described in Section 2 of the GSA includes all of the following collateral, hereinafter enumerated in brief:

- (a) goods;
- (b) equipment;
- (c) fixtures;
- (d) chattel paper;
- (e) documents of title;
- (f) instruments;
- (g) security;
- (h) money, accounts, debts and claims;
- (i) intellectual property;
- (j) leases;
- (k) intangibles;

Together with all substitutions and replacements thereof, improvements, increases, additions and accessions;

Indemnity or compensation for loss of or damage to such property or proceeds therefrom;

Books and records pertaining to the above.

**SCHEDULE 2**(Particulars of PPSA Filings – Ontario)

1.	File Number	702052353		
	Registered Under	RSLA		
	Registration Number	20141203 1317 1793 0768		
	Registration Period	3 years		
	Debtor Name	Crate Marine Sales Ltd.		
	Secured Party	Prosser's Garage Inc.		
	Collateral Classification	motor vehicle		
	Amount	6000		
	Date of Maturity	-		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	2004	
		Make	Fleetwood Pace	
		Model	Arrow Motor Home	
		V.I.N.	5B4MP67G943389895	
	General Collateral Description	Motorhome – Unit was repaired as per customer's request. Lien is for amount owing on cost of repairs.		
Expiry date	Original expiry date: 2017 12 03			
Amendments	-			
Renewals	-			



2.	File Number	701912727		
	Registered Under	PPSA		
	Registration Number	20141128 1041 1590 4875		
	Registration Period	5 years		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	Donald Rogers		
	Collateral Classification	Inventory, equipment, other		
	Amount	-		
	Date of Maturity	-		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	-	
		Make	-	
		Model	-	
		V.I.N.	-	
	General Collateral Description	2007 Carver 446, Serial # CDRD0174C607 2010 Regal 44, Serial # RGMKE014E910		
Expiry date	Original expiry date: 2019 11 28			
Amendments	-			
Renewals	-			

3. -	File Number	700355052		
	Registered Under	PPSA		
	Registration Number	20141002 1152 1750 0007		
	Registration Period	1 year		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	Irwin Jacobs		
	Collateral Classification	Inventory, <u>other</u>		
	Amount	200,000		
	Date of Maturity	02 October 2015		
	No fixed Maturity Date			
	Motor Vehicle	Year	2011	
		Make	Cruisers	
		Model	35	
		V.I.N.	CDSFDA14G809	
	General Collateral Description	<del>Pleasure Craft</del>		
Expiry date	Original expiry date: 2015 10 02			
Amendments	20141128 1154 1862 6050 To amend registration in order to (I) amend the collateral classification listed on line 10, (II) delete reference to the collateral listed on line 11, and (III) delete reference to the collateral listed on line 13 of the general collateral description			
Renewals	-			

4.	File Number	700359939	
	Registered Under	PPSA	
	Registration Number	20141002 1306 1750 0008	
	Registration Period	1 year	
	Debtor Name	Crate Marine Sales Limited	
	Secured Party	Irwin Jacobs	
	Collateral Classification	Inventory, <u>other</u>	
	Amount	150,000	
	Date of Maturity	<del>02 October 2015</del>	
	No Fixed Maturity Date	-	
	Motor Vehicle	Year	<del>2011</del>
		Make	<del>Four Winns</del>
		Model	<del>305</del>
		V.I.N.	<del>PFWCJ003K011</del>
	General Collateral Description	<del>Pleasure Craft</del>	
Expiry date	Original expiry date: 2015 10 02		
Amendments	20141128 1155 1862 6051 To amend registration in order to (I) amend the address of the secured party listed on line 09, (II) amend the collateral classification listed on line 10, (III) delete reference to the collateral listed on line 11, and, (IV) delete reference to the collateral listed on line 13 of the general collateral description		
Renewals	-		

5.	File Number	700359957
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Registered Under	PPSA	
Registration Number	20141002 1311 1750 0009	
Registration Period	1 year	
Debtor Name	Crate Marine Sales <u>Limited</u>	
Secured Party	Irwin Jacobs	
Collateral Classification	Inventory, <u>other</u>	
Amount	200,000	
Date of Maturity	<del>02 October 2015</del>	
No Fixed Maturity Date	-	
Motor Vehicle	Year	2004
	Make	Searay
	Model	39
	V.I.N.	SERF0144E404
General Collateral Description	-	
Expiry date	Original expiry date: 2015 10 02	
Amendments	20141128 1155 1862 6051 To amend registration in order to (I) amend the debtor's name listed on line 3, (II) amend the collateral classification listed on line 10, and (III) delete reference to the collateral listed on line 11	
Renewals	-	

6.	File Number	700360101		
	Registered Under	PPSA		
	Registration Number	20141002 1316 1750 0010		
	Registration Period	1 year		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	Irwin Jacobs		
	Collateral Classification	Inventory, <u>other</u>		
	Amount	75,000		
	Date of Maturity	<del>02 October 2015</del>		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	2014	
		Make	<del>Regal</del>	
		Model	25	
		V.I.N.	RGMM0242D414	
	General Collateral Description			
	Expiry date	Original expiry date: 2015 10 02		
Amendments	20141128 1156 1862 6053 To amend registration in order to (I) amend the collateral classification listed on line 10, and (II) delete reference to the collateral listed on line 11			
Renewals	-			

7.	File Number	699133779		
	Registered Under	PPSA		
	Registration Number	20140821 1424 6083 7447		
	Registration Period	5 years		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	Structform Central Corp.		
	Collateral Classification	Other		
	Amount	-		
	Date of Maturity	-		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	-	
		Make	-	
		Model	-	
		V.I.N.	-	
	General Collateral Description	2012 Cruisers Yachts 380 Express, Serial No. CRSEE 1160212 Volvo Penta 172440 172441		
Expiry date	Original expiry date: 2019 08 21			
Amendments	-			
Renewals	-			

8.	File Number	6989776655	
	Registered Under	PPSA	
	Registration Number	20140815 1702 1462 5510	
	Registration Period	4 years	
	Debtor Name	Crate Marine Sales Ltd.	
	Secured Party	ED Learn Ford Lincoln	
	Collateral Classification	Inventory, motor vehicle	
	Amount	-	
	Date of Maturity	-	
	No Fixed Maturity Date	-	
	Motor Vehicle	Year	2015
		Make	GMC
		Model	Yukon
		V.I.N.	1GKS2HKC1FR122108
	General Collateral Description	vehicle	
Expiry date	Original expiry date: 2019 08 15		
Amendments	-		
Renewals	-		

9.	File Number	698026644		
	Registered Under	PPSA		
	Registration Number	20140715 1529 6083 6660		
	Registration Period	1 year		
	Debtor Name	Crate Marine Sales Ltd.		
	Secured Party	MP Accounting Services Inc.		
	Collateral Classification	Other		
	Amount	491,550		
	Date of Maturity	-		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	-	
		Make	-	
		Model	-	
		V.I.N.	-	
	General Collateral Description	Carver 57 PH Yacht CDRNA123H203 Port 1101059471 STB 11001060124		
Expiry date	Original expiry date: 2019 07 15			
Amendments	-			
Renewals	-			



10.	File Number	692546652	
	Registered Under	PPSA	
	Registration Number	20131212 1039 1529 9347	
	Registration Period	5 years	
	Debtor Name	Crate Marine Sales Limited	
	Secured Party	Ford Credit Canada Limited	
	Collateral Classification	Equipment, other, motor vehicle	
	Amount	-	
	Date of Maturity	-	
	No Fixed Maturity Date	X	
	Motor Vehicle	Year	2013
		Make	Ford
		Model	F150
		V.I.N.	1FTFW1EF6DFD29252
	General Collateral Description	-	
Expiry date	Original expiry date: 2018 12 12		
Amendments	-		
Renewals	-		

11.	File Number	692556759		
	Registered Under	PPSA		
	Registration Number	20131212 1257 5064 4331		
	Registration Period	5 years		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	Marquis Yachts, LLC		
	Collateral Classification	Inventory, equipment, accounts, other		
	Amount	-		
	Date of Maturity	-		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	-	
		Make	-	
		Model	-	
		V.I.N.	-	
	General Collateral Description	-		
Expiry date	Original expiry date: 2018 12 12			
Amendments	20140122 1612 5064 5492 Assignment by Marquis Yachts, LLC to Northpoint Commercial Finance LLC			
Renewals	-			

12.	File Number	692303742	
	Registered Under	PPSA	
	Registration Number	20131203 1030 1529 1650	
	Registration Period	5 years	
	Debtor Name	Crate Marine Sales Limited	
	Secured Party	Ford Credit Canada Limited	
	Collateral Classification	Equipment, Other, Motor Vehicle	
	Amount	-	
	Date of Maturity	-	
	No Fixed Maturity Date	X	
	Motor Vehicle	Year	2013
		Make	Ford
		Model	F150
		V.I.N.	1FTFW1EF6DKF88072
	General Collateral Description		
Expiry date	Original expiry date: 2018 12 03		
Amendments	-		
Renewals	-		

13.	File Number	691143624	
	Registered Under	PPSA	
	Registration Number	20131017 1444 1793 8328	
	Registration Period	5 years	
	Debtor Name	Crate Marine Sales Ltd.	
	Secured Party	Plaza Kia of Thornhill	
	Collateral Classification	Consumer Goods, Motor Vehicle	
	Amount	150,000	
	Date of Maturity	-	
	No Fixed Maturity Date	X	
	Motor Vehicle	Year	2011
		Make	Formula 310SS
		Model	Volvo 8.1
		V.I.N.	F1VRDB007V011
	General Collateral Description		
Expiry date	Original expiry date: 2018 10 17		
Amendments	-		
Renewals	-		

14.	File Number	688420764		
	Registered Under	PPSA		
	Registration Number	20130708 1229 1793 3722		
	Registration Period	5 years		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	Structform Central Corp.		
	Collateral Classification	Other		
	Amount	-		
	Date of Maturity	-		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	-	
		Make	-	
		Model	-	
		V.I.N.	-	
	General Collateral Description	2007 Carver 466 – Serial Number CDRDO178J607 Motor Volvo D97009127313 D97009127167		
Expiry date	Original expiry date: 2018 07 08			
Amendments	-			
Renewals	-			

15.	File Number	688218948		
	Registered Under	PPSA		
	Registration Number	20130702 0933 7036 8792		
	Registration Period	1 year		
	Debtor Name	Crate Marine Sales Ltd., Steve Crate		
	Secured Party	Leeway Auto Sales Ltd.		
	Collateral Classification	Equipment		
	Amount	200,000		
	Date of Maturity	-		
	No Fixed Maturity Date	X		
	Motor Vehicle	Year	-	
		Make	-	
		Model	-	
		V.I.N.	-	
	General Collateral Description	2007 Carver 466MY Boat Motor Yacht CDRD0179C607		
Expiry date	Original expiry date: 2015 07 02			
Amendments	-			
Renewals	20140630 1643 7036 4394 Renewed 1 year			

16.	File Number	684553905	
	Registered Under	PPSA	
	Registration Number	20130206 0957 6005 5554	
	Registration Period	5 years	
	Debtor Name	Crate Marine Sales Limited	
	Secured Party	National Leasing Group Inc.	
	Collateral Classification	Equipment, Motor Vehicle	
	Amount	-	
	Date of Maturity	-	
	No Fixed Maturity Date	-	
	Motor Vehicle	Year	2013
		Make	Conolift
		Model	YH-915 Marine
		V.I.N.	2C9BE3263DP050003
	General Collateral Description	All trailer of every nature or kind described in lease number 2611466 between Mayo and Associates Ltd., as original lessor and the debtor, as lessee, which lease was assigned by the original lessor to the secured party, as amended from time to time, together with all attachments, accessories and substitutions.	
Expiry date	Original expiry date: 2018 02 06		
Amendments	-		
Renewals	-		

17.	File Number	682211898	
	Registered Under	PPSA	
	Registration Number	20121017 1043 1529 1752	
	Registration Period	5 years	
	Debtor Name	Crate Marine Sales Limited	
	Secured Party	Ford Credit Canada Limited	
	Collateral Classification	Consumer Goods, Equipment, Other, Motor Vehicle	
	Amount	-	
	Date of Maturity	-	
	No Fixed Maturity Date	X	
	Motor Vehicle	Year	2010
		Make	Ford
		Model	F150
		V.I.N.	1FTFW1EV2AFB89848
	General Collateral Description	-	
	Expiry date	Original expiry date: 2017 10 17	
	Amendments	-	
Renewals	-		



18.	File Number	681222375		
	Registered Under	PPSA		
	Registration Number	20120905 1948 1531 4730		
	Registration Period	3 years		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	KCS International, Inc.		
	Collateral Classification	Inventory, Accounts		
	Amount	-		
	Date of Maturity	-		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	-	
		Make	-	
		Model	-	
		V.I.N.	-	
	General Collateral Description	One Cruisers Yachts Yacht, Model 380 Express, hull identification No. CRSEE129E113, Port Side Engine S/N A174910, Starboard Side Engine S/N A174909, Port Side Drive Train S/N A168492, Starboard Side Drive Train S/N A168493, and one Cruisers Yachts Yacht, Model 310 Express, Hull Identification No. CRSEA111J113, Port Side Engine S/N A190388, Starboard Side Engine S/N A190387, Port Side Drive Train S/N A190842, Starboard Side Drive Train S/N A190843, and the proceeds of the foregoing		
Expiry date	Original expiry date: 2015 09 05			
Amendments	-			
Renewals	-			

19.	File Number	677540457		
	Registered Under	PPSA		
	Registration Number	20120412 1450 1530 2649		
	Registration Period	3 years		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	Marquis Yachts, LLC		
	Collateral Classification	Inventory, <del>Equipment</del> , Accounts, Other, Motor Vehicle		
	Amount	-		
	Date of Maturity	-		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	-	
		Make	-	
		Model	-	
		V.I.N.	-	
	General Collateral Description	-		
Expiry date	Original expiry date: 2015 04 12			
Amendments	2120522 1947 1531 6157 To amend the collateral classification to indicate inventory, accounts, other			
Renewals	-			

20.	File Number	676878993		
	Registered Under	PPSA		
	Registration Number	20120316 1049 1529 4169		
	Registration Period	5 years		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	Ford Credit Canada Limited		
	Collateral Classification	Consumer Goods, Equipment, Other, Motor Vehicle		
	Amount	-		
	Date of Maturity	-		
	No Fixed Maturity Date	X		
	Motor Vehicle	Year	2012	
		Make	Ford	
		Model	F350	
		V.I.N.	1FT8W3BT8CEA30753	
	General Collateral Description	-		
	Expiry date	Original expiry date: 2015 03 16		
Amendments	-			
Renewals	-			

21.	File Number	675240831		
	Registered Under	PPSA		
	Registration Number	20111222 1142 1902 7358		
	Registration Period	5 years		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	Crawmet Corp.		
	Collateral Classification	Inventory, Equipment, Accounts, Other		
	Amount	-		
	Date of Maturity	-		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	-	
		Make	-	
		Model	-	
		V.I.N.	-	
	General Collateral Description	General Security Agreement		
	Expiry date	Original expiry date: 2016 12 22		
Amendments	-			
Renewals	-			

22.	File Number	675122661		
	Registered Under	PPSA		
	Registration Number	20111216 1451 1530 4078		
	Registration Period	3 years		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	KCS International, Inc.		
	Collateral Classification	Inventory, Accounts		
	Amount	-		
	Date of Maturity	-		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	-	
		Make	-	
		Model	-	
V.I.N.		-		
General Collateral Description	<p>One Cruisers Yachts Yacht, Model 310 Express, Hull Identification No. US-CRSEA104G122, Port Side Engine S/N A179972, Starboard Side Engine S/N A179973, Port Side Drive Train S/N A180795, Starboard Side Drive Train S/N A18796.</p> <p>One Cruisers Yachts Yacht, Model 350 Express, Hull Identification No. US-CRSEC111H112, Port Side Engine S/N A182743, Starboard Side Engine S/N A182744, Port Side Drive Train S/N A182473, Starboard Side Drive Train S/N A182474.</p> <p>One Cruisers Yachts Yacht, Model 380 Express, Hull Identification No. US-CRSEE109H112, Port Side Engine S/N</p>			

		<p>A183271, Starboard Side Engine S/N  A183270, Port Side Drive Train S/N  A181953, Starboard Side Drive Train  S/N A181954.</p> <p>One Cruisers Yachts Yacht, Model 41  Cantius, Hull Identification No. US-  CRSXF103H112, Port Side Engine S/N  A187358, Starboard Side Engine S/N  A187359, Port Side Drive Train S/N  3194012674, Starboard Side Drive Train  S/N 3194012675.</p> <p>And the proceeds of the foregoing.</p>
	Expiry date	Original expiry date: 2014 12 16
	Amendments	-
	Renewals	-

23.	File Number	673696071		
	Registered Under	PPSA		
	Registration Number	20111017 1947 1531 3887		
	Registration Period	4 years		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	Financialinx Corporation		
	Collateral Classification	Consumer Goods, Equipment, Other, Motor Vehicle		
	Amount	88,942		
	Date of Maturity	11 October 2015		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	2011	
		Make	Cadillac	
		Model	Escalade AWD	
		V.I.N.	1GYS4CEF6BR190052	
	General Collateral Description	-		
	Expiry date	Original expiry date: 2015 10 17		
	Amendments	-		
Renewals	-			

24.	File Number	671768019		
	Registered Under	PPSA		
	Registration Number	20110727 1456 1530 6363		
	Registration Period	5 years		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	Ford Credit Canada Limited		
	Collateral Classification	Consumer Goods, Equipment, Other, Motor Vehicle		
	Amount	-		
	Date of Maturity	-		
	No Fixed Maturity Date	X		
	Motor Vehicle	Year	2011	
		Make	Ford	
		Model	F350	
		V.I.N.	1FT8W3BTXBEC59367	
	General Collateral Description	-		
	Expiry date	Original expiry date: 2016 07 27		
Amendments	Discharged by 20141120 1038 1529 3619			
Renewals	-			



25.	File Number	670226562		
	Registered Under	PPSA		
	Registration Number	20110530 1146 1590 2453		
	Registration Period	10 years		
	Debtor Name	Crate Marine Sales Limited		
	Secured Party	1728259 Ontario Inc.		
	Collateral Classification	Equipment, Other		
	Amount	469,906		
	Date of Maturity	01 May 2021		
	No Fixed Maturity Date	-		
	Motor Vehicle	Year	-	
		Make	-	
		Model	-	
		V.I.N.	-	
	General Collateral Description	75 Tonne Marine Travelift Bearing Serial #3480-0910		
Expiry date	Original expiry date: 2016 05 30			
Amendments	-			
Renewals	-			

26.	File Number	661282434	
	Registered Under	PPSA	
	Registration Number	20100511 1444 8077 1064	
	Registration Period	6 years	
	Debtor Name	Crate Marine Sales Limited, Lloyd Crate, Lloyd F. Crate, Greg Crate, Gregory Crate, Greg J. Crate, Gregory J. Crate	
	Secured Party	VFS Canada Inc.	
	Collateral Classification	Equipment, Other, Motor Vehicle	
	Amount	-	
	Date of Maturity	-	
	No Fixed Maturity Date	X	
	Motor Vehicle	Year	2010
		Make	Mack
		Model	CXU613
		V.I.N.	1M1AW07Y7AN009782
	General Collateral Description	-	
	Expiry date	Original expiry date: 2016 05 11	
Amendments	-		
Renewals	-		

27.	File Number	658824723	
	Registered Under	PPSA	
	Registration Number	20100120 1420 5064 3733	
	Registration Period	6 years	
	Debtor Name	Crate Marine Sales Limited	
	Secured Party	General Electric Canada Equipment Finance G.P.	
	Collateral Classification	Inventory, Equipment, Accounts, Other, Motor Vehicle	
	Amount	-	
	Date of Maturity	-	
	No Fixed Maturity Date	X	
	Motor Vehicle	Year	2009
		Make	Conolift
		Model	YH-152OXD
		V.I.N.	2C9BXS2X9P050029
	General Collateral Description	-	
	Expiry date	Original expiry date: 2016 01 20	
Amendments	-		
Renewals	-		

28.	File Number	658691082	
	Registered Under	PPSA	
	Registration Number	20100112 1454 1530 2286	
	Registration Period	5 years	
	Debtor Name	Crate Marine Sales Limited	
	Secured Party	Ford Credit Canada Limited	
	Collateral Classification	Consumer Goods, Equipment, Other, Motor Vehicle	
	Amount	-	
	Date of Maturity	-	
	No Fixed Maturity Date	X	
	Motor Vehicle	Year	2010
		Make	Ford
		Model	F150
		V.I.N.	1FTFW1EVXAF39034
	General Collateral Description	-	
	Expiry date	Original expiry date: 2015 01 12	
	Amendments	-	
Renewals	-		

29.	File Number	658691091	
	Registered Under	PPSA	
	Registration Number	20100112 1454 1530 2287	
	Registration Period	5 years	
	Debtor Name	Crate Marine Sales Limited	
	Secured Party	Ford Credit Canada Limited	
	Collateral Classification	Consumer Goods, Equipment, Other, Motor Vehicle	
	Amount	-	
	Date of Maturity	-	
	No Fixed Maturity Date	X	
	Motor Vehicle	Year	2010
		Make	Ford
		Model	F150
		V.I.N.	1FTFW1EV6AFA80468
	General Collateral Description	-	
	Expiry date	Original expiry date: 2015 01 12	
	Amendments	-	
Renewals	-		

30.	File Number	900793782
	Registered Under	CSRA
	Registration Number	CSRA No. 079378
	Registration Period	-
	Debtor Name	Crate Marine Sales Limited
	Secured Party	The Bank of Nova Scotia
	Security	Debenture
	Amount	\$4,000,000, payable on demand
	Maturity Date	None
	Interest Rate	20% per annum, calculated and payable monthly

SCHEDULE 2(CSA - VRQS Owner Query)<sup>13</sup>

1.	Official Number	833890
	Owner Name	Crate Marine Quebec
	Vessel Name	Simone II
	Vessel Type	Pleasure Craft
	Year Built	2008
	Builder Name	Cruisers Yachts
	Port of Registry	Montreal
	Status	Registered
	Registry Date	2012-10-29
	Certificate Expires	2015-11-30
	Number of Encumbrances	1
	Mortgage Particulars	Amount: \$400,000 Date: 2013-02-01 Mortgagee: Andre Gagne

<sup>13</sup> The above vessel registration is one of several vessel registrations noted in the VQRS system; however, it is the only registration for which particulars of a mortgage were also noted.

SCHEDULE 3

(Search of Register of Personal and Movable Rights – Quebec)

[See following pages]



# T A B L E

**1889863 ONTARIO INC.**

67 Orr Avenue  
Vaughan, Ontario  
L4L 9M8

**NOTICE OF TERMINATION OF EQUIPMENT LEASE**

September 14, 2014

Crate Marine Sales Limited  
290 The Queensway South  
Keswick, Ontario  
L4P 2B3

**BY PERSONAL DELIVERY**

**RE:** 1889863 Ontario Inc. Equipment Lease to Crate Marine Sales Limited  
Marine Lift 50 BFM II S/N 3495-0713

---

This is the written notice to you terminating the above noted Equipment Lease dated July 27, 2013, as required by Paragraph 9.2(e) of the Equipment Lease. You are in default as in Paragraphs 9.1(a), 9.1(h) and 9.1(j) of the Equipment Lease.

Regards,

1889863 Ontario Inc.

Per:   
Name: Ornat Abdelati  
Title: A.S.O.

I have the authority to bind the corporation

**T A B F**

**RECEIPT**

**TO:** 1889863 Ontario Inc.  
**FROM:** Crate Marine Sales Limited  
**RE:** Marine Lift 50 BFM II S/N 3495-0713

---

I confirm receipt of Notice of Termination of Equipment Lease dated September 14, 2014, from 1889863 Ontario Inc. regarding Marine Lift 50 BFM II S/N 3495-0713. I agree and confirm that the Equipment Lease dated July 27, 2013, between Crate Marine Sales Limited and 1889863 Ontario Inc. for Marine Lift 50 BFM II S/N 3495-0713 is terminated.

**DATED** at Toronto, this 14<sup>th</sup> day of September, 2014.

Crate Marine Sales Limited

Per: 

Name: Greg Crate

Title: A.S.O.

I have the authority to bind the corporation

TAB G

CM-PC193-5860

VENDOR CHQ INQ - LOCN(S):CM

01 APR 2015

Ln.	Cheque#	Description	Date	Chq	Amount
1.	91086	CASHED ON 03 SEP 14	03 SEP 14		5,000.00
2.	90378	CASHED ON 29 AUG 14	29 AUG 14		10,000.00
3.	89586	CASHED ON 23 JUL 14	22 JUL 14		10,000.00
4.	88834	CASHED ON 11 JUN 14	11 JUN 14		5,085.00

2014 Totals: 30,085.00

"," BACK UP      "\ " DELETE      "-" SET TO NULL      "X" TO EXIT  
 (F)orward, (B)ackward, Cheque# for Details, Line# or Return:  
 MAIL                      REPORT



1

### Account Details

September 11, 2014 at 11:18am Eastern time

Account Type: Chequing  
 Transit Number: 05642  
 Account Number: 27-02010  
 Product Name: Chequing  
 Balance <sup>1</sup>: \$-5,804.25  
 Available Funds <sup>2</sup>: \$195.75

### Past Transactions - Aug. 01, 2014 to Aug. 31, 2014

Date	Transactions	Debit	Credit	Running Balance <sup>3</sup>
Aug. 01, 2014	Electronic Funds Transfer LOAN PAYMENT LN # 8740052115 CIBC LOANS / PRÊT CIBC	<del>\$463.14</del>		\$-2,526.74
Aug. 01, 2014	Electronic Funds Transfer INSURANCE MORTGAGEPROTECT	<del>\$89.87</del>		\$-2,616.61
Aug. 07, 2014	Branch Transaction TRANSFER TO: 05642/86-15934	<del>\$4,000.00</del>		\$-3,616.61
Aug. 08, 2014	Internet Banking INTERNET TRANSFER000000195989 FROM: 05642/61-05718 4506*****538		<del>\$10,000.00</del>	\$6,383.39
Aug. 08, 2014	Branch Transaction TRANSFER TO: 05642/70-15135	<del>\$10,000.00</del>		\$-3,616.61
Aug. 08, 2014	Branch Transaction TRANSFER TO: 05642/86-15934	<del>\$1,000.00</del>		\$-4,616.61
Aug. 11, 2014	Internet Banking INTERNET TRANSFER000000537404 FROM: 05642/61-05718 4506*****538		<del>\$5,000.00</del>	\$383.39
Aug. 11, 2014	Electronic Funds Transfer DEBIT MEMO LN # 7338621861 CIBC LOANS / PRÊT CIBC	<del>\$1,049.93</del>		\$-666.54
Aug. 18, 2014	CHEQUE 000000001405	<del>\$2,251.60</del>		\$-2,918.14
Aug. 19, 2014	Branch Transaction TRANSFER TO: 05642/86-15934	<del>\$500.00</del>		\$-3,418.14
Aug. 21, 2014	Electronic Funds Transfer PRE-AUTH DEBIT GE 5889283001 BUSINESS PAD	<del>\$1,797.27</del>		\$-5,215.41
Aug. 25, 2014	Branch Transaction DEPOSIT		<del>\$10,000.00</del>	\$4,784.59
Aug. 25, 2014	CHEQUE 000000001407	<del>\$10,000.00</del>		\$-5,215.41
Aug. 28, 2014	Electronic Funds Transfer PRE-AUTH DEBIT 000000434340934 COLLECTIVE POINT OF SALE SOLUT	\$111.87		\$-5,327.28
Aug. 29, 2014	Branch Transaction DEPOSIT		<del>\$10,000.00</del>	\$4,672.72
Aug. 29, 2014	Branch Transaction TRANSFER TO <u>00042</u> 12-33017 <u>Belleville</u>	\$10,000.00	90378	\$-5,327.28
Aug. 29, 2014	Branch Transaction OVERDRAFT INTEREST	<del>\$23.40</del>		\$-5,350.38
Aug. 29, 2014	Branch Transaction LOAN ADMIN FEE	<del>\$9.50</del>		\$-5,359.88
Aug. 29, 2014	Branch Transaction SERVICE CHARGE	<del>\$13.00</del>		\$-5,372.88
Aug. 29, 2014	Branch Transaction ADD'L OPTION FEE	<del>\$4.00</del>		\$-5,376.88
Aug. 29, 2014	Branch Transaction ACCOUNT FEE	<del>\$7.00</del>		\$-5,383.88
Aug. 29, 2014	Branch Transaction DEPOSIT NOTE FEE 10,000. AT 2.25/1,000.	<del>\$22.50</del>		\$-5,406.38
Aug. 29, 2014	Branch Transaction DEPOSIT ITEM FEE 1 AT .22	<del>\$0.22</del>		\$-5,406.60
Aug. 29, 2014	Branch Transaction PAPER STMT FEE	<del>\$3.00</del>		\$-5,409.60

<sup>1</sup> Balance column shows the amount of money in your account, including any funds on hold.

<sup>2</sup> Available Funds is your Balance minus any funds on hold plus any overdraft limit, representing money available for



# CIBC Business Operating Account™ with Additional Option Statement

For Aug 1 to Aug 31, 2014

05642 022/000746 8(K) \*0204750  
CRATE MARINE SALES LIMITED  
290 THE QUEENSWAY SOUTH  
KESWICK ON L4P 2B3

Account number  
05642 27-02010

Branch transit number  
05642

Account fee type  
Pay As You Go

## Account summary

Opening balance on Aug 1, 2014		-\$2,063.63
Withdrawals	-	38,345.97
Deposits	+	35,000.00
Closing balance on Aug 31, 2014	=	-\$5,409.60

Your authorized overdraft limit: \$6,000.00

## Small Business Overdraft - Minimum deposit requirement

Please be advised that you will need to make sufficient deposits to bring your CIBC Small Business Overdraft Account into a positive balance (\$0 or greater) at least for one full business day during each month or make a minimum of \$250 in deposits during each month, whichever is less.

## Contact information

1 800 465 CIBC (2422)

Contact us by phone for questions on this update, change of personal information, and general inquiries, 24 hours a day, 7 days a week.

TTY hearing impaired  
1 800 465 7401

Outside Canada and the U.S.  
1 902 420 CIBC (2422)

[www.cibc.com](http://www.cibc.com)

Your branch  
24 THE QUEENSWAY S.  
KESWICK ON L4P 1Y9

## Transaction details

Date	Description	Withdrawals (\$)	Deposits (\$)	Balance (\$)
Aug 01	Opening balance			-\$2,063.63
Aug 01	LOAN PAYMENT LN # 8740052115 CIBC LOANS / PRÊT CIBC	463.11		-2,526.74
	INSURANCE MORTGAGEPROTECT	89.87		-2,616.61
Aug 07	TRANSFER TO: 05642/86-15934	1,000.00		-3,616.61
Aug 08	INTERNET TRANSFER000000195989 FROM: 05642/61-05718 4506*****538		10,000.00	6,383.39
	TRANSFER TO: 05642/70-15135	10,000.00		-3,616.61
	TRANSFER TO: 05642/86-15934	1,000.00		-4,616.61
Aug 11	INTERNET TRANSFER000000537404 FROM: 05642/61-05718 4506*****538		5,000.00	383.39

(continued on next page)

110-204750



**CIBC Business Operating Account with Additional Option Statement**

For Aug 1 to Aug 31, 2014  
 Account number: 05642 27-07  
 Branch transit number: 0564

**Transaction details (continued)**

Date	Description	Withdrawals (\$)	Deposits (\$)	Balance (\$)
Aug 11	Balance forward			\$383.39
	DEBIT MEMO LN # 7338621861 CIBC LOANS / PRÊT CIBC	1,049.93		-666.54
Aug 18	Cheque 1405 000000043058643	2,251.60		-2,918.14
Aug 19	TRANSFER TO: 05642/86-15934	500.00		-3,418.14
Aug 21	PRE-AUTH DEBIT GE 5889283001 BUSINESS PAD	1,797.27		-5,215.41
Aug 25	DEPOSIT		10,000.00	4,784.59
	Cheque 1407 000000043281321	10,000.00		-5,215.41
Aug 28	PRE-AUTH DEBIT 000000434340934 COLLECTIVE POINT OF SALE SOLUT	111.87		-5,327.28
Aug 29	DEPOSIT		10,000.00	4,672.72
	TRANSFER TO: 00042/12-33017	10,000.00		-5,327.28
	OVERDRAFT INTEREST	23.10		-5,350.38
	LOAN ADMIN FEE	9.50		-5,359.88
	SERVICE CHARGE	13.00		-5,372.88
	ADD'L OPTION FEE	4.00		-5,376.88
	ACCOUNT FEE	7.00		-5,383.88
	DEPOSIT NOTE FEE 10,000. AT 2.25/1,000.	22.50		-5,406.38
	DEPOSIT ITEM FEE 1 AT .22	0.22		-5,406.60
	PAPER STMT FEE	3.00		-5,409.60
Aug 31	Closing balance			-\$5,409.60

**Cheques processed this period**

Cheque number	Date processed	Amount (\$)	Cheque number	Date processed	Amount (\$)	Cheque number	Date processed	Amount (\$)
1405	Aug 18	2,251.60	1407	Aug 25	10,000.00			

# Business Banking statement

CRATE MARINE SALES LIMITED

For the period ending August 29, 2014

# Business Banking



ISN: 1800393768  
Cheque #11599

30,000.00

Bank of Montreal  
1801 E. BROAD STREET  
SUITE 101, ONTARIO, L6E 1H9

90164  
DATE 29 08 2014  
00MMYYYY  
\*\*30000.00

PAY \*\*\*30000 DOLLARS AND 00 CENTS \$ \*\*30000.00

CRATE MARINE SALES LIMITED  
250 THE QUEENSWAY SOUTH  
REXDALE, ONTARIO L6P 2B3

CRATE MARINE SALES LIMITED  
TO THE ORDER OF

11599

100655881\*

\*0003000000\*

Printer ID # / NI d'impression 1014

Endorsement - Signature of Stamp

BACK/ENVERS

ISN: 1800393769  
Cheque #11601

10,000.00

Bank of Montreal  
1801 E. BROAD STREET  
SUITE 101, ONTARIO, L6E 1H9

90167  
DATE 29 08 2014  
00MMYYYY  
\*\*10000.00

PAY \*\*\*10000 DOLLARS AND 00 CENTS \$ \*\*10000.00

CRATE MARINE SALES LIMITED  
250 THE QUEENSWAY SOUTH  
REXDALE, ONTARIO L6P 2B3

CRATE MARINE SALES LIMITED  
TO THE ORDER OF

11601

100655881\*

\*0001000000\*

Printer ID # / NI d'impression 1014

Endorsement - Signature of Stamp

BACK/ENVERS

ISN: 1800393787  
Cheque #11584

5,400.00

# CIBC Business Operating Account™ with Additional Option Statement

2

05642 024/000783 8(U) \*0214010  
 CRATE MARINE SALES LIMITED  
 290 THE QUEENSWAY SOUTH  
 KESWICK ON L4P 2B3

For Sep 1 to Sep 30, 2014

Account number  
 05642 27-02010

Branch transit number  
 05642

Account fee type  
 Pay As You Go

## Account summary

Opening balance on Sep 1, 2014		-\$5,409.60
Withdrawals	-	19,519.74
Deposits	+	28,457.02
<b>Closing balance on Sep 30, 2014</b>	<b>=</b>	<b>\$3,527.68</b>

Your authorized overdraft limit: \$6,000.00

## Small Business Overdraft - Minimum deposit requirement

Please be advised that you will need to make sufficient deposits to bring your CIBC Small Business Overdraft Account into a positive balance (\$0 or greater) at least for one full business day during each month or make a minimum of \$250 in deposits during each month, whichever is less.

## Contact information

**1 800 465 CIBC (2422)**

Contact us by phone for questions on this update, change of personal information, and general inquiries, 24 hours a day, 7 days a week.

**TTY hearing impaired**  
 1 800 465 7401

**Outside Canada and the U.S.**  
 1 902 420 CIBC (2422)

**www.cibc.com**

**Your branch**  
 24 THE QUEENSWAY S.  
 KESWICK ON L4P 1Y9

## Transaction details

Date	Description	Withdrawals (\$)	Deposits (\$)	Balance (\$)
Sep 01	Opening balance			-\$5,409.60
Sep 02	LOAN PAYMENT LN # 8740052115 CIBC LOANS / PRÊT CIBC	421.14		-5,830.74
	INSURANCE MORTGAGEPROTECT	89.87		-5,920.61
Sep 03	INTERNET TRANSFER00000715802 FROM: 05642/61-05718 4506*****538		5,000.00	-920.61
	DEPOSIT		5,366.29	4,445.68
	TRANSFER TO: 00042/12-33017	5,000.00		-554.32
	TRANSFER TO: 01142/53-78990	1,500.00		-2,054.32
	TRANSFER TO: 05642/86-15934	1,000.00		-3,054.32
	IN-BRANCH TRANSFER00000908654 4500*****224	1,500.00		-4,554.32

cb

(continued on next page)

110-214010

**TAB H**

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**From:** Ryan Crate [mailto:rcrate@crates.com]  
**Sent:** Thursday, August 28, 2014 11:03 AM  
**To:** Kris@crates.com; Steve Crate; Greg Crate  
**Subject:** \$\$

Guys we are down to the last day before we are going to be to late here, I have rent and travel lift clearing Tuesday morning a wire will take a day to complete we have to send those funds today or we bounce both.. Please let me know asap.

--

RYAN CRATE | Operations Manager

Crate's Belleville

v. 416.717.8943  
f. 343.270.0032  
e. rcrate@crates.com  
w. www.ryancrate.com

KESWICK | LAGOON CITY | BELLEVILLE | QUEBEC



This email has been checked for viruses by Avast antivirus software.

[www.avast.com](http://www.avast.com)

# T A B I

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

THE HONOURABLE MR.  
JUSTICE PENNY

) TUESDAY, THE 23<sup>RD</sup>  
)  
) DAY OF DECEMBER, 2014

Commercial List File No. 14-CV-10798-00CL



IN THE MATTER OF THE RECEIVERSHIP OF  
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,  
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

Court File No. 31-1932502

IN THE MATTER OF THE BANKRUPTCY OF  
CRATE MARINE SALES LIMITED

Court File No. 31-1932534  
Court File No. 31-1932548  
Court File No. 31-1932557  
Court File No. 31-1932540  
Court File No. 31-1932555  
Court File No. 31-1932553

IN THE MATTER OF THE BANKRUPTCIES OF  
F.S. CRATE & SONS LIMITED, 1330732 ONTARIO LIMITED,  
1328559 ONTARIO LIMITED 1282648 ONTARIO LIMITED,  
1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

**PROPERTY CLAIMS PROCEDURE ORDER**

THIS MOTION, made by A. Farber & Partners Inc. in its capacities as the Court appointed Receiver (the "Receiver"), and trustee in bankruptcy (the "Trustee") of Crate Marine

Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively the "Debtors") for an Order substantially in the form included in the Receiver and Trustee's Motion Record was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Receiver and Trustee's Notice of Motion, the Second Report of the Receiver dated December 19, 2014 (the "**Second Report**"), and on hearing the submissions of counsel for the Receiver and Trustee, and those other parties present as noted in the counsel slip, no one appearing for the other parties served with the Receiver's Motion Record, although duly served as appears from the affidavit of service of R. Brendan Bissell worn December 22, 2014, filed:

#### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record filed by the Receiver and Trustee, and the Second Report, be and hereby is abridged and validated such that the Motion is properly returnable today.

#### **DEFINITIONS**

2. The following terms shall have the following meanings ascribed thereto:
  - (a) "**Appointment Order**" means the Amended Order of this Court dated December 8, 2014 by which the Receiver was appointed, as such Order has been or may be supplemented, amended or varied from time to time;
  - (b) "**Business Day**" means a day, other than a Saturday or a Sunday, on which banks are generally open for business in Toronto, Ontario;



- (c) "**BIA**" means *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;
- (d) "**Court**" means the Ontario Superior Court of Justice (Commercial List);
- (e) "**Claimant**" means any Person having a Property Claim;
- (f) "**Debtors**" means Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. or any one or more of them;
- (g) "**Dispute Notice**" means a written notice to the Receiver, in substantially the form attached as Schedule "E" hereto, delivered to the Receiver by a Claimant who has received a Notice of Disallowance, of its intention to dispute such Notice of Disallowance;
- (h) "**Excluded Claim**" means:
  - (A) claims secured by any of the charges created in the Appointment Order or in the Order of this Court dated November 21, 2014 appointing A. Farber & Partners Inc. as interim receiver over certain of the Debtors;
  - (B) any interest in real property owned or leased by, or in the possession of, the Debtors;
  - (C) any unsecured claim that is a claim provable in bankruptcy within the meaning of the BIA against the Debtors;
- (i) "**Filing Date**" means the date of the Appointment Order;

- (j) **"Instruction Letter"** means the instruction letter to Claimants, in substantially the form attached as Schedule "B" hereto;
- (k) **"Known Claimants"** means those Claimants which, to the knowledge of the Receiver, had a Property Claim against the Debtors as of the Filing Date according to the books and records of the Debtors or otherwise;
- (l) **"Notice of Disallowance"** means a notice, in substantially the form attached as Schedule "D" hereto, advising a Claimant that the Receiver has revised or disallowed all or part of the Property Claim set out in the Claimant's Proof of Property Claim;
- (m) **"Notice for Publication"** means the notice to Claimants for publication in substantially the form attached as Schedule "A" hereto;
- (n) **"Person"** includes any individual, partnership, joint venture, trust, corporation, unlimited liability company, unincorporated organization, government body or agency or instrumentality thereof, or any other juridical entity howsoever designated or constituted;
- (o) **"Proof of Property Claim"** means the form of Proof of Property Claim in substantially the form attached as Schedule "C" hereto;
- (p) **"Proof of Property Claim Document Package"** means a document package that includes a copy of the Instruction Letter, a Proof of Property Claim, and such other materials as the Receiver may consider appropriate or desirable;

- (q) **"Property"** means a boat or other tangible personal property in the possession of the Debtors or of any Person on behalf of the Debtors on or after the Filing Date;
- (r) **"Property Claim"** means any right or interest of any Person in connection with, arising out of, or in relation to Property, including, without limiting the generality of the foregoing:
  - (A) a proprietary claim of any Person to Property, or
  - (B) a Secured Claim of any Person to Property,provided, however, that "Property Claim" shall not include an Excluded Claim;
- (s) **"Property Claims Bar Date"** means 4:00 p.m. (Eastern Standard Time) on January 30, 2015, or such later date as may be ordered by the Court;
- (t) **"Property Claims Officer"** means the person or persons so designated by the Receiver and approved by the Court, or designated by the Court, as the case may be;
- (u) **"PPSA"** means the *Personal Property Security Act*, R.S.O. 1990, c. P.10 as amended;
- (v) **"Proven Property Claim"** has the meaning ascribed to that term in paragraph 6 of this Order;
- (w) **"Receiver"** means A. Farber & Partners Inc. in its capacity as the Court appointed receiver of the Debtors pursuant to the Appointment Order;

- (x) **"Secured Claim"** means any claim or portion thereof that is secured by a security interest, pledge, mortgage, lien, hypothec or charge, or any claim of a "secured creditor" as defined in the BIA; and
- (y) **"Trustee"** means A. Farber & Partners Inc. in its capacity as the trustee in bankruptcy of the estates of the Debtors pursuant to the Appointment Order.

### **RECEIVER'S ROLE**

3. THIS COURT ORDERS that the Receiver, in addition to its prescribed rights and obligations pursuant to the BIA and under the Appointment Order, is hereby directed and empowered to take such other actions and fulfill such other roles as are authorized by this Order, and that in taking such other actions and in fulfilling such other roles, the Receiver shall have the protections given to it in the Appointment Order and this Order, including without limitation the protections provided in paragraph 28 of this Order.
4. THIS COURT ORDERS that the procedures and deadlines in this Order shall apply in lieu of the procedures and deadlines set out in the BIA in respect of Property Claims and that the Trustee and Claimants shall not be required to comply with such procedures and deadlines but shall instead comply with the procedures and deadlines in this Order.
5. THIS COURT ORDERS that, for greater certainty, no claim provable in bankruptcy within the meaning of the BIA shall be subject to the claims procedure in this Order, and that such claims shall instead be subject to the procedure set out in the BIA.

### **DETERMINATION OF PROVEN PROPERTY CLAIM**

6. THIS COURT ORDERS that the amount and status of every Property Claim of a Claimant as finally determined in accordance with the forms and procedures authorized in this

Order, including any determination as to the nature, priority or validity, or, to the extent that such Property Claim concerns any interest, liability or obligation in relation to a monetary amount, the amount or value, of any Property Claim, (each such Property Claim, when finally determined, a "Proven Property Claim"), shall be final and binding for all purposes in these proceedings and in the bankruptcy estates of the Debtors.

7. THIS COURT ORDERS that the terms of this Order are without prejudice to the position or objections of 2124915 Ontario Inc. and to whether such order should apply to any claim it may have for chattels at the Lagoon City facility, and also without prejudice to the motion by Marquis Yachts LLC and Northpoint Commercial Finance LLC (collectively "Marquis") to carve the Marquis yacht out of these proceedings.

#### NOTICE TO CLAIMANTS

8. THIS COURT ORDERS that:

- (a) the Receiver shall no later than December 31, 2014, post a copy of the Proof of Property Claim Document Package on its website, and send on behalf of the Debtors to each of the Known Claimants (for which it has an address) a copy of the Proof of Property Claim Document Package;
- (b) the Receiver shall cause to be published, on two (2) separate days on or before January 9, 2015, the Notice for Publication in each of a local newspaper published in the area of Keswick, Ontario, and also in a Canadian national newspaper; and
- (c) the Receiver shall, provided such request is received by the Receiver prior to the Property Claims Bar Date, deliver as soon as reasonably possible following

receipt of a request therefor a copy of the Proof of Property Claim Document Package to any Person claiming to be a Claimant and requesting such material.

9. THIS COURT ORDERS that the Receiver is under no obligation to give notice to or deal with any Person other than the Claimant holding a Property Claim, and without limitation shall have no obligation to give notice to or deal with any Person having a security interest in such Property Claim (including the holder of a security interest created by way of a pledge or a security interest created by way of an assignment of such Property Claim), and such Persons shall be bound by any notices given to the Claimant and any steps taken in respect of such Property Claim in accordance with this Order.

#### **PROPERTY CLAIMS**

10. THIS COURT ORDERS that Proofs of Property Claim shall be filed in accordance with this Order with the Receiver and that any Claimant that does not:

- (a) file a Proof of Property Claim as provided for herein such that such Proof of Property Claim is received by the Receiver on or before the Property Claims Bar Date, or
- (b) having filed a Property Proof of Claim has that Property Proof of Claim finally disallowed after exhausting all the dispute and appeal rights pursuant to this Order,

shall be and is hereby:

- (i) forever barred from making or enforcing any Property Claim against the Debtors and the Property, and

- (ii) declared to be not entitled to any further notice in, and shall not be entitled to participate as a Claimant in these proceedings.

11. THIS COURT ORDERS that the Receiver may deal in accordance with the Appointment Order and any subsequent Orders of this Court with any Property that is not subject to a Property Claim without regard to any Property Claim of any Person.

12. THIS COURT ORDERS that insurers of the Debtors shall not be entitled to rely on the barring of Property Claims provided for in paragraph 10 of this Order.

#### **PROOFS OF PROPERTY CLAIM**

13. THIS COURT ORDERS that:

- (a) the Receiver may, where it is satisfied that a Property Claim has been adequately filed, waive strict compliance with the requirements of this Order as to completion and execution of Proofs of Property Claim; and
- (b) if any Property Claim relates to any indebtedness, liability or obligation in a currency other than Canadian dollars, then the Claimant making the Property Claim shall complete its Proof of Property Claim indicating the amount of the Property Claim in such currency, rather than in Canadian dollars or any other currency. The Receiver shall subsequently calculate the amount of such Property Claim in Canadian dollars, using the Bank of Canada noon spot rate on the Filing Date.

## **REVIEW OF PROOFS OF PROPERTY CLAIM**

14. THIS COURT ORDERS that the Receiver shall review all Proofs of Property Claims that are filed on or before the Property Claims Bar Date and shall accept or disallow (in whole or in part) the status, and, to the extent that such Property Claim relates to any indebtedness, liability or obligation, the amount or value of such Property Claim. At any time, the Receiver may (i) request additional information from a Claimant with respect to a Property Claim, (ii) request that the Claimant file a revised Proof of Property Claim, or (iii) attempt to resolve and settle any issue arising in respect of a Property Claim.
15. THIS COURT ORDERS that where a Property Claim as filed in a Proof of Property Claim has been accepted in writing by the Receiver, such Property Claim shall constitute such Claimant's Proven Property Claim for all purposes, including for the purposes of this proceeding and for the bankruptcy estates of the Debtors or any of them.
16. THIS COURT ORDERS that where a Property Claim as filed in a Proof of Property Claim is disallowed (in whole or in part) by the Receiver, the Receiver shall deliver to the Claimant a Notice of Disallowance, attaching the form of Dispute Notice.
17. THIS COURT ORDERS that where a Property Claim as filed in a Proof of Property Claim has been disallowed (in whole or in part), the disallowed Property Claim (or disallowed portion thereof) shall not be a Proven Property Claim unless the Claimant has disputed the disallowance and proven the disallowed Property Claim (or disallowed portion thereof) in accordance with paragraphs 22 to 24 of this Order.
18. THIS COURT ORDERS that where, in the opinion of the Receiver, there are conflicting Property Proofs of Claim to Property that it cannot resolve, the Receiver may seek determination



of such conflicting claims in accordance with paragraphs 22 to 24 of this Order without the necessity of delivering any Notice of Dispute, and in such case notice in accordance with paragraph 31 of this Order shall be given to the Claimants at issue and any Persons affected by such Claims.

### **DISPUTE NOTICE**

19. THIS COURT ORDERS that any Claimant who intends to dispute a Notice of Disallowance shall file a Dispute Notice with the Receiver as soon as reasonably possible but in any event such Dispute Notice shall be received by the Receiver on or before 4:00 p.m. (Eastern Standard Time) on the day that is fourteen (14) days after the Claimant is deemed to have received the Notice of Disallowance in accordance with paragraph 31 of this Order. The filing of a Dispute Notice with the Receiver within the fourteen (14) day period specified in this paragraph shall constitute an application to have the amount or status of such Property Claim determined as set out in paragraphs 21 to 24 hereof.

20. THIS COURT ORDERS that where a Claimant that receives a Notice of Disallowance fails to file a Dispute Notice with the Receiver within the period provided therefor in paragraph 19 above, the status of such Claimant's Property Claim, and, to the extent that such Property Claim relates to any indebtedness, liability or obligation, the amount or value of such Property Claim, shall be deemed to be as set out in the Notice of Disallowance and such status and amount, if any, shall constitute such Claimant's Proven Property Claim.

### **RESOLUTION OF PROPERTY CLAIMS**

21. THIS COURT ORDERS that as soon as practicable after the delivery of the Dispute Notice to the Receiver, the Receiver, in consultation with any Person affected by the Claimant's Property Claim, shall attempt to resolve and settle the Claimant's Property Claim.

22. THIS COURT ORDERS that in the event that a dispute raised in the Claimant's Dispute Notice is not settled within a time period or in a manner satisfactory to the Receiver, the Receiver may refer the dispute to a Property Claims Officer, if chosen by the Receiver and approved by this Court, for determination, or in the alternative may bring the dispute before the Court by way of Notice of Motion for determination. If the Receiver refers the dispute to a Property Claims Officer for determination, then (i) the Property Claims Officer shall determine the manner, if any, in which evidence may be brought before the Property Claims Officer by the parties and any Person affected by the Property Claim as well as any other matters, procedural or substantive, which may arise in respect of the Property Claim Officer's determination of a Claimant's Property Claim, and (ii) the provisions of paragraphs 22 to 24 of this Order shall apply to the determination of the Property Claims Officer. For greater certainty, the Property Claims Officer may require written submissions, and may limit submissions to written submissions, at the Property Claims Officer's discretion.

23. THIS COURT ORDERS that the Property Claims Officer shall as soon as is practicable, and in any event by no later than (i) thirty (30) days from the closing of submissions (whether written or oral or both), or (ii) such other date as the Property Claims Officer and the Receiver may agree, notify the Claimant, the Receiver and any Persons affected by the Property Claim in writing of the Property Claims Officer's determination of the amount and status of such Property Claim.

24. THIS COURT ORDERS that the Property Claims Officer's determination of any Claimant's Proven Property Claim shall be final and binding, unless within ten (10) days of the delivery of the Property Claims Officer's determination, the Receiver, the Claimant or any

Person affected by the Claimant's Property Claim has filed with this Court an appeal, by way of Notice of Motion, of the Property Claims Officer's determination.

### **NOTICE OF TRANSFEREES**

25. THIS COURT ORDERS that neither the Debtors nor the Receiver shall be obligated to give notice to or to otherwise deal with a transferee or assignee of a Property Claim as the Claimant in respect thereof unless and until (i) actual written notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received by the Receiver, and (ii) the Receiver shall have acknowledged in writing such transfer or assignment, and thereafter such transferee or assignee shall for the purposes hereof constitute the "Claimant" in respect of such Property Claim. Any such transferee or assignee of a Property Claim, and such Property Claim, shall be bound by any notices given or steps taken in respect of such Property Claim in accordance with this Order prior to the written acknowledgment by the Receiver of such transfer or assignment.
26. THIS COURT ORDERS that if the holder of a Property Claim has transferred or assigned the whole of such Property Claim to more than one Person or part of such Property Claim to another Person or Persons, such transfer or assignment shall not create a separate Property Claim or Property Claims and such Property Claim shall continue to constitute and be dealt with as a single Property Claim notwithstanding such transfer or assignment, and the Receiver shall in each such case not be bound to acknowledge or recognize any such transfer or assignment and shall be entitled to give notices to and to otherwise deal with such Property Claim only as a whole and then only to and with the Person last holding such Property Claim in whole as the Claimant in respect of such Property Claim. Provided that a transfer or assignment of the Property Claim has taken place in accordance with paragraph 25 of this Order and the

Receiver has acknowledged in writing such transfer or assignment, the Person last holding such Property Claim in whole as the Claimant in respect of such Property Claim may by notice in writing to the Receiver direct that subsequent dealings in respect of such Property Claim, but only as a whole, shall be with a specified Person and in such event, such Claimant, such transferee or assignee of the Property Claim and the whole of such Property Claim shall be bound by any notices given or steps taken in respect of such Property Claim by or with respect to such Person in accordance with this Order.

27. THIS COURT ORDERS that the transferee or assignee of any Property Claim (i) shall take the Property Claim subject to the rights and obligations of the transferor/assignor of the Property Claim, and subject to the rights of the Debtors against any such transferor or assignor, including any rights of set-off which the Debtors had against such transferor or assignor, and (ii) cannot use any transferred or assigned Property Claim to reduce any amount owing by the transferee or assignee to the Debtors, whether by way of set off, application, merger, consolidation or otherwise.

28. THIS COURT ORDERS that nothing in this Order is intended to or shall be deemed to permit, enable or authorize the transfer or assignment of a Property Claim or to in any way affect the validity or invalidity of any such transfer or assignment.

#### **PROTECTIONS FOR RECEIVER**

29. THIS COURT ORDERS that (i) in carrying out the terms of this Order, the Receiver shall have all of the protections given to it by the BIA and the Appointment Order or as an officer of this Court, including without limitation the stay of proceedings in its favour, (ii) the Receiver shall incur no liability or obligation as a result of the carrying out of the provisions of

this Order, except for its own wilful misconduct or gross negligence, (iii) the Receiver shall be entitled to rely on the books and records of the Debtors, and any information provided by the Debtors, all without independent investigation, and (iv) the Receiver shall not be liable for any claims or damages resulting from any errors or omissions in such books, records and information.

### **DIRECTIONS**

30. THIS COURT ORDERS that the Receiver may, at any time, and with such notice as this Court may require, seek directions from the Court with respect to this Order and the Property Claims process set out herein, including the forms attached as Schedules hereto.

### **SERVICE AND NOTICE**

31. THIS COURT ORDERS that any notice or other communication to be given under this Order by the Receiver to a Claimant or other interested Persons, shall be in writing and may be given by sending true copies thereof by prepaid ordinary mail, registered mail, courier, personal delivery or electronic or digital transmission to such Persons (i) at the address shown on the Proof of Property Claim filed by that Person, or (ii) if a Proof of Property Claim has not been filed by that Person or does not contain a valid address, then at the address as last shown on the records of the Debtors, and that any such service or notice by courier, personal delivery or electronic or digital transmission shall be deemed to be received on the next Business Day following the date of forwarding thereof, or if sent by prepaid ordinary mail or by registered mail, on the fourth Business Day after mailing. Notwithstanding anything to the contrary in this paragraph 30, Notices of Disallowance shall be sent only by (i) facsimile to a number that has been provided in writing by the Claimant, (ii) registered mail, or (iii) courier.

32. THIS COURT ORDERS that any notice or other communication to be given under this Order by a Claimant to the Receiver shall be in writing and will be sufficiently given only if sent by prepaid ordinary mail, registered mail, courier, personal delivery or electronic or digital transmission addressed to:

A. Farber & Partners Inc.  
Court-appointed Receiver of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

Address: 150 York Street, Suite 1600  
Toronto, ON M5H 3S5

Attention: Gena Lowe  
Telephone: (416) 496-3762  
E-mail: [cratemarine@farberfinancial.com](mailto:cratemarine@farberfinancial.com)  
Fax: (416) 496-3839

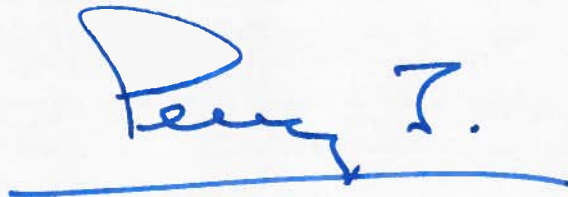
Any such notice or other communication by a Claimant shall be deemed received only upon actual receipt thereof during normal business hours on a Business Day. Where the communication is to be by way of a form attached as a Schedule to this Order, such communication shall be in substantially the form of the attached Schedule.

#### MISCELLANEOUS

33. THIS COURT ORDERS AND REQUESTS the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada and any court or any judicial, regulatory or administrative body of the United States and the states or other subdivisions of the United States and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

DEC 24 2014





**SCHEDULE "A"**

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**NOTICE TO PROPERTY CLAIMANTS  
of CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,  
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.  
(hereinafter referred to as the "Debtors")**

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**RE: NOTICE OF PROPERTY CLAIMS PROCEDURE FOR THE DEBTORS**

**PLEASE TAKE NOTICE** that this notice is being published pursuant to an Order of the Superior Court of Justice of Ontario made on December 23, 2014 (the "Order"). The known property claimants should have received Proof of Property Claim packages by mail, if the Debtors have a current address. Property Claimants may obtain details about what claims are included in this Property Claims process, as well as obtain a copy of the Order and a Proof of Property Claim package from the website of A. Farber & Partners Inc., Court-appointed Receiver of the Debtors, at [www.farberfinancial.com/insolvency-engagements/crate-marine-sales-limited-et-al](http://www.farberfinancial.com/insolvency-engagements/crate-marine-sales-limited-et-al), or by contacting the Receiver by telephone (416) 496-3762.

Proofs of Property Claim must be submitted to the Receiver for any Property Claim as defined in the Order and described in the Instruction Letter for them available on the Receiver's website, listed above.

**Completed Proofs of Property Claim must be received by the Receiver by 4:00 p.m. (Eastern Standard Time) on January 30, 2015 (the "Claims Bar Date"). It is your responsibility to ensure that the Receiver receives your Proof of Property Claim by the above-noted time and date.**

**PROPERTY CLAIMS WHICH ARE NOT RECEIVED BY THE CLAIMS BAR DATE WILL BE BARRED AND EXTINGUISHED FOREVER.**

**DATED** at Toronto this \_\_\_\_\_ day of 2014.



## SCHEDULE "B"

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**INSTRUCTION LETTER FOR THE PROPERTY CLAIMS PROCEDURE  
OF CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,  
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.**  
(hereinafter referred to as the "Debtors")

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### A. PROPERTY CLAIMS PROCEDURE

By Order of the Superior Court of Justice of Ontario made December 23, 2014, A. Farber & Partners Inc. ("Farber") in its capacity as the Court appointed receiver (the "Receiver") of the Debtors has been authorized to conduct a property claims procedure (the "Property Claims Procedure").

The Property Claims Procedure is intended for any Person with any Property Claim as defined in the Property Claims Procedure Order and described in the Instruction Letter, which is available on the Court-appointed Receiver's website at [www.farberfinancial.com/insolvency-engagements/crate-marine-sales-limited-et-al](http://www.farberfinancial.com/insolvency-engagements/crate-marine-sales-limited-et-al).

Property Claims do **not** include, among other things:

- claims provable in bankruptcy (unsecured claims), which should be filed with Farber, in its capacity as trustee in bankruptcy of the Debtor, following the procedures under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3;
- any interest in real property (land or buildings), whether in the nature of a proprietary interest, or as a secured claim against land or otherwise; or
- any claim in connection with boat slip rentals or accommodations for boats, including any mooring/licence agreement with the Debtors.

Property Claims **may** include:

- a proprietary claim (ownership, lease or otherwise) to any tangible personal property (chattels) in the possession of the Debtors;
- a secured claim of any Person to any tangible personal property (chattels) in the possession of the Debtors;
- a claim of any Person that tangible personal property was sold to the Debtors, or by the Debtors as intermediary or broker, without full payment to that Person and that such claim attaches to tangible personal property (chattels) in the possession of the Debtors other than money or proceeds;
- a claim of any Person that tangible personal property in the possession of the Debtors or any of them was sold to the Debtors, or by the Debtors as intermediary or broker, without

full repayment by the Debtors or any of them of a loan in relation to or secured against that tangible personal property and that such claim attaches to tangible personal property (chattels) in the possession of the Debtors other than money or proceeds; or

- a claim that any Person has paid some or all of the purchase price of Property and a transaction to purchase that Property has not been completed and that such claim attaches to tangible personal property (chattels) in the possession of the Debtors other than money or proceeds.

If you have any questions regarding the Property Claims Procedure, please consult the website of the Court-appointed Receiver, listed above, or contact the Receiver at the address provided below.

All notices and enquiries with respect to the Property Claims Procedure should be addressed to:

A. FARBER & PARTNERS INC.

Court-appointed Receiver of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

Address: 150 York Street, Suite 1600  
Toronto, ON M5H 3S5  
Canada

Attention: Gena Lowe  
Telephone: (416) 496-3774  
E-mail: [cratemarine@farberfinancial.com](mailto:cratemarine@farberfinancial.com)  
Fax: (416) 496-3839

#### **B. FOR CLAIMANTS SUBMITTING A PROOF OF PROPERTY CLAIM**

If you believe that you have a Property Claim against the Debtors, you will have to file a Proof of Property Claim with the Receiver. **The Proof of Property Claim must be received by 4:00 p.m. (Eastern Standard Time) on January 30, 2015, the Claims Bar Date.**

Additional Proof of Property Claim forms and other information, including a copy of the Order creating the Property Claims Procedure, can be obtained from the Receiver's website at [www.farberfinancial.com/insolvency-engagements/crate-marine-sales-limited-et-al.](http://www.farberfinancial.com/insolvency-engagements/crate-marine-sales-limited-et-al.), or by contacting the Receiver at the telephone and fax numbers indicated above and providing particulars as to your name, address and facsimile number.

**It is your responsibility to ensure that the Receiver receives your Proof of Property Claim by the above-noted time and date.**

**SCHEDULE "C"**

---

**PROOF OF PROPERTY CLAIM RELATING TO CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED, 1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED, 1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.**

(hereinafter referred to as the "Debtors")

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Please read carefully the enclosed Instruction Letter for completing this Proof of Property Claim.

**A. PARTICULARS OF CLAIMANT:**

1. Full Legal Name of Claimant:

\_\_\_\_\_

(the "Claimant"). (Full legal name should be the name of the original Claimant of the Debtors, notwithstanding whether an assignment of a Property Claim, or a portion thereof, has occurred following December 8, 2014).

2. Full Mailing Address of the Claimant (the original Claimant not the Assignee):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number: \_\_\_\_\_

4. E-Mail Address: \_\_\_\_\_

5. Facsimile Number: \_\_\_\_\_

6. Attention (Contact Person): \_\_\_\_\_

7. Has the Property Claim been sold or assigned by the Claimant to another party [check (✓) one]?

Yes:  No:

If "Yes" is checked, please complete Section B. If "No" is checked, please skip section B.

**B. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

(If Property Claim has been assigned, insert full legal name of assignee(s) of Property Claim . If there is more than one assignee, please attach a separate sheet with the required information.)

8. Full Legal Name of Assignee(s):

\_\_\_\_\_

9. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. Telephone Number of Assignee(s): \_\_\_\_\_

11. E-Mail Address: \_\_\_\_\_

12. Facsimile Number: \_\_\_\_\_

13. Attention (Contact Person): \_\_\_\_\_

**C. PROOF OF PROPERTY CLAIM:**

I, \_\_\_\_\_  
[name of Claimant or Representative of the Claimant], of

\_\_\_\_\_ do hereby certify:  
(city and province)

(a) that I [check (✓) one]

am the Claimant of the Debtor; **OR**

am \_\_\_\_\_ (state position or title) of

\_\_\_\_\_  
(name of claimant);

(b) that I have knowledge of all the circumstances connected with the Property Claim referred to below.

**D. NATURE OF PROPERTY CLAIM**

Details of the Property subject to this Property Claim (include all available description, such as serial or registration numbers, product name or code, or other identifying marks):

\_\_\_\_\_  
\_\_\_\_\_

Details of the basis for the Property Claim (attach a separate sheet if more space is required):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Details of the amount of any indebtedness, liability or obligation related to the Property Claim:

TOTAL PROPERTY CLAIM ARISING ON OR PRIOR TO DECEMBER 8, 2014:

\_\_\_\_\_ [insert amount of Property Claim in the currency in which it arose].

(Property Claims are to be filed in the currency in which they arose. The Receiver will convert such Property Claims to Canadian Dollars at the Bank of Canada noon spot rate as at December 8, 2014].

**E. PARTICULARS OF PROPERTY CLAIM:**

Other than as already set out herein, the particulars of the undersigned's total Property Claim are attached.

(Provide all particulars of the Property Claim and supporting documentation, including description of transaction(s) or agreement(s) giving rise to the Property Claim, name of any guarantor which has guaranteed the claim, and amount of invoices, particulars of all credits, discounts, etc. claimed, description of the security, if any, granted by the Debtors to the Claimant and estimated value of such security.)

**This Proof of Property Claim must be received by the Receiver by no later than 4:00 p.m. (Eastern Standard Time) on January 30, 2015 by prepaid ordinary mail, registered mail, courier, personal delivery or electronic or digital transmission to the following address:**

**A. FARBER & PARTNERS INC.**

Court-appointed Receiver of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

Address: 150 York Street, Suite 1600  
Toronto, Ontario M5H 3S5

Attention: Gena Lowe  
Telephone: (416) 496-3762  
E-mail: [cratemarine@farberfinancial.com](mailto:cratemarine@farberfinancial.com)  
Fax: (416) 496-3839

**F. FILING OF PROPERTY CLAIM**

**Failure to file your proof of Property Claim as directed by 4:00 p.m. (Eastern Standard time), on January 30, 2015 will result in your Property Claim being barred and in you being prevented from making or enforcing a Property Claim against the Debtors. In addition, you shall not be entitled to further notice in, and shall not be entitled to participate as a claimant in these proceedings.**

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 201●.

\_\_\_\_\_  
Signature of Claimant

**SCHEDULE "D"**

**REFERENCE NUMBER [●]**

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**NOTICE OF DISALLOWANCE**

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RE: In the matter of the Property Claim dated [DATE] filed by you against Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively, the "Debtors")

Property Claim Reference Number:

TO:

\_\_\_\_\_  
*(Name of Claimant)*

Capitalized terms not defined in this Notice of Disallowance have the meanings ascribed to those terms in the Order of the Ontario Superior Court of Justice dated December 23, 2014 (the "Property Claims Procedure Order"). All dollar values contained herein are in Canadian dollars unless otherwise noted.

Pursuant to paragraph 16 of the Property Claims Procedure Order, A. Farber & Partners Inc., in its capacity as Court-appointed Receiver of the Debtors, hereby gives you notice that it has reviewed your Proof of Property Claim and has disallowed all or part of your Property Claim. Subject to the terms of the Property Claims Procedure Order, including any further dispute by you in accordance with such Order, your Property Claim will be allowed as follows:

Basis of Property Claim:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Amount of any indebtedness, liability or obligation related to the Property Claim:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





**SCHEDULE "E"**

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**DISPUTE NOTICE**

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RE: In the matter of the Property Claim dated \_\_\_\_\_ filed by \_\_\_\_\_ against Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

Property Claim Reference Number: \_\_\_\_\_

**1. Particulars of Claimant:**

Full Legal Name of Claimant (include trade name, if different):

\_\_\_\_\_  
\_\_\_\_\_  
*(the "Claimant").*

Full Mailing Address of the Claimant:

Other Contact Information of the Claimant:

Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Attention (Contact Person): \_\_\_\_\_

**2. Particulars of original Claimant from whom you acquired the Property Claim, if applicable:**

Have you acquired this Claim by assignment?

Yes:  No:

If yes and if not already provided, attach documents evidencing assignment.

Full Legal Name of original Claimant(s): \_\_\_\_\_

**3. Dispute of Disallowance of Property Claim:**

The Claimant hereby disagrees with the value of its Property Claim as set out in the Notice of Disallowance and asserts a Property Claim as follows:

Details of the Property subject to this claim (include all available description, such as serial or registration numbers, product name or code, or other identifying marks):

\_\_\_\_\_  
\_\_\_\_\_

Details of the basis for the Property Claim (attach a separate sheet if more space is required):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Details of the amount of any indebtedness, liability or obligation related to the Property Claim:

TOTAL PROPERTY CLAIM ARISING ON OR PRIOR TO DECEMBER 8, 2014:

\_\_\_\_\_ [insert amount of property claim in the currency in which it arose].

(Property Claims are to be filed in the currency in which they arose. The Receiver will convert such claims to Canadian Dollars at the Bank of Canada noon spot rate as at December 8, 2014].

**REASON(S) FOR THE DISPUTE:**

*[You must include a list of reasons as to why you are disputing your Property Claim as set out in the Notice of Disallowance. Reasons must be provided for each type of Property Claim being asserted].*

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**SERVICE OF DISPUTE NOTICES**

**If you intend to dispute the Notice of Disallowance, you must by no later than the date that is fourteen (14) days after the Notice of Disallowance is deemed to have been received by you (in accordance with paragraph 30 of the Property Claims Procedure Order) deliver to the Receiver this Dispute Notice by prepaid ordinary mail, registered mail, courier, personal delivery or electronic or digital transmission to the address below. In accordance with the Property Claims Procedure Order, notices shall be deemed to be received upon actual receipt thereof by the Receiver during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.**

**A. FARBER & PARTNERS INC.**

**Court-appointed Receiver of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.**

**Address: 150 York Street, Suite 1600  
Toronto Ontario M5H 3S5**

**Attention: Gena Lowe  
Telephone: (416) 496-3762  
E-mail cratemarine@farberfinancial.com  
Fax: (416) 496-3839**

**DATED this \_\_\_\_\_ day of \_\_\_\_\_, 201●.**

**Name of Claimant: \_\_\_\_\_**

\_\_\_\_\_  
Witness

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

**Name:  
Title:**

**IN THE MATTER OF THE RECEIVERSHIP OF  
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,  
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.**

Commercial List File No. 14-CV-10798-00CL

**IN THE MATTER OF THE BANKRUPTCY OF  
CRATE MARINE SALES LIMITED**

Court File No. 31-1932502

**IN THE MATTER OF THE RECEIVERSHIP OF CRATE MARINE SALES LIMITED, F.S. CRATE  
& SONS LIMITED, 1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED, 1282648  
ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.**

Court File No.: 31-193502  
Court File No.: 31-193534  
Court File No.: 31-193548  
Court File No.: 31-193557  
Court File No.: 31-193540  
Court File No.: 31-193555  
Court File No.: 31-193553

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at  
Toronto**

**PROPERTY CLAIMS PROCEDURE ORDER**

**GOLDMAN SLOAN NASH & HABER LLP**  
480 University Avenue, Suite 1600  
TORONTO, ON M5G 1V2  
Fax: 416-597-3370

**Michael B. Rotsztain (LSUC #: 17086M)**  
Tel: 416-597-7870  
Email: [rotsztain@gsnh.com](mailto:rotsztain@gsnh.com)

**R. Brendan Bissell (LSUC #: 40354V)**  
Tel: 416-597-6489  
Email: [bissell@gsnh.com](mailto:bissell@gsnh.com)

Lawyers for A. Farber & Partners Inc. in its capacities as the Court appointed Receiver and as the trustee in bankruptcy of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

**TAB J**

February 24, 2015

**Sent By E-mail**

Mr. Michael B. Rotsztain  
Goldman Sloan Nash & Haber LLP  
Barristers & Solicitors  
480 University Avenue, Suite 1600  
Toronto, ON M5G 1V2

Norton Rose Fulbright Canada LLP  
Royal Bank Plaza, South Tower, Suite 3800  
200 Bay Street, P.O. Box 84  
Toronto, Ontario M5J 2Z4 CANADA

F: +1 416.216.3930  
[nortonrosefulbright.com](http://nortonrosefulbright.com)

**Tony Reyes**  
+1 416.216.4825  
[tony.reyes@nortonrosefulbright.com](mailto:tony.reyes@nortonrosefulbright.com)

Your reference

Our reference  
01026376-0003

Dear Mr. Rotsztain:

**Equipment Lease between 1889863 Ontario Inc. and Crate Marine Sales Limited (the "Lease")**

As discussed on Tuesday, February 17th, I have been contacted by 1889863 Ontario Inc. (the "Owner") with respect to issues that have arisen during their course of trying to sell the equipment that was formerly leased to Crate Marine Sales Limited ("CMSL"), namely a "travel lift" identified in the Lease as "1 New Lift 50 BFM II S/N 3495-0713" (the "Lift"). You asked if I could make some inquiries of the Owner, and then come back to you with its position.

The Lift was subject to a lease dated July 27, 2013 between the Owner and CMSL. I understand that you have a copy of the Lease, but I have attached it for ease of reference. The Lift was installed on property owned by Structform Central Corp. ("Structform") in Belleville, Ontario. That property is leased by Crate Belleville Inc. ("CBI").

CMSL made the monthly payments referred to in the Lease up to and including the August 1, 2014 payment. It did not make any payments under the Lease after that date. These payments, and the termination of these payments, will of course show up on the CMSL records in the possession of your client, A. Farber & Partners Inc., in its capacity as Court-appointed Receiver (the "Receiver"). The Owner did not attempt to cash any CMSL cheques after that time, so we do not have any "NSF" cheques to provide to the Receiver.

In August of 2014, CMSL advised the Owner that CMSL would not be continuing payments under the Lease, and CBI advised the Owner that it wished to retain use of the Lift on its leased property in Belleville. It was understood and agreed amongst CMSL, CBI and the Owner that the Lease was terminated at the end of August 2014 and that CMSL had no further rights to the Lift from that point forward. This was not formally documented at the time, although it was later documented by way of a Notice of Termination of Equipment Lease dated September 14, 2014 (the "Notice of Termination"), and a "Receipt" whereby CMSL confirmed receipt of such Notice of Termination and agreed and confirmed that the Lease was terminated as of September 14, 2014. I understand that you have copies of these documents, but again I have attached them for ease of reference.

For your information, CBI started paying a monthly rental for the Lift in September of 2014, as evidenced by the attached cheque. Unfortunately, CBI also ceased paying any rental in January 2015, and has not paid any rental to the Owner since that time. However, Structform has indicated that it is willing to purchase the Lift from

DOCSTOR: 511342813

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Norton Rose Fulbright Canada LLP, Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright South Africa Inc and Norton Rose Fulbright US LLP are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients. Details of each entity, with certain regulatory information, are at [nortonrosefulbright.com](http://nortonrosefulbright.com).

Mr. Michael B. Rotsztain  
February 24, 2015



the Owner, but it is concerned about claims that the Receiver may be making. We therefore need the Receiver's confirmation that it is not pursuing any rights as against the Lift.

For your further information, the purchase price that was offered by Structform is less than the amount that is outstanding under the Lease, so the Owner will be suffering a further deficiency in this sale.

As suggested by you, I have obtained and reviewed a copy of the Property Claims Procedure Order made by Mr. Justice Penny on December 23, 2014. While we wish to be respectful of both the Court process and the Receiver's efforts, it appears to me that that Order does not apply. The Lift was neither in the possession of CMSL on the Filing Date (December 8, 2014), nor in the possession of any other person on behalf of CMSL.

We would like to resolve this amicably and promptly, so that the Owner does not suffer any further damages as a result of the uncertainty created by the CMSL receivership. We would appreciate discussing with you how this might be brought to a prompt conclusion.

Yours very truly,

A handwritten signature in cursive script that reads "Tony Reyes".

Tony Reyes

TR/lc

**EQUIPMENT LEASE**

**LESSOR INFORMATION**

**CONTRACT No. 1199**

Lessor Name: 1889863 Ontario Inc.

**LESSEE INFORMATION**

Lessee's Name: Crate Marine Sales Limited  
Lessee Address: 290 The Queensway South Keswick, ON L4P 2B3

**LEASE DETAILS**

Vendor's Name: Canadian Marline Lift Service  
Vendor's Address: 210 Silverstar Blvd. Toronto, ON M1V 5J9  
Equipment Description: 1 New Lift 50 BFM II S/N 3495-0713  
Lease Term: 48 Months, paid in advance monthly

Assumed Price: First and last month's rent in the amount of \$16,000.00 is due on signing of this Lease.  
\$385,530.01 (\$341,177.00 + \$44,353.01 = \$385,530.01)

The Lessee is to transfer ownership of a 2013 Regal 24 Fast Deck Serial Number RGMGF219K213 to the Lessor in lieu of payment of \$50,000.00. The assumed price is therefore reduced by the said \$50,000.00 to \$335,530.01.

Net Rental: <sup>830.</sup> \$7,079.65/Month HST: \$920.35 Total Rental Payment: \$8,000.00 *Payment of \$50,000.00 will be paid no later than Sept 30, 2013 or earlier if boat sold by Crate Marine Sales.*

Purchase Option: The Lessee shall have an option to purchase the equipment on the one year anniversary of the Lease on July 29, 2014 for the option purchase price of \$273,400.00. At the end of the term of 48 months, the residual/option purchase price is \$57,580.00.

Payment Form: Pre-authorized payments or post-dated cheques

This Agreement to Lease (the "lease") the above equipment on the terms set forth herein is for valuable consideration entered into by the Lessor and the Lessee effective upon on signing below. This Agreement to Lease includes terms on the attached pages. The Lessee confirms by such signature that it has read, understands and agrees to such terms.

Dated at Keswick this 27 day of 27 July, 2013

1889863 Ontario Inc (Lessor)

K. Kuehls  
Witness

Per: [Signature]  
Name:  
Title:

I have the authority to bind the corporation

Crate Marine Sales Limited (Lessee)

K. Kuehls  
Witness

Per: [Signature]  
Name:  
Title:

I have the authority to bind the corporation



## LEASE TERMS

1. **Lease:** Lessor leases to Lessee, and Lessee leases from Lessor, the equipment described in the Lease Details (including any attachments hereto), including any parts, accessories, replacements, additions and accessions, tangible or intangible (including software), now and hereafter relating thereto or affixed thereon and including any documentation, manuals or information provided in connection therewith, (collectively the "Equipment"). THIS LEASE CANNOT BE CANCELLED OR PREPAID BY LESSEE. Lessee has not purchased the Equipment. Lessee irrevocably requests Lessor, as Lessor deems appropriate, to issue a purchase order, to enter into an agreement or to accept Vendor's invoice (any such document being a "Purchase Document"), or to otherwise acquire the Equipment, for the purpose of leasing it to Lessee. Lessee irrevocably offers to assign to Lessor its rights under any license or software, information or documentation related to the Equipment and under any agreement or warranty relating to the installation, maintenance or performance of the Equipment (any such license, agreement or warranty being a "Supporting Agreement"); Lessee is permitted to assign such rights to Lessor. LESSEE HAS PERSONALLY SELECTED THE EQUIPMENT AND LESSOR HAS ACQUIRED THE EQUIPMENT AT LESSEE'S REQUEST FOR THE SOLE PURPOSE OF LEASING IT HEREUNDER. LESSEE IS RESPONSIBLE FOR THE SUITABILITY OF THE EQUIPMENT AND ITS INSTALLATION AND DELIVERY; THE FAILURE OF THE EQUIPMENT TO OPERATE OR TO CONFORM TO LESSEE'S REQUIREMENTS SHALL NOT LESSEN LESSEE'S OBLIGATIONS HEREUNDER. Except for Lessor's obligation to pay Vendor for the Equipment if (but only if) the Lease Term commences, Lessee shall perform the purchaser's obligations under any Purchase Document and Supporting Agreement. Any information in the Vendor's invoice, the Purchase Document or in licensing information related to the Equipment may, in Lessor's discretion, be used to complete or augment the above Equipment description.

2. **Commencement:** This Lease is binding upon each party upon execution. This Lease's original term (the "Term") commences on the Start Date stated in the Delivery and Acceptance Certificate ("D&A") signed (or deemed to be signed) by Lessee and bearing the same Contract No. The Term ends on the corresponding day of the month following the number of months indicated as the "Term" in the Lease Details or, if later, following the last renewal made pursuant to Section 8. Upon delivery and, if applicable, installation of the Equipment, Lessee shall execute and deliver to Lessor a D&A in form provided by Lessor; if Lessee fails to do so, Lessor may, by notice in writing, deem the D&A to have been executed and the Start Date to have occurred on the date the Vendor states it completed Equipment delivery. Lessor may note the Start Date on the first page of this Lease and such notation shall, barring manifest error, be conclusive.

3. **Payments:** 3.1 During the Term Lessee shall, without notice or request, pay Lessor the total number of Rentals set forth in the Lease Details, plus any renewal Rentals. Rentals are payable, in advance, with the payment frequency noted in the Lease Details to Lessor at, until notice from Lessor, the address indicated above as follows: (A) first Rental upon Lessee's execution hereof (such first Rental being non-refundable unless Lessor elects not to proceed with this Lease and Lessee is not in Default) and (B), after the period covered by such first Rental, subsequent Rentals throughout the Term on the first, fifth, tenth, fifteenth or twentieth day of such period, whichever is closer to the Start Date. Amounts paid by Lessee prior to Term commencement which are in excess of such first Rental shall be credited towards Lessee's final Rental(s) in reverse order of occurrence, without interest. LESSEE'S OBLIGATION TO PAY ALL RENTALS AND OTHER AMOUNTS DUE UNDER THIS LEASE IS ABSOLUTE AND UNCONDITIONAL AND ALL RENTALS AND OTHER AMOUNTS DUE UNDER THIS LEASE ARE PAYABLE WITHOUT SET-OFF, COMPENSATION, DEDUCTION, DEFENSE, COUNTERCLAIM OR ABATEMENT. All amounts are in Canadian dollars unless otherwise stated.

3.2 -The Rentals stated in the Lease Details are calculated based on the Assumed Price (if, but only if, an Assumed Price is stated in the Lease Details) and on Lessor's cost of funds when this Lease is prepared and

Lessor may, by notice in writing, advise Lessee of any increase in Rentals necessary to maintain Lessor's profit margin if: (A) the amount paid by Lessor to acquire the Equipment is greater than the Assumed Price and: (i) the Purchase Document provides for payment in a currency other than Canadian dollars and a deterioration in the rate of exchange between such currency and the Canadian dollar has caused such price increase; or (ii) Lessee has consented in writing to such price increase; or (B) more than 30 days have passed since preparation of this Lease and Lessor's cost of funds has increased between the preparation of this Lease and the Start Date, and, barring manifest error (which must be raised by Lessee in writing within 21 days), such increased Rentals shall thereafter be the Rentals payable under this Lease.

3.3 - Lessee shall without notice pay interest at the rate of eighteen percent (18%) per annum, calculated daily and compounded monthly, on any amount which is not paid when due or which bears interest according to this Lease; in each case from the date any such amount becomes due or interest bearing, before and after maturity, default and judgment, until paid in full.

3.4 - Lessee's Bank is hereby irrevocably authorized and directed to: (A) debit Lessee's Bank account, as described in the above Lease Details, for all Rental and other Lease payments purporting to be drawn on Lessee for payment to Lessor and which are presented for payment by Lessor or Lessor's agent; and (B) make all such payments to Lessor or Lessor's agent from Lessee's Bank Account. Such payments may be requested in the form of magnetic or computer-produced tape and Lessee's Bank is hereby authorized and directed to treat them as signed by Lessee. Lessee agrees that Lessee's Bank shall not be liable for any loss or damage incurred by Lessee due to Lessee's Bank honouring this authorization. If Lessee's Bank account is transferred to another branch, this authorization shall be directed to such other branch. This authorization may not be revoked without Lessor's consent. Lessor is authorized, as Lessee's lawful attorney, to provide further evidence of this authorization to Lessee's Bank.

4. **Maintenance & Use:** Lessor is, at its expense, responsible for the maintenance, repair, parts replacement, delivery, installation, de-installation and re-delivery of the Equipment by qualified persons. Lessee shall at its expense keep the Equipment in good repair, condition and working order and any improvements resulting from such maintenance shall immediately form part of the Equipment. Except for such maintenance, Lessee shall not make any additions, changes, modifications or other alterations (collectively "Alterations") to the Equipment. All Alterations to Equipment shall immediately become property of Lessor, free and clear of any Encumbrances. Lessee shall use the Equipment carefully and shall, at Lessee's expense, comply with all applicable laws (including safety and inspection requirements), insurance policies and manufacturer's recommendations relating to the shipment, installation, ownership, possession, use or maintenance of the Equipment. Equipment shall only be used in connection with Lessee's business or in the carrying on of an enterprise and only for commercial, industrial, professional or handicraft purposes and not for any personal, family, household or farming purposes. Equipment shall not be used to transport people for a charge or to transport explosives, radioactive or flammable matter or any substance which is a prohibited, toxic or a restricted substance or hazardous waste under the Canadian Environmental Protection Act or any analogous legislation in effect in any relevant jurisdiction. Lessee is responsible for any person who has care or control of the Equipment during this Lease. Equipment shall remain at the Equipment Location except that Equipment which is, as expressly indicated by the Lease Details, a vehicle or other Equipment which will necessarily be used at different locations may, provided Lessor's first priority claim on the Equipment is not adversely affected: (A) be removed from the Equipment Location for normal daily usage; and (B) in the case of vehicles, provided absences from the Equipment Location shall not exceed 20 days in length or 30 days in any 45 day period, be used throughout Canada and the United States. Lessor may at any time inspect the Equipment and Lessee's maintenance, insurance, use and Tax records.

5. **Title:** Equipment is and shall remain the sole personal and moveable property of Lessor, shall not be affixed to any real or personal property and Lessee shall have no right, title or interest in the Equipment except for the

*Soll*

right of use described in this Lease; Lessee shall not allow the Equipment to become subject to any Encumbrance in favour of any person, unless caused by Lessor. Lessee shall at its expense maintain markings required by Lessor on the Equipment to identify the Equipment as Lessor's property.

6. Net Lease: 6.1 - Lessee shall bear the entire risk of loss, damage, destruction, theft or governmental taking of the Equipment or any part thereof (any such case being a "Loss"), regardless of whether it is caused by any default or neglect of Lessee. No Loss shall relieve Lessee of its obligations under this Lease. Lessee shall immediately notify Lessor of any Loss and shall repair or replace the Equipment subject to the Loss.

6.2-ALL COSTS RELATING TO THE EQUIPMENT'S OWNERSHIP, USE, MAINTENANCE, POSSESSION OR DISPOSAL SHALL BE BORNE BY LESSEE, including all Taxes and all charges, licensing costs or fines arising in connection with the ownership or use of the Equipment. The Rentals and other amounts payable hereunder shall be absolutely net to Lessor, free of all expenses, deductions, Taxes, costs or outgoings of any kind whatsoever. If Lessee fails to perform any obligation hereunder, including its obligation to maintain adequate insurance coverage. Lessor may, as Lessee's lawful attorney or otherwise, do so on Lessee's behalf (including procuring insurance to protect Lessor's, but not Lessee's, interests), and Lessee shall immediately indemnify Lessor upon Lessor's request therefor for its costs of doing so, plus interest thereon until Lessor is compensated in full.

6.3 - Lessee shall pay all Taxes and, as required by law, file all Tax returns. Lessor is, unless otherwise required by applicable law or accounting principles, exclusively entitled to the benefit of depreciation, tax allowances, capital cost allowance, investment tax credits or other analogous claims arising from ownership of the Equipment.

6.4 - Lessee indemnifies Lessor and shall protect Lessor against all loss, costs, liabilities, damages, claims, legal proceedings and expenses arising in connection with: this Lease (including any out-of-pocket costs or fees associated with security searches, registrations, amendments and discharges and with Equipment appraisals and credit verifications); the Purchase Documents; any Supporting Agreement; the Equipment; the manufacture, selection, purchase, ownership, delivery, installation, possession, use, maintenance, Loss, disposal or return of the Equipment; Taxes; the Equipment's infringement of any patent, industrial or intellectual property right; any Default; or the exercise by Lessor of its rights hereunder.

6.5 - if, according to applicable law, the Equipment or its operator requires licensing or registration in any jurisdiction, Lessee shall, at its cost, comply with such licensing or registration requirements and shall immediately provide evidence thereof to Lessor (including original registration documents where available). Such licensing or registration shall show, to the extent permitted by applicable law: (A) Lessor as owner; and (B) Lessee as having care and control of the Equipment as lessee and, if Lessee is an individual, as Equipment operator. If Lessee is not an individual and the Equipment is to be operated by licensed individuals, Lessee shall advise Lessor of the name and address of its employees who will be Equipment operators and shall give Lessor advance written notice of any change to such information. Lessee shall ensure that Equipment operators are duly licensed, competent to operate such Equipment and covered by Lessee's insurance coverage arranged pursuant to Section 7. If Lessor notifies Lessee that an operator is using Equipment in an unacceptable manner, Lessee shall immediately cause such person to cease operating such Equipment.

7. Insurance: Lessee shall, at its expense, maintain with insurers and on terms and conditions acceptable to Lessor:

(a) Comprehensive all risks, full replacement value property loss insurance on the Equipment with (i) loss payable to Lessor as first payee and, if Lessor requests, with Lessor named as an additional insured, and (ii) a waiver of subrogation in favour of Lessor; and

(b) General public liability and third party property damage insurance (in the case of vehicles, under a standard form automobile insurance policy and any "no fault" coverage required by applicable law) with limits of liability equal to at least \$2,000,000 per occurrence (or such greater amount as Lessor may require from time to time), exclusive of interest and costs and regardless of the number of claims arising from any one accident, and such insurance shall: (i) extend to all liabilities of Lessee

arising out of its or its agents use or possession of Equipment or out of Lessor's ownership of Equipment, (ii) include Lessor as additional insured, and (iii) include a cross-liability provision insuring each insured as if a separate policy had been issued.

Such insurance shall provide that: (A) evidence of renewal shall be provided to Lessor and thirty days written notice shall be given to Lessor before a policy expiration, alteration or cancellation; (B) coverage shall be primary and not contributory; and (C) Lessor's interest as additional insured shall not be adversely affected by any act or omission of Lessee or its agents. Lessee shall supply Lessor with evidence of satisfaction of these insurance covenants prior to delivery of the Equipment and thereafter upon request by Lessor. If Equipment is, in Lessor's reasonable opinion, an actual or constructive total loss. Lessor shall be entitled to retain its Liquidated Damages from the insurance proceeds and, if such proceeds are less than the Liquidated Damages, to recover any shortfall from Lessee. Lessee appoints Lessor as its attorney for the purpose of endorsing and negotiating all instruments payable to Lessee and executing all documents relating to the Loss of Equipment.

8. End of Lease: At the end of the Term (including any renewal), unless Lessee has purchased the Equipment pursuant to a Section 10 Purchase Option. Lessee shall give Lessor thirty (30) days prior written notice of its intent to return the Equipment and shall, at Lessee's risk and expense: (A) if Lessor requests, store (but not use) the Equipment for up to ninety (90) days until Lessor requests delivery of the Equipment; (B) return the Equipment to Lessor at the place in Canada specified by Lessor; or (C) if requested by Lessor, dispose of the Equipment in compliance with applicable law and as Lessor may direct. Returned Equipment shall be in good repair, condition and working order, normal wear and tear excepted. If Lessee at any time fails to give such notice or to return or purchase the Equipment as and when required, Lessee by such failure requests a renewal of this Lease for one (1) month and Lessor may, in its discretion: (i) demand the return of the Equipment pursuant to this Section and exercise its other rights hereunder; or (ii) accept such renewal request, including acceptance by Lessor continuing to withdraw Rentals by pre-authorized payment. This Lease (including this Section and the renewal provision herein) and Lessee's Lease obligations (including the obligation to pay Rentals as set forth herein) continue during any such renewal. If Lessee fails to return the Equipment as required hereunder Lessor may, without notice to Lessee or resort to legal process, take possession of the Equipment and, as Lessee's agent, enter any premises where the Equipment is located to remove or disable the Equipment.

9. Defaults: 9.1 - Each of the following is a default by Lessee (a "Default"):

- (a) failure to pay any Rental or other amount due hereunder within 10 days of its due date; or
- (b) failure to perform any obligation hereunder; or
- (c) a default under any other agreement between Lessor and Lessee or under any agreement between Lessee and any other financier; or
- (d) any representation or warranty made by Lessee herein or in respect of this Lease is incorrect or misleading; or
- (e) the value of Lessor's interest in the Equipment is materially impaired due to Loss; or
- (f) Lessee makes an assignment for the benefit of its creditors, is insolvent, commits an act of bankruptcy, takes any action to wind-up or dissolve, ceases or threatens to cease to do business as a going concern, amalgamates, is subject to a direct or indirect change in control or seeks any arrangement with its creditors; or
- (g) any proceeding in bankruptcy, receivership, winding-up, dissolution, liquidation or insolvency is commenced by or against Lessee or its property; or
- (h) Lessor in good faith believes and has commercially reasonable grounds to believe that the prospect of payment or performance by Lessee under this Lease is or is about to be impaired or the Equipment is or is about to be placed in jeopardy; or
- (i) any guarantor of Lessee's obligations hereunder disputes or seeks to determine or terminate its guarantee of Lessee's obligations or becomes subject to any of the events in clauses (f) or (g) above; or

*Handwritten signature*

- (j) in the opinion of Lessor, acting reasonably, there has occurred a material adverse change in the business or financial condition of the Lessee or any Guarantor.

9.2 - Upon Default, in addition to Lessor's other rights under this Lease and at law or equity:

- (a) Lessee shall pay to Lessor as liquidated damages, and not as a penalty, an amount (the "Liquidated Damages") equal to the sum of:  
(i) All amounts then due and unpaid, including Rentals and interest; and  
(ii) the present value (calculated using a discount rate of three percent (3%) per annum, compounded monthly) of the remaining Rentals and all other amounts which are scheduled to be paid during the Term (including renewals then in effect); and  
(iii) if Lessor is unable to remarket Equipment for the full amount of its unrecovered residual investment, a sum equal to Lessor's then-current residual investment in the Equipment, less the net remarketing or insurance proceeds actually received by Lessor (if any); and  
(iv) any Enforcement Costs; and  
(v) interest thereon pursuant to Section 3.3. if the Liquidated Damages include any Taxes, the Liquidated Damages shall be increased to ensure that the net amount of the Liquidated Damages retained by Lessor after remitting all Taxes will be equal to the amount calculated above;  
(b) upon Lessor's demand, Lessee shall, at Lessee's expense, return the Equipment to Lessor pursuant to Section 8;  
(c) Lessor may, immediately and without notice to Lessee or resort to legal process, take possession of or disable the Equipment pursuant to Section 8;  
(d) the rights of Lessee in respect of the Equipment shall cease and terminate absolutely; and  
(e) Lessor may, by notice in writing, terminate this Lease.

All rights of Lessor, either under this Lease or at law or equity, are cumulative and not alternative and shall not be extinguished by or merged into any legal proceeding or judgement. Lessor's costs and expenses due to a Default ("Enforcement Costs") (including costs due to collection, legal fees, repossession, Equipment repair, rights enforcement, Equipment disposition and other realization costs) shall be paid by Lessee, with interest, upon demand. After a Default Lessor may sell, re-lease or otherwise dispose of Equipment at public or private sale with or without notice to Lessee and upon such terms and in such manner as Lessor may determine. Lessee shall be liable for any deficiency after the disposition proceeds are applied to the Liquidated Damages. To the extent permitted by law, LESSEE WAIVES THE BENEFIT OF ALL LAWS WHICH WOULD LIMIT LESSOR'S RIGHTS UNDER THIS LEASE, including Lessee's rights under conditional sales, credit and other similar statutes such as The Limitation of Civil Rights Act, Saskatchewan, as amended.

10. **Purchase Option:** Provided no Default exists, the Purchase Option set forth in the Lease Details, if any, may be exercised by the Lessee giving Lessor written notice sixty (60) days prior to the Option Date of its election to exercise such option. After giving such notice Lessee shall pay Lessor the Option Price, plus Taxes, at least thirty (30) days before the Option Date. After such notice and payment, provided no Default exists, Lessee shall acquire Lessor's interest in the Equipment on the Option Date on an "as is, where is" basis without any condition, representation or warranty by Lessor of any kind whatsoever except that the Lessee acquires such interest from Lessor free of Encumbrances caused by Lessor.

11. **Warranties:** Lessor warrants that it is entitled to enter into this Lease. Lessee represents, warrants and covenants (and acknowledges Lessor's reliance thereon and that such representations, warranties and covenants shall survive without time limit) that: (A) its full legal name is set forth above and, if a body corporate, it is and will continue to be validly incorporated and organized; (B) it has all necessary power and authority to own its property and carry on its business and to execute, deliver and perform this Lease, each such action (i) having been duly authorized, (ii) not being in conflict with any law, the constituting documents, resolutions or by-laws of Lessee or any agreement to which it is a party, and (iii) not creating any Encumbrance on the Equipment; (C) this Lease is and will continue to be a legal, valid and binding obligation of Lessee, enforceable against it and effective against its creditors in accordance with its terms; and (D) there are no pending or threatened proceedings against Lessee before any court or other tribunal unless disclosed to Lessor in writing; and

(E) Lessee's financial information is prepared in accordance with generally accepted accounting principles and Lessee has made full disclosure to Lessor of all material facts related to its financial well being, business and affairs. Lessor does not warrant or represent as to the suitability, durability, quality or condition of the Equipment. Warranties or representations by Lessor or any other person do not, unless explicitly set forth herein, form part of this Lease or lessen Lessee's obligations hereunder. Lessor hereby assigns to Lessee, until Default or return of Equipment, the benefit of all assignable warranties, guarantees, service contracts and licenses given by any person to Lessor in respect of the Equipment ("Equipment Rights") and agrees that Lessee may, at Lessee's expense, enforce (but not waive or amend) such Equipment Rights during the term of such assignment; upon Equipment return or a Default, Lessee hereby immediately reassigns all Equipment Rights to Lessor. LESSOR IS NOT LIABLE FOR ANY LOSS, DAMAGE OR EXPENSE, DIRECT, INDIRECT OR CONSEQUENTIAL, CAUSED BY: THE EQUIPMENT; THE USE, MAINTENANCE OR POSSESSION THEREOF; THE INADEQUACY OF THE EQUIPMENT RIGHTS; OR ANY EQUIPMENT FAILURE.

12. **Assignment:** Lessee shall not sublet or give up possession or control of the Equipment or permit its use by any person other than Lessee or competent employees of Lessee. This Lease shall not be assigned by the Lessee and no such assignment shall release Lessee. Lessor may, in whole or in part, assign this Lease, or may enter into this Lease as agent for an undisclosed principal, without notice to or the consent of Lessee; such an assignee or principal shall be entitled to all of Lessor's rights hereunder and such an assignee shall be entitled to enforce this Lease free of any claims, defences, rights of set-off or other equities existing between Lessor and Lessee, if Lessor makes a partial assignment or is acting as agent, Lessor and its principal or partial assignee shall jointly and, as their interests may appear, severally have rights under this Lease. Lessee waives signification of the act of assignment and delivery of a copy of the assignment.

13. **Administration:** Subject to applicable law, Lessee authorizes Lessor to conduct a credit investigation of Lessee including making inquiries with its Bank and other persons; Lessee authorizes and directs such persons to answer Lessor's inquiries. Lessee shall provide Lessor with annual financial statements within 150 days after the end of each financial year (which have been reviewed or audited by an independent qualified professional accountant) and such other financial information as Lessor may reasonably request from time to time. Lessor may provide information about this Lease to any person. Lessee agrees to do all things required by Lessor to give effect to or to better evidence this Lease. Lessor may charge Lessee such fees as it generally establishes from time to time for the administration of leases. Lessee shall immediately notify Lessor in writing of any change in Lessee's name and of any change in Lessee's Lease Details address. Any notice must be in writing and shall be given by delivery, first class prepaid mail or by facsimile to, in any case, the applicable address first noted above (or to such other address specified by notice). Deemed receipt of notices shall occur on the business day first following the date it is delivered or sent by facsimile transmission or, if sent by mail, provided there is no interruption in postal services, on the fifth business day after mailing. Lessee acknowledges receipt of a copy of this Lease, confirms that Lessor may make all security registrations or filings it deems necessary or desirable in connection with this Lease and waives, to the extent permitted by law, its right to receive copies of financing statements, notices or filings made by Lessor in connection with this Lease.

14. **Personal Information:** If an individual, Lessee (i) acknowledges receipt of a copy of the Lessor Privacy Code; (ii) hereby confirms that he/she understands the reasons for the collection, use and disclosure of his/her personal information and (iii) consents to the collection, use and disclosure of his/her personal information as indicated in the Lessor Privacy Code, as amended from time to time. Lessee further, specifically, acknowledge that Lessor may assign this Lease in whole or part from time to time and that he/she expressly agrees and consents that any personal information collected may be disclosed to and used by any such proposed assignee or the bankers or funders of Lessor.

14 a) If a corporation or other legal entity, Lessee specifically acknowledges that Lessor may assign this Lease in whole or part from time to time and that it expressly agrees and consents that any information

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collected may be disclosed to and used by any such proposed assignee or the bankers or funders of Lessor.

15. **Definitions:** Terms used in the Lessee Information or Lease Details have, when used in these Lease Terms with an initial capital letter, the meaning given to such term in the Lessee Information or Lease Details. In this Lease: "including" means "including without limitation"; "Encumbrance" means any claim, lien, charge, encumbrance, levy, security interest, mortgage, hypothec, pledge, hypothecation, seizure, trust, attachment, execution, judicial process, ownership interest, license or leasehold interest, including any claim by a landlord or mortgagee that an asset has become a fixture; "Taxes" includes all taxes, imposts, levies, fees, duties and charges now or hereafter imposed by any taxation authority on Lessee, the Equipment or the purchase, sale, ownership, delivery, possession, use, maintenance, operation or lease of the Equipment or on Lessor in respect of any of the foregoing (including sales, excise, use, property, capital, business, transfer, goods and services and value added taxes and penalties or interest on Taxes), excluding taxes on Lessor's net income; and "Fair Market Value" means the delivered and installed, all-inclusive, purchase price for equipment in good repair in a sale between an arms length purchaser buying for its own use and a seller dealing in such equipment in the ordinary course of its business, as such purchase price is determined by Lessor acting reasonably.

16. **Interpretation:** This Lease constitutes the entire agreement between Lessor and Lessee with respect to its subject matter. Amendments to this Lease must be in writing, reference this Lease and be signed by Lessee and Lessor. Lessee acknowledges that the Vendor and any brokers and other financial intermediaries involved in arranging this Lease are independent contractors and are not agents of Lessor or authorized to enter into agreements, amendments or waivers on Lessor's behalf. This Lease shall be interpreted according to the laws of, and the parties submit to the non-exclusive jurisdiction of the courts of, the Province of Ontario. The parties exclude the application of the UNIDROIT Convention on International Financial Leasing (Ottawa, 1988). The singular shall include the plural and vice versa and words importing one gender shall include all genders. Time is of the essence. Headings are only for convenience and do not affect interpretation. This Lease shall enure to and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, permitted assigns and legal representatives. Any provision of this Lease not permitted by applicable law shall be ineffective and severed herefrom without invalidating the remaining provisions of this Lease. Failure by Lessor to exercise any right will not waive such right. Waiver of a Default is not a waiver of any other Default. All waivers must be in writing

and signed by an authorized representative. All unperformed obligations of Lessee which, by their nature, are not released by the termination of this Lease (including those under sections 4, 6, 8 and 9) and the rights of Lessor hereunder shall survive the termination of this Lease.

17. **Language:** The parties hereby acknowledge that they have required this contract, and all other agreements and notices required or permitted to be entered into or given pursuant hereto, to be drawn up in the English language only. Les parties reconnaissent avoir demandé que le présent contrat ainsi que toute autre entente ou avis requis ou permis être conclu ou donné en vertu des dispositions du présent contrat, soient rédigés en langue anglaise seulement.

18. **Joint and Several Liability:** If more than one person executes this Lease as Lessee, their obligations hereunder shall be joint and several and, in the Province of Quebec, solidary without benefit of division or discussion.

19. **Additional Equipment:** Lessee may from time to time agree to lease additional equipment pursuant to these Lease Terms and each such agreement shall be evidenced by a written schedule (a "Lease Schedule") incorporating by reference the Lease Terms set forth herein, signed by Lessee and Lessor and setting forth the particulars of such equipment lease transaction, including the matters addressed by the above Lease Details. These Lease Terms shall apply, mutatis mutandis, to the transaction specified in such Lease Schedule; these Lease Terms and each such Lease Schedule shall constitute a separate Lease and the entire agreement with respect to that transaction, shall be separately assignable and enforceable, shall be deemed to be a "Lease" to which these Lease Terms refer and shall not be affected by the amendment, termination or expiry of any other Lease made pursuant to these Lease Terms. The terms of any Lease Schedule evidencing a specific transaction shall prevail over these Lease Terms and the above Lessee Information to the extent of any conflict or inconsistency but only in respect of that transaction.

20. **Additional Collateral Security:** As a general and continuing collateral security for the payment and performance of all present and future debts, obligations and liabilities of the Lessee to Lessor from time to time, the Lessee hereby grants a continuing security interest in, and charges and hypothecates all its right, title and interest in and to all present and future equipment and assets with respect to which Lessor has provided or may provide any value (including without restriction, for its acquisitions, lease, use, operation or otherwise) together with all proceeds thereof of whatever nature and kind howsoever arising.

*JLL*

**1889863 ONTARIO INC.**

67 Orr Avenue  
Vaughan, Ontario  
L4L 9M8

**NOTICE OF TERMINATION OF EQUIPMENT LEASE**

September 14, 2014

Crate Marine Sales Limited  
290 The Queensway South  
Keswick, Ontario  
L4P 2B3

**BY PERSONAL DELIVERY**

**RE: 1889863 Ontario Inc. Equipment Lease to Crate Marine Sales Limited  
Marine Lift 50 BFM II S/N 3495-0713**

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This is the written notice to you terminating the above noted Equipment Lease dated July 27, 2013, as required by Paragraph 9.2(e) of the Equipment Lease. You are in default as in Paragraphs 9.1(a), 9.1(h) and 9.1(j) of the Equipment Lease.

Regards,

1889863 Ontario Inc.

Per:   
Name: Ornat Abdelati  
Title: A.S.O.

I have the authority to bind the corporation

**RECEIPT**

**TO:** 1889863 Ontario Inc.  
**FROM:** Crate Marine Sales Limited  
**RE:** Marine Lift 50 BFM II S/N 3495-0713

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I confirm receipt of Notice of Termination of Equipment Lease dated September 14, 2014, from 1889863 Ontario Inc. regarding Marine Lift 50 BFM II S/N 3495-0713. I agree and confirm that the Equipment Lease dated July 27, 2013, between Crate Marine Sales Limited and 1889863 Ontario Inc. for Marine Lift 50 BFM II S/N 3495-0713 is terminated.

**DATED** at Toronto, this 14<sup>th</sup> day of September, 2014.

Crate Marine Sales Limited

Per:   
Name: Greg Crate  
Title: A.S.O.

I have the authority to bind the corporation



Cheque Number:  
CHEQUE 00000000220

Account Number:  
00042-12-33017

Amount of Cheque:  
\$8,000.00

Transaction Date:  
Sep. 02, 2014

1898148 ONTARIO LTD.  
CRATE'S BELLEVILLE  
25 DUNDAS STREET WEST  
BELLEVILLE, ONTARIO K8P 3M7  
WWW.CRATES.COM

CANADIAN FEDERAL BANK OF COMMERCE  
FRONT & CAMPSHILL  
237 FRONT STREET  
BELLEVILLE, ONTARIO K8N 2T4

000220

DATE 01 09 2014  
D D M M Y Y Y Y

PAY TO THE ORDER OF 1889863 Ontario Inc \$ 8,000.00

Eight thousand dollars and xx/100 DOLLARS

FOR TANIEL KAT

1898148 ONTARIO LTD.  
CRATE'S BELLEVILLE

18822-004

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Printer ID #  
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4063 53834

18822-004  
THE TORONTO DOMINION BANK  
SEP 02 2014

18822-004  
TORONTO ONTARIO

Endorsement - Signature or Stamp  
1898/1026599

BACK/ENDOS

TCT 2000 WARDEN AVENUE  
TORONTO, ONTARIO M1M 3B8  
CIBC  
TORONTO FOREX/INTL CRT

**IN THE MATTER OF THE RECEIVERSHIP OF  
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,  
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.**

Commercial List File No. CV-14--10798-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at  
Toronto**

**MOTION RECORD OF THE RECEIVER  
(Motion Returnable May 5, 2015  
for Advice and Directions)**

**GOLDMAN SLOAN NASH & HABER LLP**

480 University Avenue, Suite 1600  
TORONTO, ON M5G 1V2  
Fax: 416-597-3370

**Michael B. Rotsztain** (LSUC #: 17086M)

Tel: 416-597-7870  
Email: [rotsztain@gsnh.com](mailto:rotsztain@gsnh.com)

**R. Brendan Bissell** (LSUC #: 40354V)

Tel: 416-597-6489  
Email: [bissell@gsnh.com](mailto:bissell@gsnh.com)

Lawyers for A. Farber & Partners Inc. in its capacity as the Court  
appointed Receiver of Crate Marine Sales Limited, F.S. Crate & Sons  
Limited, 1330732 Ontario Limited, 1328559 Ontario Limited  
1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416  
Ontario Ltd.