

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

**BETWEEN:**

**COMERICA BANK**

Applicant

- and -

**ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING  
PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS  
HOLDINGS, LLC, AND ECO-BLOCK INTERNATIONAL, LLC**

Respondents

**APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY  
ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED**

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**MOTION RECORD  
(RETURNABLE JANUARY 29, 2014)  
RE: SALE APPROVAL AND DISTRIBUTION**

---

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Restructuring, Inc., in its capacity as  
the receiver for ARXX Building Products  
Inc., ARXX Corporation, ARXX Building  
Products U.S.A. Inc., ECB Holdings, LLC,  
APS Holdings, LLC, UNISAS Holdings,  
LLC, and Eco-Block International, LLC



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TAB 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**B E T W E E N:**

**COMERICA BANK**

Applicant

- and -

**ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING  
PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS  
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Respondents

**APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY  
ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED**

**NOTICE OF MOTION (SALE APPROVAL AND DISTRIBUTION)  
(Returnable January 29, 2014)**

Duff & Phelps Canada Restructuring Inc. (“D&P”), in its capacity as the Court-appointed receiver (in such capacity, the “Receiver”) of the undertaking, property, and assets of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (collectively, the “ARXX Group”), will make a motion to a Judge presiding over the Commercial List at 330 University Avenue, Toronto, Ontario, on January 29, 2014, at 10:00 a.m., or as soon after that time as the motion can be heard.

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

**THE MOTION IS FOR** the following orders:

(i) an order substantially in the form of the draft order included at Tab 3 of the Receiver’s Motion Record and more particularly, an order:

- (a) if necessary, abridging the time for service of the Motion Record so that the motion is properly returnable on Wednesday, January 29, 2014, dispensing with further service thereof, and validating in all respects service thereof;
  - (b) approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**APA**”) between the Receiver and Airlite Plastics Co. (the “**Purchaser**”) dated December 19, 2013;
  - (c) approving the Receiver’s execution of the APA and authorizing and directing the Receiver to execute all other ancillary documents and agreements required to complete the transaction set out in the APA and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the ARXX Group’s right, title and interest in and to the assets described in the APA (the “**Purchased Assets**”) to the Purchaser; and
  - (d) vesting in the Purchaser all of the ARXX Group’s right, title and interest in and to the Purchased Assets free and clear of all encumbrances (other than permitted encumbrances, if any) provided that such vesting shall be effective only upon delivery by the Receiver to the Purchaser of a certificate substantially in the form attached to the draft order confirming, *inter alia*, that all terms and conditions under the APA have been satisfied or waived;
- (ii) an order substantially in the form of the draft order included at Tab 5 of the Receiver’s Motion Record and more particularly, an order:
- (a) authorizing a distribution by the Receiver to Comerica Bank, on closing of the transaction contemplated in the APA, of US\$1.5 million from the sale proceeds, and authorizing the Receiver to make further distributions to Comerica Bank at any time, and from time to time, following such closing (collectively, the “**Distributions**”), in an aggregate amount not to exceed the obligations of the ARXX Group to Comerica Bank;

- (b) approving the First Report of the Receiver dated December 19, 2013 (the “**First Report**”) and the activities outlined therein;
- (c) approving the Second Report of the Receiver dated January 22, 2014 (the “**Second Report**”) and the activities outlined therein;
- (d) sealing the liquidation analysis appended as Confidential Appendix 1 to the Second Report; and
- (e) providing such further and other relief as this Honourable Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**

- (a) On December 9, 2013, this Honourable Court granted an order (the “**Appointment Order**”) appointing D&P as the Receiver of the undertaking, property, and assets of the ARXX Group pursuant to Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, R.S.O. 1990, c. C.43, as amended (the “**CJA**”);
- (b) The Appointment Order authorizes the Receiver to market any or all of the ARXX Group’s 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;
- (c) On December 27, 2013, this Honourable Court granted an order (the “**Sale Process Order**”) approving the Stalking Horse Agreement dated December 19, 2013, between the Receiver and Airlite Plastics Co. and the related bidding procedures (the “**Bidding Procedures**”) and sale process (the “**Sale Process**”) for the Purchased Assets;
- (d) As set forth in greater detail in the Second Report, attached at Tab 2 of the Receiver’s Motion Record, the Sale Process has been implemented and adhered to in accordance with the Sale Process Order;

- (e) In accordance with the Sale Process, no qualified bids were received by the bid deadline, and therefore no auction was held in accordance with the Bidding Procedures, and the Purchaser was selected;
- (f) The Sale Process has culminated in the APA, which represents the highest and best offer, in terms of both price and conditions, received by the Receiver;
- (g) The issuance and entry of an approval and vesting order substantially in the form of the draft order is a condition of the APA;
- (h) Sealing the liquidation analysis, appended as Confidential Appendix 1 to the Second Report until further order of this Honourable Court is necessary to preserve the integrity of the Sale Process and to avoid any prejudice that might be caused by publicly disclosing the confidential and commercially-sensitive information contained therein;
- (i) In order to avoid the cost of a further motion for the sole purpose of making the Distributions, the Receiver is seeking at this time to concurrently obtain an order authorizing it to make one or more Distributions to Comerica Bank, up to the amount of the secured indebtedness owing from the ARXX Group to Comerica Bank, out of the proceeds of sale from completion of the Transaction;
- (j) The Receiver has obtained a security opinion from its legal counsel that confirms, subject to customary assumptions and qualifications for opinions of this nature, the validity and enforceability in Ontario of the loan and security documents of the ARXX Group in favour of Comerica Bank, and the creation and perfection of the security interests in Ontario in favour of Comerica Bank against property of the ARXX Group to which the *Personal Property Security Act* (Ontario) applies;
- (k) As set forth in greater detail in the Second Report, a Distribution to the Bank at this time is appropriate, including because:



- (i) the initial proposed distribution will leave sufficient funds in the Receiver's accounts to fund the outstanding matters in these proceedings; and
  - (ii) all parties on the Service List have been duly served with notice of the herein Motion;
- (l) The activities of the Receiver are detailed in the First Report and the Second Report;
  - (m) Section 247 of the BIA and other provisions of the BIA;
  - (n) Sections 1.04, 1.05, 2.03, 3.02, 37 and 138 of the CJA;
  - (o) the *Rules of Civil Procedure*, R.R.O. 1990, reg. 194, including, without limitation, rules 1.04(1) and 6.01(1) thereof; and
  - (p) such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- (a) the First Report and the Second Report; and
- (b) such further and other evidence as counsel may advise and this Honourable Court may permit.

Date: January 23, 2014

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ARXX Corporation, ARXX Building Products  
U.S.A. Inc., ECB Holdings, LLC, APS Holdings,  
LLC, UNISAS Holdings, LLC, and Eco-Block  
International, LLC

**TO:** This Honourable Court

**AND TO:** The Service List

**Service List  
As of January 15, 2014**

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Email: [SBF.assetmanagement@edc.ca](mailto:SBF.assetmanagement@edc.ca)

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COMERICA BANK and ARXX BUILDING PRODUCTS INC., ARXX CORPORATION,  
ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS,  
LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, AND  
ECO-BLOCK INTERNATIONAL, LLC  
APPLICANT RESPONDENTS

Court File No. CV-13-10353-00CL

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

Proceedings commenced in Toronto

**NOTICE OF MOTION**

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Products Inc., ARXX Corporation,  
ARXX Building Products U.S.A. Inc.,  
ECB Holdings, LLC, APS Holdings,  
LLC, UNISAS Holdings, LLC, and  
Eco-Block International, LLC

**TAB 2**

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**Second Report of  
Duff & Phelps Canada Restructuring Inc.  
as Receiver of ARXX Building Products Inc.,  
ARXX Building Products U.S.A. Inc.,  
ARXX Corporation, ECB Holdings, LLC,  
APS Holdings, LLC, Unisas Holdings, LLC  
and Eco-Block International, LLC**

January 22, 2014

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COURT FILE NO: CV-13-10353-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

COMERICA BANK

APPLICANT

- AND -

ARXX BUILDING PRODUCTS INC., ARXX BUILDING PRODUCTS U.S.A. INC., ARXX  
CORPORATION, ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC  
AND ECO-BLOCK INTERNATIONAL, LLC

RESPONDENTS

SECOND REPORT OF  
DUFF & PHELPS CANADA RESTRUCTURING INC.  
AS RECEIVER

JANUARY 22, 2014

## **1.0 Introduction**

1. This report ("Report") is filed by Duff & Phelps Canada Restructuring Inc. ("D&P") in its capacity as receiver ("Receiver") of the properties, assets and undertakings of ARXX Building Products Inc. ("ARXX Canada"), ARXX Building Products U.S.A. Inc. ("ARXX USA") (ARXX Canada and ARXX USA are jointly referred to as the "Company"), ARXX Corporation, ECB Holdings, LLC, APS Holdings, LLC, Unisas Holdings, LLC and Eco-Block International, LLC (collectively, the "ARXX Group").
2. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) ("Court") made on December 9, 2013 ("Receivership Order"), D&P was appointed Receiver of the ARXX Group. Copies of the Receivership Order and the Endorsement of the Honourable Regional Senior Justice Morawetz dated December 9, 2013, are attached as Appendix "A".

- 
3. On December 30, 2013, the Receiver, as foreign representative of the ARXX Group, commenced proceedings in the United States Bankruptcy Court for the District of Delaware ("US Court") seeking recognition of the Canadian receivership proceeding as a foreign main proceeding under Chapter 15 of the *US Bankruptcy Code*. On December 30, 2013, the US Court entered an order granting provisional relief in aid of the Canadian proceeding ("Provisional Order"). A copy of the Provisional Order is attached as Appendix "B". The hearing for the Recognition Order is scheduled before the US Court for January 31, 2014.
  4. The primary purpose of these receivership proceedings is to allow the business to continue to operate while a Court-supervised "stalking horse" sale process for the ARXX Group's business and assets is carried out in a stabilized environment ("Sale Process").
  5. The Sale Process was approved pursuant to a Court Order made on December 27, 2013 (the "Sale Process Order").

#### 1.1 Purposes of this Report

1. The purposes of this Report are to:
  - a) Provide background information about the ARXX Group and these proceedings;
  - b) Summarize the results of the Court-approved Sale Process;
  - c) Summarize a transaction (the "Recommended Transaction") between the Receiver and Airlite Plastics Co. ("Airlite"), the "stalking horse" bidder in the Sale Process, which contemplates the sale to Airlite of substantially all of the ARXX Group's business and assets (the "Purchased Assets") pursuant to an Asset Purchase Agreement dated December 19, 2013 (the "APA");
  - d) Summarize the rationale for the Receiver filing its liquidation analysis on a confidential basis;
  - e) Set out the Receiver's recommendation regarding proposed distributions to Comerica Bank ("Comerica") following completion of the Recommended Transaction, including an initial distribution in the amount of US\$1.5 million and further distributions to be paid to Comerica in these proceedings;
  - f) Provide an overview of the Receiver's activities since the First Report of the Receiver dated December 19, 2013 (the "First Report");
  - g) Set out the Receiver's anticipated next steps in these proceedings; and

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h) Recommend that this Honourable Court issue Orders:

- Approving the Recommended Transaction and approving the Receiver's execution of the APA and any other ancillary documents or agreements necessary to complete the Recommended Transaction;
- Vesting title in and to the Purchased Assets in Airlite free and clear of all liens, claims and encumbrances;
- Sealing the Confidential Appendix to this Report until further Court Order;
- Authorizing the Receiver to make distributions to Comerica following the completion of the Recommended Transaction, including an initial distribution of US\$1.5 million and further distributions up to the amount of secured indebtedness owing by the ARXX Group to Comerica; and
- Approving the Receiver's activities as described in this Report and the First Report.

## 1.2 Currency

1. Unless otherwise noted, all currency references in this Report are in Canadian dollars.

## 2.0 Background

1. The ARXX Group designs and markets building products known as insulating concrete forms ("ICF"). ICF is an environmentally friendly and energy efficient technology system of formwork for structural walls and floors of buildings used in residential and commercial construction. The forms are used to hold fresh concrete, which provide insulation for the structures they enclose.
2. The ARXX Group's principal line of business is selling ICF. The ARXX Group purchases ICF on a "just-in-time" basis from various suppliers and immediately ships the product to customers, primarily consisting of distributors, general contractors and builders. The ARXX Group also hires subcontractors to install ICF for commercial customers ("Turnkey Projects"). These installation projects, depending on size, typically take two to three months to complete.
3. The ARXX Group's business is seasonal. Sales are slower in the winter months as residential and commercial building slows. As a result, the ARXX Group has traditionally experienced significant operating losses during the winter months and requires increased funding during this time.

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4. The ARXX Group operates from leased premises in Cobourg, Ontario, which serves as its head office – there is no other physical premises from which the ARXX Group operates (in the US or otherwise). The ARXX Group's senior management are based at and primarily work from the Cobourg headquarters, and it is there that all administrative, corporate governance, tax and financial, cash management, human resource, payroll, information technology and management functions for each entity in the ARXX Group are carried out. The ARXX Group's books and records are also maintained at the Cobourg headquarters. Accordingly, ARXX USA is entirely dependent on ARXX Canada and would not be able to operate on a standalone basis.
  5. ARXX Canada and ARXX USA employ nine and seven individuals, respectively. ARXX Canada's employees work from the Cobourg premises, other than certain home-based sales representatives. ARXX USA's employees are all sales representatives, who work from their home offices located throughout the US.
  6. The Company's workforce is not unionized and it does not maintain any registered pension plans.
  7. Further information about the ARXX Group and its background and copies of materials filed in the receivership proceedings can be found on the Receiver's website at: [www.duffandphelps.com/intl/en-ca/Pages/RestructuringCases.aspx](http://www.duffandphelps.com/intl/en-ca/Pages/RestructuringCases.aspx).

### **3.0 Sale Process**

#### **3.1 Sale Process Overview**

1. Prior to the receivership proceedings, management of the ARXX Group initiated a process to identify potential investors and/or prospective purchasers. During this process, certain strategic parties and competitors operating in the ICF industry were approached, including Airlite. At the time of the Receiver's appointment, negotiations of a transaction between the Company and Airlite had been significantly advanced.
2. Immediately following its appointment, the Receiver continued those negotiations and, on December 19, 2013, the Receiver entered into the APA, which was to be used as a "Stalking Horse Agreement" in the Sale Process. Further details surrounding the Company's pre-filing process were set out in the First Report, a copy of which, without appendices, is attached as Appendix "C".
3. As noted above, the Sale Process was approved on December 27, 2013 pursuant to the Sale Process Order. Copies of the Sale Process Order and the Endorsement of the Honourable Regional Senior Justice Morawetz (both the official and unofficial transcribed versions) are attached as Appendix "D".

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4. Immediately thereafter, the Receiver commenced the Sale Process in accordance with the Sale Process Order, as follows:
    - The Receiver distributed an interest solicitation letter detailing the acquisition opportunity to approximately 100 parties, including parties that were previously identified and approached by the ARXX Group's management;
    - Attached to the interest solicitation letter was a confidentiality agreement ("CA") that interested parties were required to execute in order to obtain additional information, including a confidential information memorandum ("CIM") prepared by the Receiver and access to an online data room established by the Receiver;
    - The data room contained historical financial and other information, including employee data, supplier and customer information, product specifications and certain contracts and agreements. A copy of the APA was also included in the data room;
    - On January 6, 2014, the Receiver advertised the acquisition opportunity in *The Globe and Mail* (National Edition);
    - On January 9, 2014, the Receiver caused notice of the proposed sale transaction to be published in the *USA Today* (National Edition); and
    - The Receiver facilitated due diligence requests from interested parties throughout the Sale Process.

### 3.2 Sale Process Results

1. The results of the Sale Process are summarized as follows:
  - Nine parties executed the CA and were provided access to the data room and a copy of the CIM. These parties included several strategic parties operating in the ICF industry, including those that had participated in the ARXX Group's pre-filing marketing process; and
  - No offers were submitted on or prior to the bid deadline of January 22, 2014.
2. On January 22, 2014, the Receiver sent a letter to Airlite confirming that it was the "successful bidder" and that, in accordance with the APA and the Sale Process Order, the Receiver would promptly file motion materials to apply for the Sale Approval and Vesting Order. A copy of the Receiver's letter to Airlite dated January 22, 2014 is attached as Appendix "E".

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### 3.3 The Recommended Transaction<sup>1</sup>

1. The Recommended Transaction was detailed in the First Report and is summarized as follows:
  - Purchase Price: \$2.8 million base cash purchase price, plus the Working Capital Amount and certain Assumed Liabilities. The value of the Transaction is estimated to total approximately \$3.15 million<sup>2</sup>. The Working Capital Amount, representing approximately \$350,000 of the Purchase Price, is comprised of the Accounts Receivable Value and Inventory Value (each of which is estimated at approximately \$175,000), based on the following:
    - Accounts receivable: The Accounts Receivable Value is estimated to be approximately \$175,000, calculated as follows:
      - i. book value less 5% for any accounts receivable aged less than 45 days; plus
      - ii. book value less 10% for any accounts receivable aged between 45 and 60 days.
    - Inventory: The Inventory Value is estimated to be approximately \$175,000, comprised of the book value of the following two categories of inventory:
      - i. prime 6" & 8" standard and 90 degree corners manufactured in 2013; and
      - ii. webs for prime 6" & 8" prime standard and 90 degree corner products manufactured in 2013.
  - Purchased Assets: Substantially all of the ARXX Group's business and assets, including certain accounts receivable and inventory, equipment, moulds, patents and other intellectual property, customer information and Assumed Contracts.
  - Inventory count: Airlite may elect to conduct a joint inventory count with a representative of the Receiver to confirm the value ascribed to the Inventory Value for the purposes of finalizing the Working Capital Amount.

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<sup>1</sup> Capitalized terms not defined in this section of the Report have the meanings ascribed to them in the APA.

<sup>2</sup> In the First Report, the Receiver estimated the value of the Recommended Transaction to be approximately \$3.8 million. The difference relates principally to a lower Accounts Receivable Value as a result of greater collections and lower sales for the period from mid-December up to the date of this Report.

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- Excluded Assets: Cash and cash equivalents, including \$750,000 of cash currently being held as collateral by Comerica, Turnkey Projects and accounts receivable related thereto, accounts receivable aged over 60 days, tax receivables (including Scientific Research & Experimental Development refunds), inventory other than the two categories of inventory specifically identified above, Excluded Contracts, deposits and prepaid expenses, leased or owned real property and such other excluded assets detailed in the APA.

Prior to selling the Excluded Inventory, the Receiver must provide three Business Days' notice to Airlite, in case it elects to purchase such Excluded Inventory. Airlite is to pay book value for any such additional inventory purchases. As at the date of this Report, the book value of the Excluded Inventory totals approximately \$800,000.

- Collection fee: To the extent any accounts receivable aged over 60 days are collected by Airlite post-closing, Airlite will remit any such collections to the Receiver net of a 15% collection fee that it would be entitled to retain. As at the date of this Report, the book value of the Excluded Accounts Receivable (comprised of receivables aged over 60 days and the Turnkey Project receivables) totals approximately \$830,000.
- Employees: At least five Business Days prior to the Closing Date, Airlite will offer employment to the employees it is interested in retaining. Those Transferred Employees are to be offered employment on substantially the same terms and conditions of employment as their existing employment arrangements with the Company, with recognition of their seniority and the assumption of their vacation entitlements. Based on the Receiver's discussions with Airlite, it does not appear that there will be a significant number of jobs preserved by the Recommended Transaction.

Contemporaneously with finalizing the APA, Airlite identified certain employees that it intends to retain ("Critical Employees"). In the event that one or more of the Critical Employees do not accept the offer of continuing employment, there would be a corresponding purchase price reduction. If none of the Critical Employees accept employment with Airlite, the aggregate reduction in purchase price would be \$300,000. The Receiver will await confirmation from Airlite as to whether the Critical Employees will accept Airlite's employment offers.

- Representations and Warranties: Consistent with insolvency transactions, i.e. to be completed on an "as is, where is" basis without material representations and warranties:

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- Closing: Subject to obtaining the proposed Sale Approval and Vesting Order from this Court on January 29, 2014 and the US Court recognizing same on January 31, 2014, the Receiver expects to close the Recommended Transaction on or around February 3, 2014.
  - Conditions: Other than the requisite approvals from this Honourable Court and the US Court, the only material condition precedent to the Recommended Transaction is in respect of customer retention. In this regard, not more than two of the top five customers (measured in revenue over the past 12 months) of the ARXX Group shall have terminated their agreements or otherwise informed the Receiver between the date of execution of the APA and the Closing Date that they have permanently ceased, or intend to permanently cease, doing business with the ARXX Group (other than to transition their business to Airlite). The Receiver is not aware of any such customer terminations as at the date of this Report.

2. A copy of the APA is attached as Appendix "F".

### **3.4 Liquidation Analysis**

1. The Receiver prepared an analysis of the estimated realizable value of the ARXX Group's business and assets in a liquidation. A copy of this analysis is provided as Confidential Appendix "1" to this Report.
2. Given that the liquidation analysis contains sensitive commercial information, including the estimated liquidation value of certain assets, the Receiver is of the view that it is appropriate for this appendix to be filed with the Court on a confidential basis pending further Court Order.

### **3.5 Sale Process Recommendation**

1. The Receiver recommends that the Court approve the Recommended Transaction and issue the proposed Sale Approval and Vesting Order for the following reasons:
  - In the Receiver's view, the Sale Process was commercially reasonable in the circumstances and was carried out in accordance with the Sale Process Order;
  - Further marketing efforts are unlikely to result in a superior transaction. The ARXX Group operates in a highly competitive industry in which customers can easily transition to alternative suppliers. There is urgency to complete a transaction in order to preserve the ARXX Group's customer base, being the principal asset that Airlite is acquiring. In this regard, the Endorsement of the Honourable Regional Senior Justice Morawetz dated December 27, 2013 included the following comment:



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*"This is a relationship business and I am satisfied that circumstances are such that realization could be prejudiced if the process is delayed. Although timelines are shorter in this case, the reality is that the process is time sensitive."*

- Comerica, the principal secured creditor and economic stakeholder in these proceedings, has consented to the Recommended Transaction;
- Absent the completion of the Recommended Transaction, there would not be funding available to continue the Company's operations. The Company is projected to require funding by mid-February, 2014, for which there is no source readily available. A transaction must be completed promptly in order for the business to continue to operate on a going-concern basis;
- The Recommended Transaction eliminates the uncertainty for stakeholders regarding the status of the business, operations and viability of the ARXX Group. It contemplates the continuation of the ARXX Group's operations and is expected to preserve employment for certain of the ARXX Group's key sales executives; and
- The Recommended Transaction provides for the greatest recovery available in the circumstances – no other offers were submitted under the Sale Process and the value of the Recommended Transaction significantly exceeds the liquidation value of the ARXX Group's assets.

#### **4.0 Comerica Bank**

1. Comerica is the ARXX Group's principal secured creditor pursuant to the credit facilities and loan documents detailed in Comerica's application materials. Comerica is presently owed approximately US\$3.7 million under its credit facilities with the ARXX Group.

#### **4.1 Security Opinion**

1. Torys LLP ("Torys"), the Receiver's Canadian legal counsel, has provided an opinion on the validity and enforceability of Comerica's loan and security documents, and the creation and perfection of a security interest in favour of Comerica in the assets of the ARXX Group to which the *Personal Property Security Act* (Ontario) applies. A copy of Torys' opinion dated January 22, 2014 is attached as Appendix "G". The opinion provides that, subject to the standard assumptions and qualifications contained therein, Comerica holds a valid and perfected security interest in the ARXX Group's business and assets in Ontario as set out in its security documents.

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2. The majority of the assets of the ARXX Group (in terms of value) are intangible and the majority of the tangible assets are located in Ontario. Accordingly, the Receiver has elected not to obtain security opinions for Alberta, Quebec or the US, since the cost of doing so is not warranted in the circumstances. As detailed in the following section of this Report, the search results reflect three other registered creditors in those jurisdictions, each of which have either been repaid in full or are not affected by the relief sought in this motion.

#### 4.2 Other Secured Creditors

1. Based on the *Personal Property Security Act* searches appended to Torys' security opinion, there are three secured creditors of the ARXX Group (other than Comerica), as follows:
  - MMV Finance Inc. ("MMV"): Registered in Ontario only as against ARXX Canada only. Pursuant to a loan agreement dated February 15, 2008, MMV advanced funds to ARXX Canada. Based on ARXX Canada's books and records, ARXX Canada fully repaid its obligations to MMV on March 31, 2011. On May 4, 2011, MMV issued a "Payout and Authorization to Discharge" statement indicating that, *inter alia*, ARXX Canada had fully repaid its obligations owing to MMV and ARXX Canada was entitled to discharge any security interests in favour of MMV. Based on the searches conducted by Torys, it appears that MMV's registered security interest was never discharged. Accordingly, the Receiver has maintained MMV on the Service List throughout these proceedings, including for this motion. A copy of the Payout and Authorization to Discharge is attached as Appendix "H".
  - Gienow Building Products Ltd. ("Gienow"): Registered in Alberta only against a predecessor of ARXX Canada. Gienow advanced funds to a predecessor of ARXX Canada in 2003. The books and records of ARXX Canada do not reference any obligation owing to Gienow. Accordingly, the Receiver contacted Gienow to determine the nature and quantum of any such obligation. On January 20, 2014, Gienow confirmed that all amounts owing were repaid by ARXX Canada several years ago and that it has no claim against the ARXX Group. A copy of the email confirmation from Gienow is attached as Appendix "I".
  - Xerox Canada Ltd. ("Xerox"): Registered in Ontario only against ARXX Canada only. ARXX Canada leases certain printing equipment from Xerox. This leased asset is not proposed to be conveyed under the APA. The Receiver, on behalf of ARXX Canada, intends to return this equipment to Xerox following the completion of the Recommended Transaction.
2. Out of an abundance of caution, notice of the within motion has been provided to the secured creditors noted above.

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### 4.3 Proposed Distributions to Comerica

1. As at the date of this Report, there is approximately \$125,000 in the Receiver's bank accounts. This amount excludes the cash collateral pledged by the ARXX Group to Comerica (\$750,000).
2. The Receiver is seeking approval from this Honourable Court to make distributions to Comerica from the Receiver's accounts following the completion of the Recommended Transaction, the first of which would be for US\$1.5 million. The Receiver is also requesting that it be authorized to make further distributions to Comerica from time to time and in the Receiver's discretion without further Court Order, up to the amount of the ARXX Group's secured indebtedness owing to Comerica. The Receiver is of the view that a subsequent Court attendance for the sole purpose of seeking authorization to distribute additional funds to Comerica is not required in the circumstances.
3. Following completion of the Recommended Transaction, the Receiver expects there to be at least US\$3.2 million in its receivership accounts. The Receiver is not aware of any claim that may rank in priority to Comerica for which there would not be sufficient funds remaining in the Receiver's accounts after funding the proposed interim distribution of US\$1.5 million. In this regard:
  - The Receivership Order provides for a charge on the property in favour of the Receiver and its counsel for their fees and disbursements. The Receiver is satisfied that the remaining funds and the realizable value of the excluded assets from the Recommended Transaction are sufficient to cover the Receiver's Charge;
  - The Receivership Order authorizes the Receiver to borrow up to \$500,000 and provides for a corresponding charge on the property in favour of the Receiver. No amounts have been borrowed by the Receiver during these proceedings and the Receiver does not anticipate borrowing any funds during these proceedings;
  - The other secured creditors identified in the searches noted above have either been fully repaid, in the case of MMV and Gienow, or, in the case of Xerox, will have their leased equipment returned to them; and
  - Based on the Company's books and records, the Receiver understands that there are no potential deemed trust amounts for employee claims, source deductions or harmonized sales taxes ("HST") owing to Canada Revenue Agency relating to the pre-filing and/or post-filing periods. With respect to HST, the Company was in a refund position as at the date of receivership and is typically in a refund position on a monthly basis.
4. The Receiver will continue to be mindful of the costs to completion of these proceedings prior to making any additional distributions to Comerica.

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5. In order to provide considerable notice of the within motion, Torys, on the Receiver's behalf, sent a letter on January 20, 2014 to the Service List advising that the motion returnable on January 29, 2014 was also to seek relief in connection with proposed distributions of sale proceeds. This letter was provided to the entire Service List, including all PPSA registrants. A copy of the letter dated January 20, 2014 is attached as Appendix "J". The return date of January 29, 2014, to approve a sale transaction has been known since the Sale Process was approved on December 27, 2013.
  6. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court authorize it to make distributions to Comerica from time to time up to the full amount of the ARXX Group's secured indebtedness to Comerica, without further Court Order.

## **5.0 Overview of the Receiver's Activities**

1. The Receiver is seeking approval of its First Report, this Report and its activities since the commencement of these proceedings, which include the following:
  - Reviewing and commenting on all Court materials filed in the context of the receivership application;
  - Carrying out the Receiver's duties and responsibilities in accordance with the Receivership Order, including overseeing the Company's operations;
  - Opening receivership bank accounts and transferring funds from the Company's bank accounts in accordance with the Receivership Order;
  - Dealing with employee issues in accordance with the Receivership Order, including convening employee meetings, as required, to provide status updates on these proceedings;
  - Attending at the Company's Cobourg premises on a near daily basis;
  - Dealing with cash management issues, including paying post-filing expenses from the receivership accounts;
  - Preparing budget-to-actual variance analyses and providing such analyses to Comerica and its legal counsel on a weekly basis;
  - Arranging for the back-up of the ARXX Group's systems and electronic records;
  - Corresponding extensively with key stakeholders in these proceedings, including Comerica, employees, customers and suppliers;

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- Negotiating the APA and the bidding procedures with Airlite and its legal counsel;
  - Drafting all Sale Process materials, including the interest solicitation letter and the CIM;
  - Carrying out the Sale Process in accordance with the Sale Process Order;
  - Compiling information for the data room;
  - Facilitating due diligence requests submitted by prospective purchasers throughout the Sale Process;
  - Corresponding with the Company's landlord, as required;
  - Corresponding with McMillan LLP, Comerica's legal counsel, Torys and Young Conaway Stargatt & Taylor, LLP, the Receiver's US counsel, regarding various receivership matters;
  - Reviewing and commenting on all documentation filed in the US Court in connection with the ongoing Chapter 15 proceedings;
  - Attending at all Court appearances before this Court and attending at US Court via teleconference for the "first day hearing" on December 30, 2013;
  - Placing on its website copies of materials filed in these proceedings and carrying out the Receiver's duties in accordance with the "E-Service Protocol";
  - Drafting this Report; and
  - Addressing all other matters pertaining to the administration of these receivership proceedings.
2. The Receiver did not seek approval of the First Report or its activities as set out therein at the December 27, 2013, hearing so as to provide all stakeholders with sufficient opportunity to review the First Report. No party has expressed to the Receiver or its counsel any concerns with respect to the First Report or the activities of the Receiver set out therein.
  3. Given the advance notice of the within hearing, the Receiver believes it is appropriate at this time to seek approval of the Second Report and its activities set out herein.

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## 6.0 Anticipated Next Steps

1. Subject to Court approval of the Recommended Transaction on January 29, 2014, recognition by the US Court of the proposed Sale Approval and Vesting Order on January 31, 2014 and closing the Recommended Transaction on February 3, 2014, the Receiver anticipates its next steps to be focused on:
  - Realizing on the excluded assets from the Recommended Transaction, particularly the excluded inventory;
  - Completing the Turnkey Projects in order to collect accounts receivable related thereto (which are excluded from the Recommended Transaction);
  - Making distributions to Comerica, subject to the granting of the proposed Distribution Order; and
  - Attending at Court for approval of the fees and disbursements of the Receiver and its legal counsel and to seek its discharge. Subject to the realizations generated from the excluded assets, the Receiver may seek authority to file an assignment in bankruptcy on behalf of the ARXX Group. This relief would likely only be sought should there be funds available for distribution to the ARXX Group's unsecured creditors.

## 7.0 Conclusion and Recommendation

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make Orders granting the relief detailed in Section 1.1 of this Report.

\* \* \*

All of which is respectfully submitted,

*Duff & Phelps Canada Restructuring Inc.*

**DUFF & PHELPS CANADA RESTRUCTURING INC.  
IN ITS CAPACITY AS RECEIVER OF  
ARXX BUILDING PRODUCTS INC., ARXX BUILDING PRODUCTS USA INC., ARXX  
CORPORATION, ECB HOLDINGS, LLC, APS HOLDINGS, LLC,  
UNISAS HOLDINGS, LLC AND ECO-BLOCK INTERNATIONAL, LLC  
AND NOT IN ITS PERSONAL CAPACITY**

TAB A

Schedule "A" *MS*

*CV-13-10353-0022*

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE *MR* )  
JUSTICE *MORAWETZ* )

MONDAY, THE 9<sup>TH</sup>  
DAY OF DECEMBER, 2013

**COMERICA BANK**

Applicant

- and -

**ARXX BUILDING PRODUCTS INC.  
ARXX CORPORATION  
ARXX BUILDING PRODUCTS U.S.A. INC.  
ECB HOLDINGS, LLC  
APS HOLDINGS, LLC  
UNISAS HOLDINGS, LLC  
ECO-BLOCK INTERNATIONAL, LLC**

Respondents

**ORDER**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing Duff & Phelps Canada Restructuring Inc. ("D&P") as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC and Eco-Block International, LLC (collectively the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.



ON READING the affidavit of Michael Moore sworn December 6, 2013 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, no one appearing for counsel for the Respondents although duly served as appears from the affidavit of service of [NAME] sworn [DATE] and on reading the consent of Duff & Phelps Canada Restructuring Inc. to act as the Receiver,

**SERVICE**

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

2. 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/to-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.

**APPOINTMENT**

3. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Duff & Phelps Canada Restructuring Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, 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 of 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 Debtor, 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 Debtor;
- (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 Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;

- (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 Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) 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 Debtor, 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;
- (k) 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;
- (l) 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*, or any similar legislation having similar effect in any other applicable

jurisdiction, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (m) 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;
- (n) 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) 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 Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;
- (s) 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 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; and

- (t) 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 Debtor, and without interference from any other Person.

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

5. THIS COURT ORDERS that (i) the Debtor, (ii) all of the Debtor's current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, (iii) any supplier in possession of moulds ("Moulds"), inventory or other goods (jointly, "Inventory") owned by the Debtor and (iv) 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 the release of any Moulds and Inventory that are the subject of a valid possessory lien shall be delivered to the Receiver on the basis that the holder of such a lien shall be entitled to a non-possessory lien against any proceeds of sale of such Moulds or Inventory with such non-possessory lien having the same priority and being equal in amount to the value of its possessory lien immediately prior to release of the Moulds or Inventory to the Receiver.

7. 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 Debtor, 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.

8. 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**

9. 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 DEBTOR OR THE PROPERTY**

10. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor 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 Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

11. THIS COURT ORDERS that all rights and remedies against the Debtor, 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 Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor 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**

12. 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 Debtor, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

13. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor 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 Debtor 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 continue to purchase goods from the Respondents' suppliers, and continue to use the Debtor's 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 Debtor 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**

14. 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**

15. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's 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**

16. 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 Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

17. 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**

18. 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**

19. 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, 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.

20. 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.

21. 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 normal 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**

22. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant, 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.

23. 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.

24. 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.

25. 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.

#### **GENERAL**

26. 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.

27. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

28. 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.


29. 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.

30. THIS COURT ORDERS THAT the Receiver be at liberty and is hereby authorized and empowered to apply as foreign representative to the United States Bankruptcy Court for relief pursuant to the *United States Bankruptcy Code*, 11 U.S.C. §§101-1330, as amended and if such relief is granted is authorized to take such other steps with respect thereto as it may deem appropriate from time to time.

31. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

32. 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.

  
\_\_\_\_\_

FILED  
CLERK OF COURT  
LEVEE COURT DISTRICT OF COLUMBIA



DEC - 9 2013

**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

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

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

1. THIS IS TO CERTIFY that Duff & Phelps Canada Restructuring Inc., the receiver (the "Receiver") of the assets, undertakings and properties ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC and Eco-Block International, LLC 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 9<sup>th</sup> of December, 2013 (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 December, 2013.

Duff & Phelps Canada Restructuring Inc., solely  
in its capacity as Receiver of the Property, and  
not in its personal capacity

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

Name:

Title:

COMERICA BANK  
Applicant

ARXX BUILDING PRODUCTS INC., et al  
and  
Respondents

Court File No: CV-13-10353-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER**

**MCMILLAN LLP**  
Brookfield Place,  
181 Bay Street, Suite 4400  
Toronto ON M5J 2T3, Canada

**Brett Harrison** LS#: 44336A  
brett.harrison@mcmillan.ca  
Tel: (416) 865-7932  
Fax: (416) 865-7048

Lawyers for the Applicant





COMERICA BANK  
Applicant and Respondents

ARXX BUILDING PRODUCTS INC. et al.

Court File No: CV-13-10353-00CL

B. Harrison for Applicant

N. MacFarland for ARXX

D. Bish for Duff & Phelps

December 9, 2013

- On consent of the respondent duff.

- Having reviewed the record, including the comprehensive financials of the Applicants,

I am satisfied that it is in the best interest and convenient to appoint Duff & Phelps

Carola Richardson, Inc as Receiver of the Respondent.

In doing so, I have been persuaded that the appointment of Receiver on the US Corporation is permissible for the reasons set out - the further at paragraphs 21-28. Myristice granted ad vult

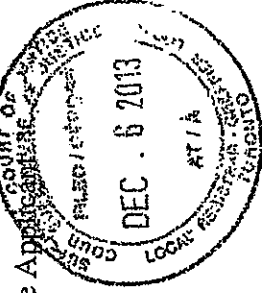
ONTARIO  
SUPERIOR COURT OF JUSTICE -  
COMMERCIAL LIST

Proceeding commenced at Toronto

APPLICATION RECORD  
(RETURNABLE ON December 9, 2013)

MCMILLAN LLP  
Brookfield Place  
181 Bay Street, Suite 4400  
Toronto, ON, M5J 2T3

Brett Harrison LS#: 44336A  
Tel: (416) 865-7932  
Fax: (416) 865-7048



Lawyers for the Applicant

signed in the form presented, which  
includes the e-service Protocol of the  
Comvid Act.

AH [Signature]

# TAB B

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

*In re:*

ARXX CORPORATION, *et al.*<sup>1</sup>

Debtors in a Foreign Proceeding.

Chapter 15

Case No. 13-13313 (KJC)

(Jointly Administered)

Ref. Docket No. 7

**ORDER GRANTING PROVISIONAL RELIEF  
IN AID OF THE CANADIAN PROCEEDING**

**THIS MATTER** was brought before the Court by Duff & Phelps Canada Restructuring Inc., the court-appointed receiver (the “Receiver”) and authorized foreign representative of ARXX Corporation; ARXX Building Products Inc.; ARXX Building Products U.S.A. Inc.; ECB Holdings, LLC; APS Holdings, LLC; Unisas Holdings, LLC; and Eco-Block International, LLC (collectively, the “ARXX Debtors”). The ARXX Debtors are in a proceeding (the “Canadian Proceeding”) under Canada's *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, pending before the Ontario Superior Court of Justice, Commercial List.

The Receiver commenced the the above-captioned cases (the “Chapter 15 Cases”) under chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (as amended, the “Bankruptcy Code”) with the filing of petitions on behalf of the ARXX Debtors pursuant to sections 1504 and 1515 [Docket Nos. 1-7] and the *Verified Petition for Recognition*

<sup>1</sup> The last four digits of the United States Tax Identification Number, or similar foreign identification number, as applicable, follow in parentheses: ARXX Corporation (3572); ARXX Building Products Inc. (3569); ARXX Building Products U.S.A. Inc. (1061); ECB Holdings, LLC (3572); APS Holdings, LLC (3572); Unisas Holdings, LLC (3572); and Eco-Block International, LLC (3572). The ARXX Debtors’ executive headquarters is located at 800 Division Street, Cobourg, ON, Canada K9A 5V2.

of Foreign Proceeding and Related Relief and Motion for Provisional Relief in Aid of Canadian Proceeding, dated December 27, 2013 [Docket No. 8] (the "Chapter 15 Petitions").

The Receiver filed a *Motion for Provisional Relief* on December 27, 2013 (the "Motion")<sup>2</sup> seeking the entry of an order (i) staying execution against the ARXX Debtors' assets in the United States pursuant to section 1519(a)(1) of the Bankruptcy Code and (ii) applying sections 362 and 365(e) of the Bankruptcy Code in these Chapter 15 Cases on a provisional basis pursuant to sections 105(a), 1519, and 1521 of the Bankruptcy Code.

At a hearing held on December 30, 2013, the Court considered and reviewed the Motion, the Chapter 15 Petitions, and the other pleadings and exhibits submitted by the Receiver in support of the Motion. Any objections to the Motion that have not been withdrawn or resolved have been overruled.

After due deliberation and sufficient cause appearing therefore, the Court finds and concludes as follows:

- I. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.
- II. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, section 1501 of the Bankruptcy Code, and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware* dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P) and the Court may enter a final order consistent with Article III of the United States Constitution. Venue for this proceeding is proper before this Court pursuant to 28 U.S.C. § 1410(3).
- III. The Receiver has demonstrated a substantial likelihood of success on the merits that (i) the ARXX Debtors are subject to a pending "foreign main proceeding" as that term is defined in section 1502(4) of the Bankruptcy

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<sup>2</sup> Capitalized terms used, but not otherwise defined herein, have the meanings given to them in the Motion.

Code; (ii) the Receiver is a "foreign representative" as that term is defined in 101(24) of the Bankruptcy Code; and (iii) all statutory elements for recognition of the Canadian Proceeding are satisfied in accordance with section 1517 of the Bankruptcy Code.

- IV. The Receiver has demonstrated that (i) the commencement of any proceeding or action against the ARXX Debtors and their respective businesses and assets should be enjoined pursuant to sections 105(a), 1519, and 1521 of the Bankruptcy Code; (ii) that the application of sections 362 and 365(e) of the Bankruptcy Code in the Chapter 15 Cases is necessary to permit the fair and efficient administration of the Canadian Proceeding and to allow the Receiver to consummate an orderly sale of the assets of the ARXX Debtors; and (iii) the relief requested will not cause either an undue hardship nor create any hardship to parties in interest that is not outweighed by the benefits of the relief granted herein.
- V. The Receiver has demonstrated that unless this Order is issued, there is a material risk that one or more parties in interest may take action against the ARXX Debtors and their respective businesses and assets, thereby interfering with the jurisdictional mandate of this Court under chapter 15 of the Bankruptcy Code and causing harm to the Receiver's effort to consummate a sale and maximize the value of the ARXX Debtors' assets. As a result, the ARXX Debtors will suffer immediate and irreparable harm for which they will have no adequate remedy at law and, therefore, it is necessary that the Court grant the relief requested without prior notice to parties in interest or their counsel.
- VI. Further, unless this Order issues, the assets of the ARXX Debtors located in the United States could be subject to efforts by creditors to control, possess, or execute upon such assets and such efforts could result in the ARXX Debtors suffering immediate and irreparable injury, loss, or damage by, among other things, (i) interfering with the jurisdictional mandate of this Court under chapter 15 of the Bankruptcy Code and (ii) interfering with or undermining the success of the Canadian Proceeding and the ARXX Debtors' efforts to pursue and consummate a sale of their businesses for the benefit of all their stakeholders.
- VII. The Receiver has demonstrated that, without the protection of section 365(e) of the Bankruptcy Code, there is a material risk that counterparties to certain of the ARXX Debtors' agreements may take the position that the commencement of the Canadian Proceeding authorizes them to terminate such contract or accelerate obligations thereunder. Such termination or acceleration, if permitted and valid, could severely disrupt the ARXX Debtors' operations, result in irreparable damage to the value of the ARXX Debtors' businesses, and cause substantial harm to the ARXX Debtors' creditors and other parties in interest.

VIII. The Receiver has demonstrated that no injury will result to any party that is greater than the harm to the ARXX Debtors' businesses, assets, and property in the absence of the requested relief.

IX. The interests of the public will be served by entry of this Order.

**NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:**

1. The Motion is granted as set forth herein.
2. Pending entry of a recognition order pursuant to 11 U.S.C. §1521, sections 362 and 365(e) of the Bankruptcy Code shall apply in the Chapter 15 Cases, and this Order shall operate as a stay of execution against the ARXX Debtors and their respective businesses and assets within the territorial jurisdiction of the United States pursuant to section 1519(a)(1) of the Bankruptcy Code. Specifically, all persons and entities are hereby enjoined from (a) continuing any action or commencing any additional action involving the ARXX Debtors, their assets, or the proceeds thereof, or their former, current, or future directors or officers; (b) enforcing any judicial, quasi-judicial, administrative, or regulatory judgment, assessment, order, or arbitration award against the ARXX Debtors or their respective assets; (c) commencing or continuing any action to create, perfect, or enforce any lien, setoff, or other claim against the ARXX Debtors or their respective assets; or (d) managing or exercising control over the ARXX Debtors' assets located within the territorial jurisdiction of the United States, except as expressly authorized by the ARXX Debtors in writing.
3. Notwithstanding anything to the contrary contained herein, this Order shall not be construed as (a) enjoining the police or regulatory act of a governmental unit, including a criminal action or proceeding, to the extent not stayed under section 362 of the Bankruptcy Code; (b) staying the exercise of any rights that sections 362(o) and 1519(f) of the Bankruptcy Code do not allow to be stayed; or (c) limiting, abridging, or otherwise affecting the rights afforded to Comerica pursuant to paragraphs 22-25 of the Receivership Order.

4. Any party in interest may make a motion seeking relief from, or modification of, this Order, by filing a motion on not less than seven (7) business days' written notice to (i) counsel for the Receiver, and (ii) counsel for Comerica Bank, and the Court will hear such motion on a date to be scheduled by the Court. Notices to counsel for the Receiver should be addressed to Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, Attention: Matthew B. Lunn. Notices to counsel for Comerica should be addressed to McMillan LLP, Brookfield Place, 181 Bay Street, Suite 4400, Toronto, ON, M5J 2T3, Attention: Brett Harrison.

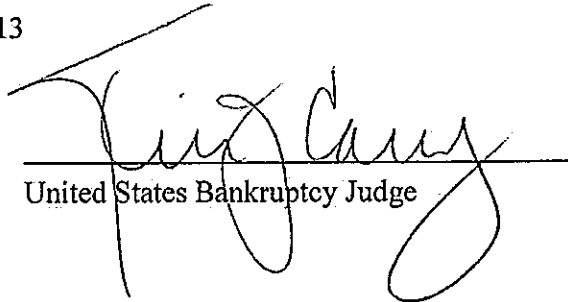
5. Notwithstanding any provision in the Bankruptcy Rules to the contrary: (i) this Order shall be effective immediately and enforceable upon entry; (ii) the Receiver shall not be subject to any stay in the implementation, enforcement, or realization of the relief granted in this Order; and (iii) the Receiver is authorized and empowered, and may in its discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of this Order.

6. Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, made applicable to these proceedings pursuant to Bankruptcy Rule 7065, no notice to any person is required prior to entry and issuance of this Order. Pursuant to Bankruptcy Rule 7065, the provisions of Rule 65(c) of the Federal Rules of Civil Procedure are hereby waived, to the extent applicable. Notice of the Motion as set forth therein is adequate and sufficient service and notice of the Motion and this Order, and no other or further notice need be provided.



7. This Court shall retain jurisdiction with respect to any and all matters relating to the interpretation or implementation of this Order.

Dated: Dec 30, 2013  
Wilmington, Delaware.

  
United States Bankruptcy Judge

# TAB C

**First Report of  
Duff & Phelps Canada Restructuring Inc.  
as Receiver of ARXX Building Products Inc.,  
ARXX Building Products U.S.A. Inc., ARXX  
Corporation, ECB Holdings, LLC, APS  
Holdings, LLC, Unisas Holdings, LLC and  
Eco-Block International, LLC**

December 19, 2013

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3.1	Comerica Bank .....	4
3.2	Unsecured Creditors .....	5
4.0	Pre-Filing Marketing Process.....	5
5.0	The Stalking Horse Offer .....	6
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## **Appendices**

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COURT FILE NO: CV-13-10353-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

COMERICA BANK

APPLICANT

- AND -

ARXX BUILDING PRODUCTS INC., ARXX BUILDING PRODUCTS U.S.A. INC., ARXX  
CORPORATION, ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC  
AND ECO-BLOCK INTERNATIONAL, LLC

RESPONDENTS

FIRST REPORT OF  
DUFF & PHELPS CANADA RESTRUCTURING INC.  
AS RECEIVER

DECEMBER 19, 2013

## 1.0 Introduction

1. This report ("Report") is filed by Duff & Phelps Canada Restructuring Inc. ("D&P") in its capacity as Court-appointed receiver (the "Receiver") of the properties, assets and undertakings of ARXX Building Products Inc. ("ARXX Canada"), ARXX Building Products U.S.A. Inc. ("ARXX USA") (ARXX Canada and ARXX USA are jointly referred to as the "Company"), ARXX Corporation, ECB Holdings, LLC, APS Holdings, LLC, Unisas Holdings, LLC and Eco-Block International, LLC (collectively, the "ARXX Group").
2. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on December 9, 2013 (the "Receivership Order"), D&P was appointed Receiver of the ARXX Group. A copy of the Receivership Order and the Endorsement of the Honourable Justice Morawetz dated December 9, 2013, are attached as Appendix "A".
3. The primary purpose of these receivership proceedings is to allow the business to continue to operate while a Court-supervised "stalking horse" sale process for the ARXX Group's business and assets is carried out in a stabilized environment ("Sale Process").

- 
4. The Receivership Order contemplates that the Receiver may act as foreign representative of the ARXX Group ("Foreign Representative") for the purpose of seeking an Order from the United States Bankruptcy Court for the District of Delaware (the "U.S. Court") recognizing the receivership proceedings as a foreign main proceeding and recognizing the Orders of this Court made in these proceedings pursuant to Chapter 15 of the U.S. Bankruptcy Code. The ancillary proceedings in the US are likely to be commenced on or around December 27, 2013.

#### **1.1 Purposes of this Report**

1. The purposes of this Report are to:
  - a) Provide background information about the ARXX Group, including its creditor composition and concentration in Canada;
  - b) Summarize the terms of a "stalking horse" offer for substantially all of the ARXX Group's business and assets submitted by Airlite Plastics Co. ("Airlite") in the form of an Asset Purchase Agreement dated December 19, 2013, between Airlite and the Receiver (the "Stalking Horse Offer"), which, subject to the approval of this Court, would serve as the "stalking horse" in the Sale Process;
  - c) Summarize the proposed Sale Process pursuant to which the ARXX Group's business and assets would be marketed for sale, including the bidding procedures to be used in connection with the Sale Process (the "Bidding Procedures"); and
  - d) Recommend that this Honourable Court issue an Order:
    - Approving the Stalking Horse Offer, including the Break Fee and Expense Reimbursement mechanism contemplated therein; and
    - Approving the Sale Process, including the Bidding Procedures, and authorizing and directing the Receiver to conduct the Sale Process on the basis detailed herein.

#### **1.2 Defined Terms**

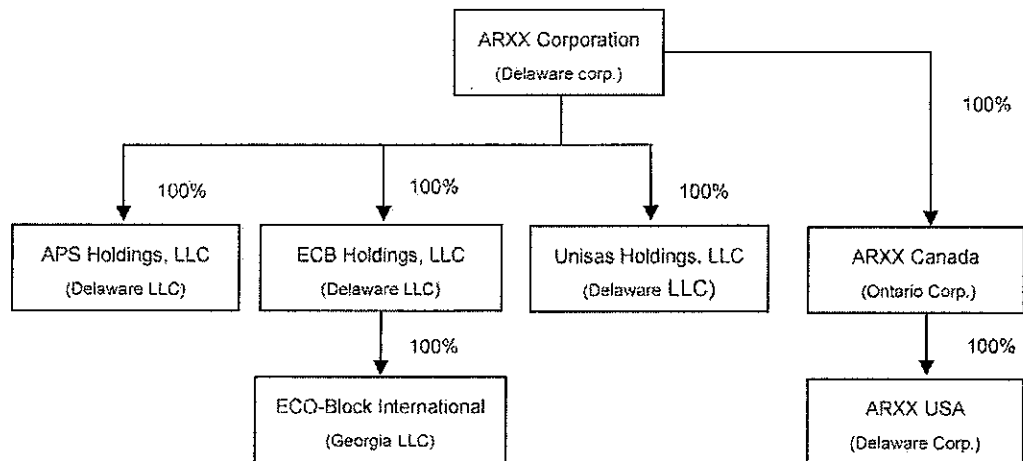
1. Capitalized terms not defined in this Report have the meanings provided to them in the Bidding Procedures and/or the Stalking Horse Offer.

#### **1.3 Currency**

1. Unless otherwise noted, all currency references in this Report are in Canadian dollars.

## 2.0 Background

1. The ARXX Group designs and markets building products known as insulating concrete forms ("ICF"). ICF is an environmentally friendly and energy efficient technology system of formwork for structural walls and floors of buildings used in residential and commercial construction. The forms are used to hold fresh concrete, which provides insulation for the structures they enclose.
2. The ARXX Group's principal line of business is selling ICF. The ARXX Group purchases ICF on a "just-in-time" basis from various suppliers and immediately ships the product to customers, primarily consisting of distributors, general contractors and builders. The ARXX Group also hires subcontractors to install ICF for commercial customers ("Turnkey Projects"). These projects, depending on size, typically take two to three months to complete.
3. The ARXX Group's business is seasonal. Sales are slower in the winter months as residential and commercial building slows. As a result, the ARXX Group has traditionally experienced significant operating losses during the winter months and requires increased funding during this time.
4. The ARXX Group's business is operated through the Company. The other entities in the ARXX Group are inactive. A corporate chart is provided below (the shaded entities represent the operating entities):



5. The ARXX Group operates from leased premises in Cobourg, Ontario, which serves as its head office – there is no other physical premises from which the ARXX Group operates (in the U.S. or otherwise). The chief executive officer of the ARXX Group and other senior management are based at and primarily work from the Cobourg headquarters, and it is there that all administrative, corporate governance, tax and financial, cash management, human resource, payroll, information technology and management functions for each entity in the ARXX Group are carried out. The ARXX Group's books and records are also maintained at the Cobourg headquarters. Accordingly, ARXX USA is entirely dependent on ARXX Canada and cannot operate on a standalone basis.
6. As at the date of this Report, ARXX Canada<sup>1</sup> and ARXX USA employ nine and seven individuals, respectively. ARXX Canada's employees work from the Cobourg premises, other than certain home-based sales representatives. ARXX USA's employees are all sales representatives, who work from their home offices located throughout the U.S.
7. The Company's workforce is not unionized and it does not maintain any registered pension plans.
8. Further information about the ARXX Group and its background and copies of materials filed in the receivership proceedings can be found on the Receiver's website at: <http://www.duffandphelps.com/intl/en-ca/Pages/RestructuringCases.aspx>.

### **3.0 Creditors**

#### **3.1 Comerica Bank**

1. The application to appoint the Receiver was brought by Comerica Bank (the "Bank"), being the ARXX Group's principal secured creditor<sup>2</sup>. As at the date of the Receivership Order, the ARXX Group was indebted to the Bank in the amount of approximately US\$3.6 million, inclusive of interest to November 27, 2013 but exclusive of expenses, costs and fees.
2. Pursuant to a Pledge and Security Agreement dated as of October 17, 2012, ARXX Canada granted cash collateral to the Bank in the amount of \$750,000 (the "Cash Collateral"), which has been held by the Bank since that time. The Bank has advised the Receiver that it intends to exercise its setoff rights and apply these funds against the ARXX Group's indebtedness owing to the Bank. The Receiver notes that this pledge was granted outside of the "lookback" period prescribed under the

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<sup>1</sup> In accordance with Paragraph 15 of the Receivership Order, six employees were terminated or resigned on December 10, 2013, which reduced ARXX Canada's headcount from 15 to nine employees.

<sup>2</sup> Based on a PPSA search obtained by counsel to the Receiver, Gienow Building Products Ltd. appears to have (or to have had) a General Security Agreement with a predecessor company (ARXX Acquisition Corp.). The Receiver is investigating the nature of this obligation, if any. MMV Finance Canada Inc. also has a registered security interest, although it has since been fully repaid. The only other PPSA registrant is Xerox Canada Ltd., an equipment lessor.



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*Bankruptcy and Insolvency Act* and as consideration for the Fifth Amendment to the Loan Agreement dated October 17, 2012.

3. The Bank has committed to fund the Company's operations over the course of these proceedings, provided that the contemplated Sale Process and Bidding Procedures Order are approved by this Court. To the extent required, the Receivership Order authorizes the Receiver to borrow up to \$500,000 pursuant to Receiver's Certificates. These advances, if any, would be granted a charge on the assets of the ARXX Group subject only to the Receiver's Charge. As at the date of this Report, the Receiver has not required any such borrowings.

### **3.2 Unsecured Creditors**

1. According to the ARXX Group's accounts payable listings, unsecured obligations totaled approximately \$2 million as at the date of the Receivership Order. Trade creditors are principally comprised of inventory suppliers and freight companies.

### **4.0 Pre-Filing Marketing Process**

1. In September, 2013, the Company initiated a process to identify potential investors and/or prospective purchasers. Certain strategic parties were approached in the process, including Airlite.
2. On September 19, 2013, Airlite executed a confidentiality agreement and commenced its diligence efforts. On November 12, 2013, Airlite submitted a letter of intent. Since that time, the Company, Airlite and their respective legal counsel had commenced negotiations of sale transaction documents.
3. Negotiations with Airlite were ongoing at the time of the commencement of the receivership proceedings and were significantly advanced.
4. At the time of its appointment, the Receiver believed there were a number of reasons to pursue completion of negotiations with Airlite and to proceed by way of a stalking horse sale process, including:
  - i. negotiations with Airlite were significantly advanced;
  - ii. significant value of the ARXX Group consists of its customer relationships - announcing a sale agreement at the outset of the receivership proceedings is likely to best preserve the value of the ARXX Group in the circumstances;
  - iii. a stalking horse process preserves the opportunity to seek a superior bid to the Airlite APA while simultaneously avoiding the risk of expending time and resources to conduct a sale process that might prove unsuccessful; and
  - iv. the Bank was supportive of proceeding in this manner.

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5. Accordingly, negotiations with Airlite were continued by the Receiver immediately following its appointment. The Receiver's objective from the outset was to negotiate an Asset Purchase Agreement with Airlite that could be used as a "stalking horse" in a Sale Process.
  6. On December 19, 2013, the Receiver and Airlite settled the terms of the Stalking Horse Offer, as detailed herein.

## 5.0 The Stalking Horse Offer

1. The Stalking Horse Offer is in the form of an Asset Purchase Agreement between the Receiver and Airlite. It provides for Airlite to acquire substantially all of the Company's business and assets, other than the Excluded Assets, and to assume certain liabilities, subject to higher and/or better offers resulting from the Sale Process in accordance with the Bidding Procedures.
2. Should the Stalking Horse Offer be the Successful Bid, it is contemplated that the Receiver would seek an Order from this Honourable Court approving, among other things, the Stalking Horse Offer and vesting title in the Purchased Assets in Airlite ("Approval and Vesting Order").
3. A copy of the Stalking Horse Offer is attached as Appendix "B". The key terms and conditions of the Stalking Horse Offer include the following:
  - Purchase Price: \$2.8 million base cash purchase price, plus the Working Capital Amount and certain Assumed Liabilities. As at the date of this Report, the value of the transaction is estimated to total approximately \$3.8 million. The Working Capital Amount, which is estimated to total approximately \$1 million as at the date of this Report, is the sum of the Accounts Receivable Value and Inventory Value, based on the following:
    - Accounts receivable: Other than receivables owing from Turnkey Projects or any accounts receivable aged greater than 60 days, both of which are to be excluded from the transaction, the Accounts Receivable Value is calculated as follows:
      - i. book value less 5% for any accounts receivable aged less than 45 days; plus
      - ii. book value less 10% for any accounts receivable aged between 45 and 60 days.

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- Inventory: The Inventory Value is based on the book value of the following two categories of inventory:
    - i. prime 6" & 8" standard and 90 degree corners manufactured in 2013; and
    - ii. webs for prime 6" & 8" prime standard and 90 degree corner products manufactured in 2013.
  - Inventory count: To the extent required, a joint inventory count would be conducted to confirm the value ascribed to the Inventory for the purposes of finalizing the Working Capital Amount.
  - Collection fee: To the extent any excluded accounts receivable (i.e. those aged greater than 60 days) are collected by the Purchaser post-closing, the Purchaser would remit any such collections to the Receiver net of a 15% collection fee that it would be entitled to retain. As at the date of this Report, the book value of the excluded accounts receivable totals approximately \$750,000.
  - Deposit: \$300,000 payable on execution of the Stalking Horse Offer.
  - Purchased Assets: Substantially all of the ARXX Group's business and assets, including Accounts Receivable, Inventory, equipment, patents and other intellectual property, customer information and Assumed Contracts.
  - Excluded Assets: Cash and cash equivalents (including the Cash Collateral), Turnkey Projects and accounts receivable related thereto, accounts receivable aged over 60 days, tax receivables (including SRED refunds), inventory other than the two categories of inventory specifically identified above, Excluded Contracts, deposits and prepaid expenses, leased or owned real property and such other excluded assets detailed in the Stalking Horse Offer.

Prior to selling the Excluded Inventory, the Receiver is to provide notice to Airlite, following which Airlite has three Business Days to advise the Receiver if it wishes to purchase the Excluded Inventory. Any such additional inventory purchases would be based on the book value of the Excluded Inventory. As at the date of this Report, the book value of the Excluded Inventory totals approximately \$589,000.

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- Employees: At least five Business Days prior to the Closing Date, Airlite shall offer employment to the employees it is interested in retaining. Those Transferred Employees are to be offered employment on substantially the same terms and conditions of employment as their existing employment arrangements with the Company, with recognition of their seniority and the assumption of their vacation entitlements.

Contemporaneously with finalizing the Stalking Horse Offer, Airlite identified certain employees that it intends to retain. In the event that one or more of these employees do not accept the offer of continuing employment, there would be a corresponding purchase price reduction. If none of the employees in question accepted employment with Airlite, the aggregate reduction in purchase price would be \$300,000. The Receiver and Airlite have entered into a letter agreement documenting the terms of such arrangement, which letter the Receiver intends to make available in the data room so that this information is available to all prospective purchasers.

- Break Fee: \$150,000 payable to Airlite on the closing of a transaction should Airlite not be the Successful Bidder.
- Expense Reimbursement: Up to \$150,000 of costs and expenses incurred by Airlite in connection with the Stalking Horse Offer and the transaction contemplated therein on the closing of a transaction should Airlite not be the Successful Bidder.
- Closing Date: February 3, 2014. Should the parties be unable to close on February 3, 2014, the Closing Date shall be February 10, 2014 or such other date as agreed by the parties.
- Conditions: The material conditions precedent to the transaction are:
  - i. Court approval of the Sale Process, including the Stalking Horse Offer and Bidding Procedures;
  - ii. Not more than two of the top five customers of the ARXX Group shall have terminated their agreements or otherwise informed the Receiver between the date of execution of the Stalking Horse Offer and the Closing Date that they have, or intend, to permanently cease doing business with the ARXX Group;
  - iii. The Approval and Vesting Order; and
  - iv. Recognition of the Approval and Vesting Order by the U.S. Court in the context of proceedings to be commenced by the Receiver, as Foreign Representative, pursuant to Chapter 15 of the United States Bankruptcy Code.

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- Other: The Stalking Horse Offer is consistent with standard insolvency transactions, i.e. completed on an "as is, where is" basis with minimal representations or warranties by the Receiver.

#### 5.1 Break Fee and Expense Reimbursement

1. As detailed above, the Stalking Horse Offer contemplates a Break Fee of \$150,000 and Expense Reimbursement up to \$150,000.
2. The purpose of the Break Fee and Expense Reimbursement is to, *inter alia*, provide Airlite with:
  - incentive to be the Stalking Horse Bidder in the Sale Process; and
  - a means to recover a portion of its costs and expenses incurred in connection with the Stalking Horse Offer.
3. The Receiver is of the view that the Break Fee and Expense Reimbursement is reasonable as:
  - It is the Receiver's experience that Break Fees in transactions of this nature typically range from 2.5% and 4%. Based on the estimated value of the transaction contemplated by the Stalking Horse Offer, the Break Fee represents approximately 4% of the value, which is consistent with market for transactions in this value range;
  - It likely would be requested by any stalking horse purchaser. Without it, Airlite has little incentive to act as the Stalking Horse;
  - In respect of the Expense Reimbursement, Airlite has been performing diligence and negotiating this transaction since September, 2013. While the Expense Reimbursement as a percentage of the transaction value may exceed the average in other Canadian stalking horse sale processes, the Receiver believes it is reasonable in the circumstances given that: (i) the transaction value is relatively low; and (ii) the amount of work to be done by a prospective stalking horse purchaser is largely unchanged irrespective of a relatively small transaction size as compared to a larger size transaction; and
  - The Receiver is satisfied that the aggregate quantum of the Break Fee and Expense Reimbursement is unlikely to be viewed as being so large as to discourage a third party from submitting an offer that is superior to the Stalking Horse Offer.

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## 6.0 Sale Process and Bidding Procedures

### 6.1 Sale Process

1. A summary of the proposed Sale Process is as follows:
  - Immediately following the making of the proposed Order, the Receiver would distribute a brief interest solicitation letter detailing this opportunity to prospective purchasers identified by the Receiver, including those parties that were approached by the ARXX Group in its pre-filing process. Attached to the interest solicitation letter will be a form of confidentiality agreement ("CA");
  - On or prior to January 7, 2014, the Receiver will advertise the acquisition opportunity in *The Globe and Mail (National Edition)*;
  - The Receiver is in the process of preparing a confidential information memorandum ("CIM") that provides an overview of, among other things, the Company's business, assets and financial results. The CIM will be made available to parties that execute a CA;
  - Upon execution of a CA, prospective bidders will be provided with the opportunity to commence due diligence, including reviewing information in an online data room to be maintained by the Receiver. Prospective purchasers will only be granted access to the data room if they are determined by the Receiver to be a Qualified Bidder;
  - The Receiver will facilitate due diligence efforts by, *inter alia*, arranging site visits and meetings between key employees and interested parties, provided that such meetings are supervised by the Receiver, and the Receiver is of the view that such prospective purchasers are bona fide, in the Receiver's sole discretion;
  - Prospective purchasers will be provided with a copy of the Stalking Horse Offer. Prospective purchasers will be required to submit offers in the form of the Stalking Horse Offer;
  - Offers will be required to be submitted to the Receiver by 5:00 pm (Eastern time) on January 22, 2014, being approximately one month from the return date of the motion for approval of the Sale Process and Bidding Procedures;
  - The Receiver will have the right to extend or amend the Sale Process as it considers appropriate, subject to the terms of the Stalking Horse Offer; however, the Receiver would seek the Court's approval to materially amend the Sale Process; and

- Subject to Court approval, the following table sets out the Sale Process timeline:

Milestone	Timeline
Motion for approval of Sale Process, Stalking Horse Offer and Bidding Procedures	December 27, 2013
Commencement of Chapter 15 Proceedings	December 27, 2013
Offer deadline under Sale Process	January 22, 2014
Auction (if required)	January 24, 2014
Canadian Sale Approval Motion	January 29, 2014
U.S. Motion for recognition of Canadian Sale Approval and Vesting Order	January 31, 2014
Anticipated closing date of the Stalking Horse Offer	February 3, 2014

## 6.2 Bidding Procedures

1. The Bidding Procedures are appended to the proposed Order and are summarized as follows:
  - A Qualified Bidder is a potential bidder that the Receiver determines is likely (based on financial information submitted by the bidder, the availability of financing, experience and other considerations deemed relevant by the Receiver) to be able to consummate a sale if selected as the Successful Bidder.
  - The material bid requirements include the following:
    - A base cash purchase price of \$3.15 million, reflecting the base purchase price of \$2.8 million plus the Break Fee (\$150,000), Expense Reimbursement (up to \$150,000) and Overbid Amount (\$50,000), plus additional cash consideration that is equal to or greater than the value of the Assumed Liabilities and the Working Capital Amount;
    - An executed copy of a proposed purchase agreement and a redline of the bidder's proposed purchase agreement reflecting variations from the Stalking Horse Offer. All Qualified Bids must provide: (a) a commitment to close within one business day after satisfaction of all conditions and a covenant to use all reasonable commercial efforts to satisfy all conditions; and (b) the identity of and contact information for the bidder and full disclosure of any affiliates and any debt or equity financing sources involved in such bid;

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- A cash deposit in the amount of \$300,000;
  - The bid shall identify with particularity those contracts of the Company that the bidder seeks to receive an assignment of, if any;
  - The bid shall not request or entitle the bidder to any transaction or break fee, expense reimbursement, termination or similar type of fee or payment;
  - The bid shall not contain any due diligence, financing or regulatory contingencies of any kind, though the bid may be subject to the satisfaction of other specific conditions in all material respects at Closing;
  - The bid shall identify with particularity any liabilities being assumed;
  - If no Qualified Bids are submitted by the Bid Deadline, the Stalking Horse Offer shall be accepted, subject to Court approval;
  - If one or more Qualified Bids are received by the Bid Deadline, the Receiver shall conduct an Auction on January 24, 2014, at 11:00 am (Eastern time) to determine the Successful Bidder;
  - Bidding at the Auction shall be restricted to Qualified Bidders, which includes the Stalking Horse. Bidding at the Auction shall be conducted in rounds. The Receiver, with the assistance of its advisors, will determine the Lead Bid for each round. The Overbid Amount and the Minimum Bid Increment are \$50,000 and \$25,000, respectively;
  - There is no credit bidding permitted under Bidding Procedures; and
  - If the transaction contemplated by the Successful Bid is consummated and the Successful Bidder is not Airlite, the Break Fee and Expense Reimbursement shall be paid by the Receiver to Airlite from the proceeds of such transaction.



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### 6.3 Sale Process Recommendation

1. The Receiver recommends that this Court issue an Order approving the Sale Process and Bidding Procedures for the following reasons:
  - a) In the Receiver's view, the Sale Process is commercially reasonable and the Bidding Procedures and Auction, if required, provide an opportunity for a result superior to the transaction contemplated by the Stalking Horse Offer;
  - b) In the Receiver's view, the duration of the Sale Process - while expedited - is sufficient to allow interested parties to perform diligence and submit offers. Many of the parties that will be contacted by the Receiver during the Sale Process are familiar with this opportunity given their participation in the ARXX Group's pre-filing process and, accordingly, shouldn't require a prolonged diligence period to determine whether they are prepared to submit a Qualified Bid;
  - c) An expedited Sale Process is required for the following reasons:
    - The Company operates in a highly competitive industry in which customers can easily transition to alternative suppliers. There is urgency to complete a transaction in order to preserve the Company's customer base, being the principal asset that Airlite is acquiring. In this regard, Airlite has advised that it is not prepared to act as a stalking horse bidder should the Sale Process be prolonged; and
    - Given the winter slower season, the Company is projected to generate operating losses during the receivership period. The Bank has agreed to fund these losses for a limited period of time provided the proposed Order is granted. The losses and erosion to the Bank's collateral are projected to continue into February, 2014, and, accordingly, it is critical for the transaction to close expeditiously in order for the Receiver to maximize value;
  - d) The existence of a "stalking horse" offer will assist to create certainty for all stakeholders (employees, customers and vendors) to understand that the Company's business will continue to operate as a going concern. It will also facilitate a shorter sale process duration;
  - e) Absent the completion of the transaction contemplated by the Stalking Horse Offer or a superior transaction that may result from the Sale Process, the Receiver will not have access to funding, in which case the Company's operations would be discontinued;

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- f) As set out in Section 5.1 of this Report, it is the Receiver's view that the Break Fee and Expense Reimbursement are reasonable in the circumstances and should not discourage potential purchasers from participating in the Sale Process; and
  - g) Although the Receiver has not yet completed a security review, it appears that the Bank is the principal economic stakeholder in these proceedings and has consented to the Sale Process, Stalking Horse Offer and Bidding Procedures. It is uncertain at this time whether there will be funds available for distribution to creditors ranking subordinate to the Bank.

## 7.0 Conclusion and Recommendation

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1 of this Report.

\* \* \*

All of which is respectfully submitted,

*Duff & Phelps Canada Restructuring Inc*

**DUFF & PHELPS CANADA RESTRUCTURING INC.  
IN ITS CAPACITY AS RECEIVER OF  
ARXX BUILDING PRODUCTS INC., ARXX BUILDING PRODUCTS USA INC., ARXX  
CORPORATION, ECB HOLDINGS, LLC, APS HOLDINGS, LLC,  
UNISAS HOLDINGS, LLC AND ECO-BLOCK INTERNATIONAL, LLC  
AND NOT IN ITS PERSONAL CAPACITY**

# TAB D

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) FRIDAY, THE 27th  
REGIONAL SENIOR JUSTICE )  
MR. JUSTICE MORAWETZ ) DAY OF DECEMBER, 2013

BETWEEN:

COMERICA BANK

Applicant

- and -

ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING  
PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS  
HOLDINGS, LLC, AND ECO-BLOCK INTERNATIONAL, LLC

Respondents

APPLICATION UNDER SECTION 243 OF THE  
*BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND  
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED  
STALKING HORSE SALES PROCESS ORDER

**THIS MOTION**, made by Duff & Phelps Canada Restructuring Inc., in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (collectively, the “**Corporation**”), for an order approving a stalking horse asset purchase agreement and related sales process was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the first report of the Receiver dated December 19, 2013 (the "**First Report**") and the exhibits thereto, filed, the Motion Record and Notice of Motion dated December 20, 2013, filed, the Appointment Order dated December 9, 2013 (the "**Appointment Order**"), and the Factum of the Receiver (the "**Factum**"), filed, and on hearing the submissions of counsel for each of the Receiver, Comerica Bank and Airlite Plastics Co., no one else appearing although duly served as appears from the affidavit of service of Elizabeth Nigro sworn on December 20, 2013:

**SERVICE**

1. **THIS COURT ORDERS AND DECLARES** that the time for service of the Receiver's Notice of Motion, the Motion Record, the First Report and the Factum is hereby abridged and the manner thereof validated so that this Motion is properly returnable today and hereby dispenses with any further or other service thereof.

**MARKETING AND STALKING HORSE PROCESS**

2. **THIS COURT ORDERS AND DECLARES** that the Receiver is hereby authorized and directed to enter into an agreement to sell all or substantially all of the assets, property and undertaking of the Corporation (the "**Purchased Assets**") to Airlite Plastics Co. (the "**Stalking Horse Bidder**"), substantially in the form of the agreement attached as Appendix B to the First Report (the "**Stalking Horse Bid**"), and such agreement, subject to the terms of this Order, is hereby approved and accepted for the purpose of conducting the Stalking Horse Process in accordance with the Bidding Procedures (as each of those terms is defined below), including, without limitation, the payment of the break fee and expense reimbursement (as more particularly set out in the Stalking Horse Bid) (the "**Break Fee and Expense Reimbursement**"); provided, for greater certainty, that nothing herein approves the sale of the Purchased Assets on the terms set out in the Stalking Horse Bid, and that the validity of any sale of the Purchased Assets will be determined on a subsequent motion to be held in accordance with the Bidding Procedures.

3. **THIS COURT ORDERS AND DECLARES** that the bidding procedures described in the First Report and attached hereto as Schedule "A" (the "**Bidding Procedures**") and the sale

process and auction described therein (collectively, the “**Stalking Horse Process**”) be and are hereby approved and the Receiver is hereby authorized and directed to conduct the Stalking Horse Process, and to execute such documents and take such steps as may be necessary or incidental to the Bidding Procedures and the Stalking Horse Process.

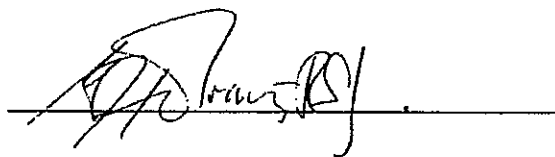
4. **THIS COURT ORDERS AND DECLARES** that, in the event that the Receiver concludes a sale of all or any of the Purchased Assets to a Successful Bidder other than the Stalking Horse Bidder, the Receiver be and is hereby authorized and directed to pay the Break Fee and Expense Reimbursement to the Stalking Horse Bidder in accordance with the terms and conditions of the Stalking Horse Bid.

5. **THIS COURT ORDERS** that in connection with the Stalking Horse Process and pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), the Receiver may disclose personal information of identifiable individuals to prospective bidders for the Purchased Assets and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete a sale of such assets. Each prospective bidder to whom any 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 said assets and related business, and if it does not complete a purchase thereof, shall return all such information to the Receiver or, in the alternative, shall destroy all such information and certify such destruction to the Receiver. The purchaser of the Purchased Assets shall be entitled to continue to use the personal information provided to it, and related to the Purchased Assets, in a manner that is in all material respects identical to the prior use of such information by the Corporation, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **GENERAL**

6. **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, including the conduct of the Stalking Horse Process.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere 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.

A handwritten signature in black ink, appearing to read "A. Brown", is written over a horizontal line.

DEC 27 2013

Handwritten initials in black ink, possibly "MB", are written below the date stamp.

## Schedule A

### Bidding Procedures

Set forth below are the bidding procedures (the “**Bidding Procedures**”) to be employed with respect to the sale (the “**Sale**”) of the assets, property and undertakings (the “**Purchased Assets**”) of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (the “**Corporation**”) by Duff & Phelps Canada Restructuring Inc., in its capacity as the Court-appointed receiver of the Corporation (the “**Receiver**”).

On December 27, 2013, the Court issued an order (the “**Bidding Procedures Order**”) approving and accepting for the purpose of conducting a “stalking horse” sales process (the “**Stalking Horse Process**”) in accordance with these Bidding Procedures that certain asset purchase agreement dated December 19, 2013 (the “**Stalking Horse Bid**”) between the Receiver and Airlite Plastics Co. (the “**Stalking Horse Bidder**”), including, without limitation, the payment of a break fee and expense Reimbursement (the “**Break Fee and Expense Reimbursement**”) by the Receiver to the Stalking Horse Bidder in accordance with the provisions of the Stalking Horse Bid, and approving these Bidding Procedures.<sup>1</sup> All amounts specified herein are in U.S. dollars.

Subject to Court availability, within three (3) business days following the Auction (defined below), the Receiver shall bring a motion (the “**Sale Approval Motion**”) seeking the granting of an order by the Court authorizing and approving the Sale of the Purchased Assets to the Qualified Bidder making the Successful Bid (each as defined below) (the “**Successful Bidder**”) (such order, as approved, the “**Approval and Vesting Order**”).

### Assets to Be Sold

The Receiver is offering for sale all of the Corporation’s right, title and interest in and to all of the Purchased Assets and encourages bids for all or substantially all of the Purchased Assets, in whole but not in part.

### The Bidding Process

The Receiver shall: (i) determine whether any person is a Qualified Bidder (as defined below); (ii) coordinate the efforts of Qualified Bidders in conducting their due diligence investigations; (iii) receive offers from Qualified Bidders; and (iv) negotiate any offers made to purchase the Purchased Assets (collectively, the “**Bidding Process**”). The Receiver shall have the right to adopt such other rules for the Bidding Process (including rules that may depart from those set forth herein) that in its reasonable business judgment will better promote the goals of the Bidding Process, *provided, however*, that the adoption of any rule that materially deviates from these Bidding Procedures shall require the consent of the Stalking Horse Bidder herein.

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<sup>1</sup> The Stalking Horse Asset Purchase Agreement is attached as Appendix “B” to the Receiver’s First Report.



### Participation Requirements

A “**Qualified Bidder**” is a potential bidder that the Receiver determines is likely (based on financial information submitted by the bidder, the availability of financing, experience and other considerations deemed relevant by the Receiver) to be able to consummate a sale if selected as the Successful Bidder. For greater certainty, the Stalking Horse Bidder is, and shall be deemed to be, a Qualified Bidder.

### Due Diligence

Any person that wishes to participate in the Bidding Process must: (a) execute and deliver to the Receiver a confidentiality agreement in form and substance acceptable to the Receiver, which confidentiality agreement shall: (i) be in substantially the same form as the confidentiality agreement entered into between the Corporation and the Stalking Horse Bidder; and (ii) expressly permit the assignment of such confidentiality agreement by the Receiver to the Successful Bidder; and (b) be a Qualified Bidder. The Receiver shall not be obligated to furnish information of any kind whatsoever to any Person that the Receiver determines not to be a Qualified Bidder. The Receiver will afford any Qualified Bidder the time and opportunity to conduct reasonable due diligence, subject to the time frames contemplated by these Bidding Procedures. The Receiver will designate a representative to coordinate all reasonable requests for additional information and due diligence access from such Qualified Bidders.

### Bid Deadline

A Qualified Bidder that desires to make a bid shall deliver written copies of its bid and the Required Bid Materials (defined below) to each of:

- (i) the Receiver, Duff & Phelps Canada Restructuring Inc., 333 Bay Street, 14th Floor, Toronto, Ontario, M5H 2R2, Attn. David Sieradzki; and
- (ii) counsel to the Receiver, Torys LLP, 79 Wellington St. W., 30th Floor, Box 270, TD South Tower, Toronto, ON M5K 1N2, Attn.: David Bish,

so that such bid is received by each of the foregoing by not later than 5:00 p.m. (prevailing Eastern time) on January 22, 2014 (the “**Bid Deadline**”). In the event that a bid is determined to be a Qualified Bid (as defined below), the Receiver shall deliver a written copy of any such Qualified Bid and the Required Bid Terms and Materials to the Stalking Horse Bidder’s counsel.

### Bid Requirements

All bids (other than the Stalking Horse Bid) must include, unless such requirement is waived by the Receiver, the following (collectively, the “**Required Bid Terms and Materials**”):

- (i) A base cash purchase price equal to or greater than \$3,150,000 (the “**Minimum Bid Amount**”),<sup>2</sup> plus additional consideration that is equal to or greater than the

<sup>2</sup> This is the sum of the Stalking Horse Bid’s base cash purchase price, the Break Fee and Expense Reimbursement, and the Overbid Amount (as defined below).

value of the Assumed Liabilities and the Working Capital Amount (as each of those terms is defined in the Stalking Horse Bid);

- (ii) A provision stating that the bidder's offer is irrevocably open for acceptance until the first business day after the Purchased Assets have been sold pursuant to the closing of the sale approved by the Court;
- (iii) An executed copy of a proposed purchase agreement and a redline of the bidder's proposed purchase agreement reflecting variations from the Stalking Horse Bid (the "**Marked Agreement**"). All Qualified Bids must provide: (a) a commitment to close within one (1) business day after satisfaction of all conditions and a covenant to use all reasonable commercial efforts to satisfy all conditions; and (b) the identity of and contact information for the bidder and full disclosure of any affiliates and any debt or equity financing sources involved in such bid;
- (iv) A cash deposit in the amount of not less than \$300,000 in the form of a wire transfer, certified cheque or such other form acceptable to the Receiver (the "**Bid Deposit**"), which shall be placed by the Receiver in a non-interest bearing escrow account (the "**Escrow Account**"). Funds shall be disbursed from the Escrow Account only as follows: (i) if the Qualified Bidder is the Successful Bidder at the Auction, its Bid Deposit will be applied to the purchase price payable by it under its bid on the closing thereof; and (ii) if the Qualified Bidder is not the Successful Bidder at the Auction, then its Bid Deposit shall be returned to it forthwith following the expiration of its offer;
- (v) A representation of the bidder and written evidence that the bidder has a commitment for financing or other evidence of the proposed purchaser's ability to consummate the proposed transaction, including executed copies of any financing agreements, commitments, guarantees of the payment obligations of the proposed purchaser, and which the Receiver believes to be sufficient to satisfy the bidder's obligations under its proposed agreement submitted by it as provided above;
- (vi) The bid shall identify with particularity those contracts of the Corporation with respect to which the bidder seeks to receive an assignment, if any;
- (vii) The bid shall not request or entitle the bidder to any transaction or break fee, expense reimbursement, termination or similar type of fee or payment and shall include an acknowledgement and representation of the bidder that it has had an opportunity to conduct any and all due diligence regarding the Purchased Assets prior to making its offer, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Purchased Assets in making its bid, and that it did not rely upon any written or oral statement, representations, warranties, or guarantees, express, implied, statutory or otherwise, regarding the Purchased Assets, the financial performance of the completeness of any information provided in connection therewith or the Auction, except as expressly stated in these Bidding Procedures or the Stalking Horse Bid;

- (viii) The bid shall not contain any due diligence, financing or regulatory contingencies of any kind, though the bid may be subject to the satisfaction of other specific conditions in all material respects at Closing;
- (ix) The bid shall fully disclose the identity of each entity that will be bidding for the Purchased Assets or otherwise participating in connection with such bid, and the complete terms of any such participation;
- (x) The bid shall state that the offering party consents to the jurisdiction of the Court;
- (xi) The bid shall include evidence of authorization and approval from the bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the submitted purchase agreement of the bidder;
- (xii) The bid shall state that the offering party has not acted and will not act in collusion with any other person in connection with its bid; and
- (xiii) The bid shall identify with particularity any liabilities being assumed.

A bid received from a Qualified Bidder that includes all of the Required Bid Terms and Materials and is received by the Bid Deadline is a "**Qualified Bid**". The Receiver reserves the right to determine the value of any Qualified Bid, and which Qualified Bid constitutes the best offer (the "**Lead Bid**"). Forthwith after the Bid Deadline, the Receiver, using its reasonable business judgment, shall determine which Qualified Bid shall be the Lead Bid for the purposes of the Auction. A copy of the Lead Bid will be provided to all Qualified Bidders prior to the Auction Date.

Notwithstanding the bid requirements detailed above, the Stalking Horse Bid shall be deemed a Qualified Bid.

#### **Credit Bidding**

No person shall be permitted to credit bid the indebtedness owed to them by the Corporation in connection with the making of a Qualified Bid or in the conduct of the Auction.

#### **"As Is, Where Is, With All Faults"**

The sale of the Purchased Assets shall be on an "as is, where is" and "with all faults" basis and without representations, warranties, or guarantees, express, implied or statutory, written or oral, of any kind, nature, or description by the Receiver or its agents, representatives, partners or employees, or any of the other parties participating in the sales process pursuant to these Bid Procedures, except as may otherwise be provided in a definitive purchase agreement with the Receiver. By submitting a bid, each Qualified Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Purchased Assets prior to making its bid, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Purchased Assets in making its bid, and that it did not rely upon any written or oral statements, representations, warranties, or

guarantees, express, implied, statutory or otherwise, regarding the Purchased Assets, the financial performance of the Purchased Assets or the physical condition or location of the Purchased Assets, or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in these Bidding Procedures or as set forth in a definitive purchase agreement with the Receiver.

### **Free of Any and All Liens**

Except as otherwise provided in the Stalking Horse Bid or another Successful Bidder's purchase agreement, and subject to any permitted encumbrances therein, all of the Corporation's right, title and interest in and to the Purchased Assets shall be sold free and clear of all liens and encumbrances pursuant to the Approval and Vesting Order.

### **The Auction and Auction Procedures**

If one or more Qualified Bids (other than that submitted by the Stalking Horse Bidder) have been received by the Receiver on or before the Bid Deadline, the Receiver shall conduct an auction (the "Auction") to determine the highest and/or best bid with respect to the Purchased Assets, with the Lead Bid as the starting bid for the Auction. The Auction shall be conducted at the offices of Torys LLP (the "Auction Site") at 11 a.m. (prevailing Eastern time) on January 24, 2014 (the "Auction Date"), or such other place and time as the Receiver shall notify all Qualified Bidders who have submitted Qualified Bids and expressed their intent to participate in the Auction as set forth above.

If no Qualified Bid is submitted by the Bid Deadline or all Qualified Bids that have been submitted have been withdrawn prior to the Bid Deadline or the Auction Date, then the Receiver shall cancel the Auction (in which case, the Stalking Horse Bid shall be the Successful Bid, and the Stalking Horse Bidder shall be the Successful Bidder).

**Attendance at Auction:** Only authorized representatives of Qualified Bidders (including the Stalking Horse Bidder) and their legal and financial advisors, and such other persons as expressly invited by the Receiver, may attend at the Auction.

**Conduct of Auction:** Except as otherwise provided herein, based upon the terms of the Qualified Bids received, the number of Qualified Bidders participating in the Auction, and such other information as the Receiver determines is relevant, the Receiver may conduct the Auction in any manner that it determines will achieve the maximum value for the Purchased Assets, provided that all Qualified Bidders that have timely submitted a Qualified Bid shall be entitled to be present during each round of bidding, the identity of each such Qualified Bidder shall be disclosed to all other Qualified Bidders, and all material terms of each Qualified Bid and each subsequent bid made by each such Qualified Bidder shall be disclosed to all other Qualified Bidders. The Receiver may set opening bid amounts in each round of bidding as the Receiver determines to be appropriate.

**Overbid Amount; Minimum Bid Increment:** There shall be an overbid amount that a Qualified Bidder must bid to exceed the Stalking Horse Bid ("**Overbid Amount**"), and that amount shall be at least \$50,000 for all bids made by Qualified Bidders. At the Auction, the bidding shall begin with the Lead Bid as the opening bid and all subsequent bids shall not be less

than \$25,000 in excess of the preceding bid (the “**Minimum Bid Increment**”), unless modified by the Receiver in subsequent rounds of bidding; provided however that the Minimum Bid Increment shall at no time be less than \$10,000. In each round of bidding, the Receiver will take into account the fact that the Break Fee and Expense Reimbursement is not payable with respect to the Stalking Horse Bid but is payable with respect to any other Qualified Bidder’s offer. During each round of bidding, all bids made must comply with the conditions for a Qualified Bid (save that the Bid Deadline shall not apply).

**Receiver To Determine Highest and/or Best Bid:** The Receiver shall determine, in its reasonable business judgment, which Qualified Bid is the Lead Bid and, at the Auction, which bid after each round of bidding is the then-prevailing highest and/or best bid. In making such determination, the Receiver may consider, without limitation: (i) the amount and nature of the consideration; (ii) the proposed assumption of liabilities, if any; (iii) the ability of the Qualified Bidder in question to close the proposed transaction; (iv) the number of employees to be employed by the Qualified Bidder pursuant to the proposed transaction; (v) the proposed closing date and the likelihood, extent and impact of any potential delays in closing; (vi) any purchase price adjustment; (vii) the net economic effect of any changes made to the Stalking Horse Bid; and (viii) such other considerations as the Receiver deems relevant in its reasonable business judgment. At the end of each round of bidding at the Auction, the Receiver shall announce the material terms of the then highest and/or best bid, and the basis for calculating the total consideration offered in such bid. The Receiver may, at any time, make one or more adjournments to the Auction. If at the end of any round of bidding a Qualified Bidder has elected not to submit a further bid meeting the criteria set out herein (including the Minimum Bid Increment), then such Qualified Bidder shall not be entitled to continue to participate in the next round of the Auction or in any subsequent round and shall leave the Auction.

**Successful Bid:** Upon conclusion of the bidding, the Auction shall be closed and the Receiver shall immediately review the final bids made in the final round of bidding (if more than one such bid was made) in order to determine the highest and/or best bid (the “**Successful Bid**”).

#### **Highest versus Best Bids**

**In determining the Lead Bid, the highest and/or best bid during each round of the Auction, and the Successful Bid, the Receiver is not required to select the bid that is the highest bid and may, exercising its reasonable business judgment, select another bid on the basis that it is the best bid even though not the highest bid in value. Without limiting the foregoing, the Receiver may give such weight to cash versus non-cash consideration set out in any bid (including, without limitation, assumed liabilities and the continuation of employment of the Corporation’s employees) as it determines, exercising its reasonable business judgment, is appropriate and reasonable.**

#### **Break Fee and Expense Reimbursement**

To provide an incentive and to compensate the Stalking Horse Bidder for performing the substantial due diligence and incurring the expenses necessary in entering into the Stalking Horse Bid with the knowledge and risk that arises from participating in the sale and subsequent bidding process, the Receiver has agreed to pay the Stalking Horse Bidder, under the conditions

outlined herein and in the Stalking Horse Bid, the Break Fee in the amount of \$150,000 and an Expense Reimbursement on account of its reasonable and documented fees and expenses, up to a maximum of \$150,000. The Receiver will take into account the Break Fee and Expense Reimbursement in each round of bidding with respect to the Stalking Horse Bidder.

The Break Fee and Expense Reimbursement were material inducements for, and a condition of, the Stalking Horse Bidder's entry into the Stalking Horse Bid. The Break Fee and Expense Reimbursement, if payable in accordance with the Stalking Horse Bid, shall be paid in accordance with the Stalking Horse Bid and the Bidding Procedures Order.

#### **Sale Approval Motion Hearing**

The Sale Approval Motion shall, subject to court availability, be made returnable on or before January 29, 2014, at 10:00 a.m. (prevailing Eastern Time) in the Court. A hearing to recognize the Approval and Vesting Order in the United States pursuant to Chapter 15 of the U.S. Bankruptcy Code, shall, if so required by the Successful Bidder, and subject to court availability, be made returnable on or before January 31, 2014, at 10:00 a.m. (prevailing Eastern Time) in the United States Bankruptcy Court for the District of Delaware. The Receiver, in the exercise of its business judgement, reserves its right to the extent consistent with the Stalking Horse Bid to change the date of the hearing of Sale Approval Motion and/or the U.S. recognition hearing in order to achieve the maximum value for the Assets.

At the hearing of the Sale Approval Motion, the Receiver shall, among other things, seek approval from the Court to consummate the Successful Bid.

#### **Acceptance of Qualified Bids**

The sale of the Purchased Assets to any Successful Bidder by the Receiver is expressly conditional upon the approval of the Successful Bid by the Court at the hearing of the Sale Approval Motion. The Receiver's presentation of the Successful Bid to the Court for approval does not obligate the Receiver to close the transaction contemplated by such Successful Bid unless and until the Court approves the Successful Bid. The Receiver will be deemed to have accepted a bid only when the bid has been approved by the Court at the hearing on the Sale Approval Motion.

#### **Miscellaneous**

The Auction and these Bidding Procedures are solely for the benefit of the Receiver and nothing contained in the Bidding Procedures Order or these Bidding Procedures shall create any rights in any other person (including, without limitation, any bidder or Qualified Bidder, and any rights as third party beneficiaries or otherwise) other than the rights expressly granted to a Successful Bidder under the Bidding Procedures Order. The bid protections incorporated in these Bidding Procedures are solely for the benefit of the Stalking Horse Bidder.

Except as provided in the Bidding Procedures Order and Bidding Procedures, the Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of the Bidding Procedures Order, the Stalking Horse Process and the Bidding Procedure..

COMERICA BANK

and

ARXX BUILDING PRODUCTS INC., ARXX CORPORATION,  
ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS,  
LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, ECO-  
BLOCK INTERNATIONAL, LLC

APPLICANT

Court File No. CV-13-10353-00CL

RESPONDENTS

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

Proceedings commenced in Toronto

**STALKING HORSE SALES PROCESS  
ORDER**

**Torys LLP**

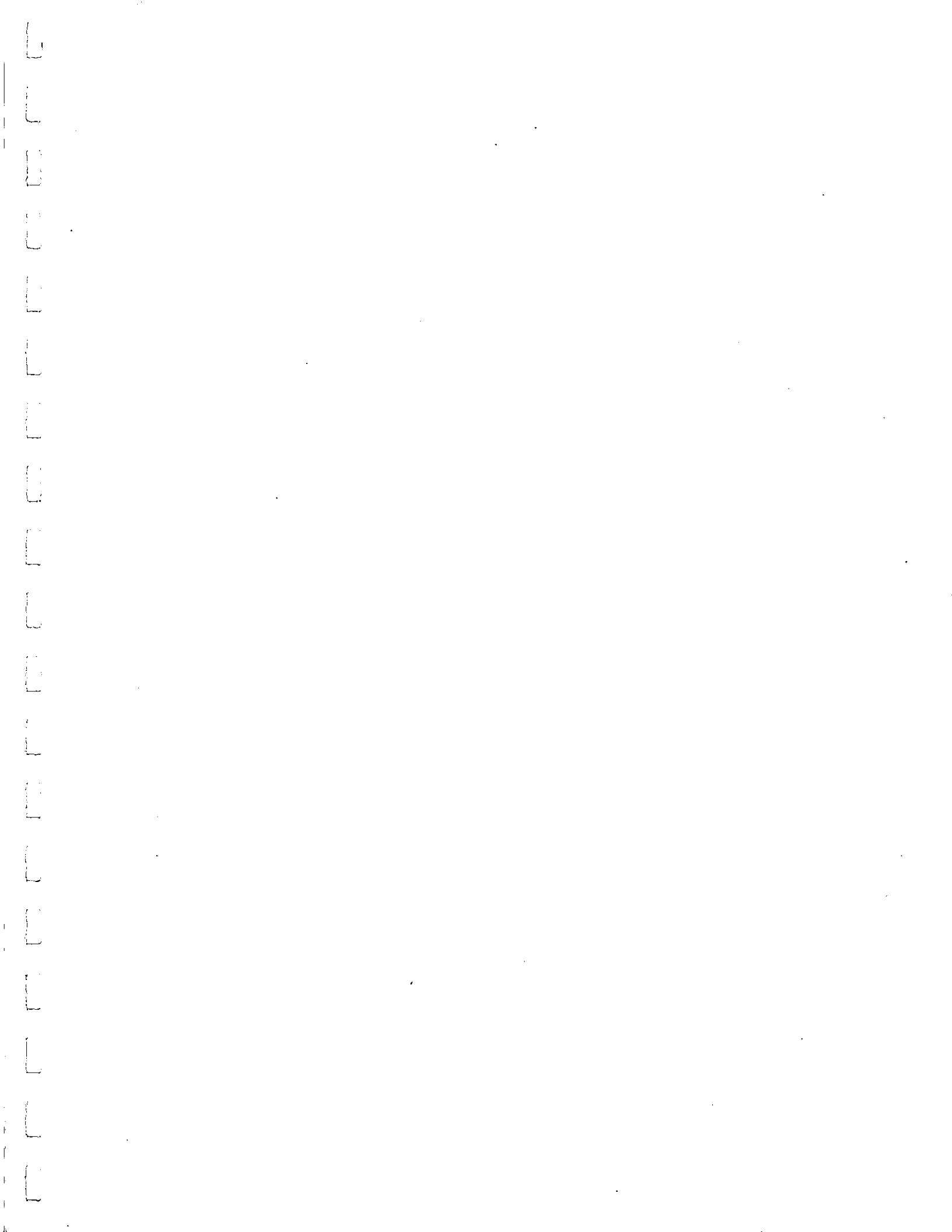
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Restructuring, Inc., in its capacity as  
the receiver for ARXX Building  
Products Inc., ARXX Corporation,  
ARXX Building Products U.S.A. Inc.,  
ECB Holdings, LLC, APS Holdings,  
LLC, UNISAS Holdings, LLC, and  
Eco-Block International, LLC





COMERICA BANK and ARXX BUILDING PRODUCTS INC., ARXX CORPORATION,  
 ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS,  
 LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, AND  
 ECO-BLOCK INTERNATIONAL, LLC  
 RESPONDENTS

*Dec 27/13*  
 Court File No. CV-13-10353-00CL

*D. Bish for Recient,  
 J. Welline for Comruce,  
 N. Esau for Arx Bldg.*

ONTARIO  
 SUPERIOR COURT OF JUSTICE  
 (COMMERCIAL LIST)

Proceedings commenced in Toronto

MOTION RECORD

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Lawyers for Duff & Phelps Canada  
 Restructuring, Inc., in its capacity as  
 the receiver for ARXX Building  
 Products Inc., ARXX Corporation,  
 ARXX Building Products U.S.A. Inc.,  
 ECB Holdings, LLC, APS Holdings,  
 LLC, UNISAS Holdings, LLC, and  
 Eco-Block International, LLC

*December 27, 2013*

*The court was not opposed.  
 The background to the Transmits and  
 the proposed staying have process  
 is set out in detail in the Report  
 of Duff & Phelps.  
 This is a relatively brief decision and I am  
 satisfied that circumstances are such  
 that realization could be prejudicial  
 if the process is delayed. <sup>Although</sup>  
 timelines are shorter in this case  
 the reality is that the ~~process~~  
~~has not~~ <sup>has</sup> been in time sensitive.*

The Stalling House process, as proposed calls  
for a break - fee and expense account.  
The break - fee is at the top of the  
scale but since that this is a  
relatively small business, the break  
fee in absolute terms is not, in my  
view excessive.

The audit process is fully set out  
and if ~~of~~ an audit results,  
I am satisfied that the process  
is fair and reasonable in  
the circumstances.

The Stalling House Process and  
Bidding Procedures are approved  
together with the ~~minutes~~  
~~of~~ ancillary relief reported.  
With greatest + order signed  
in form presented.

W. H. Traver

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

**BETWEEN:**

**COMERICA BANK**

Applicant

- and -

**ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING  
PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS  
HOLDINGS, LLC, AND ECO-BLOCK INTERNATIONAL, LLC**

Respondents

**APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY*  
*ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE*  
*COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED***

---

**Unofficial Transcription of the Reasons  
of Justice Morawetz made December 27, 2013**

---

D. Bish for Receiver  
J. LeVine for Comerica  
K. Esaw for Airlite

The motion was not opposed.

The background to the Transaction and the proposed Stalking Horse process is set out in detail in the Report of Duff & Phelps.

This is a relationship business and I am satisfied that circumstances are such that realization could be prejudiced if the process is delayed. Although timelines are shorter in this case, the reality is that the process is time sensitive.

The Stalking Horse process, as proposed calls for a break-fee and expense reimbursement. The break-fee is at the top of the scale but given that this is a relatively small business, the break-fee in absolute terms is not, in my view excessive.

The auction process is fully set out and if an auction results, I am satisfied that the process is fair and reasonable in the circumstances.

The Stalking Horse Process and Bidding Procedures are approved together with the ancillary relief requested.

Motion granted and order signed in form presented.

Morawetz J.

# TAB E

DELIVERED BY EMAIL

January 22, 2014

Airlite Plastics Co.  
6110 Abbott Dr.  
Omaha, NE 68128 USA  
Attention: Patrick J. Kenealy

Dear Mr. Kenealy:

Re: **ARXX Building Products Inc., ARXX Building Products USA Inc. et al**  
(collectively, the "Company")

We are writing in our capacity as Receiver of the Company's property, assets and undertaking, appointed pursuant to an Order of the Ontario Superior Court of Justice ("Court") made on December 9, 2013.

As you are aware, the Receiver has carried out the sale process ("Sale Process") for the Company's business and assets in accordance with a Court Order made on December 27, 2013 (the "Sale Process Order"). Based on the results of the Sale Process, the Receiver hereby declares that:

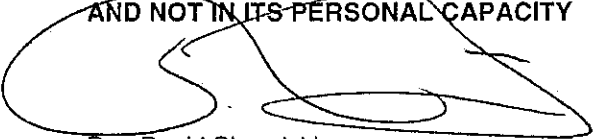
- The bid submitted by Airlite Plastics Co. ("Airlite") shall be the "Successful Bid" and Airlite shall be the "Successful Bidder"; and
- There will not be an auction on January 24, 2014.

In accordance with the Sale Process Order and related bidding procedures, the Receiver is proceeding with its motion for a Sale Approval and Vesting Order in Canada on January 29, 2014 and US recognition of such Court Order, if granted, on January 31, 2014.

Subject to the requisite Court approvals in Canada and the US, we look forward to completing the transaction with Airlite on February 3, 2014.

Yours very truly,

**DUFF & PHELPS CANADA RESTRUCTURING INC.**  
**IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF**  
**ARXX BUILDING PRODUCTS INC. AND ARXX BUILDING PRODUCTS USA INC. ET AL**  
**AND NOT IN ITS PERSONAL CAPACITY**



Per: David Sieradzki

DS:vb

c.c. David Bish (Torys LLP)  
Matthew Lunn (Young Conaway Stargatt & Taylor, LLP)  
Guy Martel/Dana Borshy/Kathryn Esaw (Stikeman Elliott LLP)

# TAB F

**ASSET PURCHASE AGREEMENT**

**AIRLITE PLASTICS CO.**

**and**

**DUFF & PHELPS CANADA RESTRUCTURING INC., in its capacity as the Court-appointed Receiver of ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, and ECO-BLOCK INTERNATIONAL, LLC, and not in its personal capacity**

December 19, 2013



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**THIS AGREEMENT** is made as of the 19th day of December, 2013.

**BETWEEN:**

**AIRLITE PLASTICS CO.,**  
a corporation existing under the laws of the State of  
Nebraska, U.S.A.,

(hereinafter referred to as the "Purchaser")

**AND:**

**DUFF & PHELPS CANADA  
RESTRUCTURING INC.,** in its capacity as the  
Court-appointed Receiver of **ARXX BUILDING  
PRODUCTS INC., ARXX CORPORATION,  
ARXX BUILDING PRODUCTS U.S.A. INC.,  
ECB HOLDINGS, LLC, APS HOLDINGS,  
LLC, UNISAS HOLDINGS, LLC, and ECO-  
BLOCK INTERNATIONAL, LLC,** and not in its  
personal capacity

(hereinafter referred to as the "Seller")

**WHEREAS** the Seller was appointed as the receiver of all of the property, assets and undertaking of the Corporation pursuant to Section 243 of the *Bankruptcy and Insolvency Act* (Canada) and Section 101 of the *Courts of Justice Act* (Ontario) by Order of the Ontario Superior Court of Justice – Commercial List (the "Court") dated December 9, 2013, in proceedings bearing Court file number CV-13-10353-00CL;

**AND WHEREAS** the Seller wishes to sell certain assets and to assign certain liabilities of the Corporation, and the Purchaser has agreed: (i) to act as a "stalking horse bidder" in connection therewith; and (ii) in the absence of the Seller's acceptance of a superior bid to the transaction of purchase and sale contemplated in this Agreement in accordance with the Bidding Procedures, to purchase certain assets and assume certain liabilities of the Corporation, on the terms and conditions set out herein and in accordance with the Bidding Procedures Order;

**AND WHEREAS** the Seller will seek to obtain the Bidding Procedures Order to authorize the Seller to enter into this Agreement and authorize the sale process with respect to the property, assets and undertaking of the Corporation pursuant to the Bidding Procedures,

**NOW THEREFORE,** in consideration of the premises and the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Seller and the Purchaser agree as follows:

**ARTICLE 1**  
**INTERPRETATION**

**1.1**            **Defined Terms**

For the purposes of this Agreement, unless the context otherwise requires, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

“**Accounts Receivable**” has the meaning set out in Section 2.1(e);

“**Accounts Receivable Value**” has the meaning set out in Section 2.7(a);

“**Act**” means the *Business Corporations Act* (Ontario) as in effect on the date hereof;

“**Affiliate**” has the meaning given to that term in the Act;

“**Agreement**” or “**this Agreement**” means this asset purchase agreement between the Purchaser and the Seller, including all exhibits and schedules and all amendments or restatements, as permitted;

“**All Commercially Reasonable Efforts**” means the efforts that a prudent person desirous of achieving a result would use in similar circumstances to achieve that result as expeditiously as possible;

“**Approval and Vesting Order**” means an approval and vesting order of the Court in a form substantially similar to the draft order attached hereto as Schedule 1.1(a) or as otherwise, in form and substance satisfactory to the Seller and the Purchaser and on service satisfactory to the Purchaser, acting reasonably, approving this Agreement and vesting in and to the Purchaser the Purchased Assets, free and clear of and from any and all Encumbrances other than Permitted Encumbrances;

“**Assumed Contracts**” has the meaning set out in Section 2.1(c)

“**Assumed Liabilities**” has the meaning set out in Section 2.3;

“**Assumed Vacation Entitlements**” means any vacation accrual that may be owing to Transferred Employees

“**Bidding Procedures**” means the bidding procedures substantially in the form attached as Schedule 1.1(b) or such other form as the Seller and the Purchaser may agree;

“**Bidding Procedures Order**” has the meaning set out in Section 10.1(b);

“**Books and Records**” has the meaning set out in Section 2.1(j);

**“Business”** means the sale, distribution, design and marketing of insulating concrete form building solutions carried on by the Corporation;

**“Business Day”** means any day, other than a Saturday or a Sunday, on which commercial banks in Toronto, Ontario or Omaha, Nebraska are open for business during normal banking hours;

**“Canadian Corporation”** means ARXX Building Products Inc.;

**“Closing Certificate”** means the certificate referred to in the Approval and Vesting Order which, when delivered to the Purchaser, has the effect of invoking the vesting provisions contained in the Approval and Vesting Order;

**“Closing Date”** means February 3, 2014, or such other date as may be agreed to in writing by the parties, provided that if there is an objection to the transaction contemplated hereby at the hearing at which the Approval and Vesting Order is granted or for any other reason the parties are unable to close the transaction on February 3, 2014, the Closing Date shall be February 10, 2014, or such other date as may be agreed to in writing by the parties;

**“Confidentiality Agreement”** has the meaning set out in Section 2.1(c);

**“Consent”** has the meaning set out in Section 2.2(j);

**“Contract”** means any agreement, contract, licence, undertaking, engagement or commitment of any nature, written or oral;

**“Corporation”** means, collectively, ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, Unisas Holdings, LLC, and Eco-Block International, LLC;

**“Court”** has the meaning set out in the recitals to this Agreement;

**“Cure Costs”** means the amount that must be paid, if any, in connection with the assignment and assumption of the Assumed Contracts to the Purchaser, including costs to cure monetary defaults thereunder that are required to be cured as a condition of such assignment, together with any such other reasonable costs required to obtain any Consent;

**“Deposit”** has the meaning set out in Section 2.9;

**“Employees”** means all individuals employed or retained by the Corporation on a full-time, part-time or temporary basis in connection with the Business;

**“Employee Plans”** means all the employee benefit, fringe benefit, supplemental unemployment benefit, bonus, incentive, profit sharing, termination, change of control,

pension, retirement stock option, stock purchase, stock appreciation, health, welfare, medical, dental, disability, life insurance and similar plans, programs, arrangements or practices relating to the current or former directors, officers or employees of the Corporation maintained, sponsored or funded by the Corporation, whether written or oral, funded or unfunded, insured or self-insured, registered or unregistered under which the Corporation may have any liability, contingent or otherwise;

“**Employment Letter**” has the meaning set out in Section 4.2;

“**Encumbrance**” means any encumbrance, lien, charge, hypothec, pledge, mortgage, title retention agreement, security interest of any nature, adverse claim, exception, reservation, easement, encroachment, servitude, restriction on use, right of occupation, any matter capable of registration against title, option, right of first offer or refusal or similar right, restriction on voting (in the case of any voting or equity interest), right of pre-emption or privilege or any contract to create any of the foregoing, whether written or oral, or imposed by law, equity or otherwise;

“**Equipment**” has the meaning set out in Section 2.1(a);

“**Estimated Accounts Receivable Value**” has the meaning set out in Section 2.7(a);

“**ETA**” means Part IX of the *Excise Tax Act* (Canada), as amended from time to time;

“**Excess Amount**” has the meaning set out in Section 2.7(e);

“**Excluded Assets**” has the meaning set out in Section 2.2;

“**Excluded Inventory**” has the meaning set out in Section 2.2(m);

“**GAAP**” means Canadian generally accepted accounting principles from time to time, as set out in the Handbook of the Canadian Institute of Chartered Accountants;

“**Governmental Authority**” means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government and any government department, body, ministry, agency, tribunal, commission, board, court, bureau or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government;

“**HST**” means all Taxes payable under the ETA, including goods and services taxes and any harmonized sales taxes in applicable provinces, the QSTA, or under any provincial legislation similar to the ETA, and any reference to a specific provision of the ETA, the QSTA, or any such provincial legislation shall refer to any successor provision thereto of like or similar effect;

“**Intellectual Property**” has the meaning set out in Section 2.1(b);

**“Inventory”** has the meaning set out in Section 2.1(d);

**“Inventory Value”** has the meaning set out in Section 2.6;

**“Objection Notice”** has the meaning set out in Section 2.7(b);

**“Objection Period”** has the meaning set out in Section 2.7(b);

**“Permitted Encumbrances”** means the Encumbrances described in Schedule 1.1(c);

**“Person”** means any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity;

**“Product Materials”** has the meaning set out in Section 2.1(f);

**“Purchase Price”** has the meaning set out in Section 2.5;

**“Purchased Assets”** has the meaning set out in Section 2.1;

**“QSTA”** mean An Act respecting the Quebec Sales Tax, as amended from time to time;

**“Qualified Bidder”** has the meaning set out in the Bidding Procedures;

**“Shortfall Amount”** has the meaning set out in Section 2.7(d);

**“Software”** means computer software and programs (both source code and object code form), all proprietary rights in the computer software and programs and all documentation and other materials related to the computer software and programs;

**“Stalking Horse Bid”** has the meaning set out in Section 10.1(b);

**“Subsequently Acquired Inventory”** has the meaning set out in Section 2.11;

**“Successful Bid”** has the meaning set out in the Bidding Procedures;

**“Tax”** and **“Taxes”** means any federal, provincial, territorial, state, local or foreign income, gains, value added, corporation, land transfer, property, licence, payroll, governmental plan premium or contribution, goods and services, harmonized sales, excise, sales, use, capital, withholding or other tax, levy, duty, assessment, reassessments or other charge of any kind whatsoever, whether direct or indirect, including any interest and penalty or other addition to or on any of the foregoing, whether disputed or not, imposed by a Governmental Authority;

**“Tax Act”** means the *Income Tax Act* (Canada), as amended from time to time;

**“Time of Closing”** means 10:00 a.m. (Toronto time) on the Closing Date, or such other time on the Closing Date as the Seller and the Purchaser may agree;



“**Transferred Employees**” has the meaning set out in Section 4.1;

“**Transfer Taxes**” has the meaning set out in Section 3.2;

“**U.S. Corporation**” means ARXX Building Products U.S.A. Inc.;

“**U.S. Recognition Order**” means an order of the United States Bankruptcy Court for the District of Delaware recognizing and giving full force and effect in the United States of America to the Approval and Vesting Order, such order to be made pursuant to Chapter 15 of the U.S. Bankruptcy Code; and

“**Working Capital Amount**” means the sum of (i) the Accounts Receivable Value and (ii) the Inventory Value.

**1.2            Currency**

Unless otherwise indicated, all dollar amounts in this Agreement are expressed in United States dollars.

**1.3            Sections and Headings**

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the interpretation of this Agreement. Unless otherwise indicated, any reference in this Agreement to an Article, Section, Exhibit or Schedule refers to the specified Article, Section, Exhibit or Schedule of or to this Agreement.

**1.4            Number, Gender and Persons**

In this Agreement, words importing the singular number only shall include the plural and *vice versa*, words importing gender shall include all genders and words importing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities of any kind whatsoever.

**1.5            Interpretation of Certain Non-Capitalized Terms**

The words “including” and “includes”, when used in this Agreement, mean “including, without limitation” and “includes, without limitation”, respectively.

**1.6            Legislation**

A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or re-enactment thereof, any legislative provision substituted therefore and all regulations and statutory instruments thereunder or pursuant thereto.

**1.7**            **Time**

Time shall be of the essence of this Agreement. Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends, and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

**1.8**            **No Strict Construction**

The language used in this Agreement is the language chosen by the parties to express their mutual intent, and no rule of strict construction shall be applied against any party.

**1.9**            **Schedules**

The following Schedules are attached to and form part of this Agreement:

- Schedule 1.1(a)            -            Form of Approval and Vesting Order
- Schedule 1.1(b)            -            Bidding Procedures
- Schedule 1.1(c)            -            Permitted Encumbrances
- Schedule 2.1(a)            -            Equipment
- Schedule 2.1(b)            -            Intellectual Property
- Schedule 2.1(c)            -            Assumed Contracts
- Schedule 2.1(d)            -            Inventory
- Schedule 2.7                -            Accounts Receivable Valuation Methodology

**ARTICLE 2**  
**PURCHASE AND SALE**

**2.1**            **Purchased Assets**

Subject to the provisions of this Agreement, the Seller agrees to sell, assign and transfer to the Purchaser at the Time of Closing, free and clear of all Encumbrances (other than Permitted Encumbrances), and the Purchaser agrees to purchase, acquire and accept from the Seller, all of the Corporation's right, title and interest in and to the property and assets of the Corporation of every kind and description, and wherever situated, used in respect of the Business, other than the Excluded Assets (collectively, the "**Purchased Assets**"), including the following:

- (a)    **Equipment**. All equipment, fixtures, furniture, machinery, molds, tooling and other fixed assets of the Corporation used in connection with the Business (collectively, the "**Equipment**"), including those listed on Schedule 2.1(a);

- (b) Intellectual Property. All right, title and interest of the Corporation in and to intellectual property of any nature owned or controlled by the Corporation, including all trade names, business names, domain names, trademarks, proposed trademarks, certification marks, distinguishing guises, industrial designs, copyrights, formulae, processes, research data, technical expertise, technical data, know-how, trade secrets, inventions, patents, patent continuations, re-examinations, continuations-in-part, divisions, reissues, extensions whether domestic or foreign and whether registered or unregistered, and all applications for registration in respect of any of the aforesaid and any Software (to the extent transferrable), owned by, licensed to or used by the Corporation, including those listed on Schedule 2.1(b) (collectively, the “**Intellectual Property**”);
- (c) Contracts. Subject to Section 2.2(j), the full benefit of those Contracts listed on Schedule 2.1(c) (collectively, the “**Assumed Contracts**”), together with the Seller’s and the Corporation’s rights under any confidentiality agreements or non-disclosure agreements entered into between the Seller and any potential purchaser of the Purchased Assets or Business, including any such agreements with Qualified Bidders (collectively, the “**Confidentiality Agreements**”);
- (d) Inventory. The following inventory of the Corporation consisting of: (i) Prime 6” & 8” Standard and 90 Degree corners manufactured in 2013; and (ii) Webs for Prime 6” & 8” Prime Standard and 90 Degree corner products manufactured in 2013, in each case as listed on Schedule 2.1(d) (the “**Inventory**”);
- (e) Accounts Receivable. All accounts receivable, accounts or monetary obligations owing to the Corporation, including any security for payment and all related agreements but excluding: (i) all accounts receivable, accounts and monetary obligations owing to the Corporation in respect of that portion of the Business relating to installed commercial industrial projects; (ii) all accounts receivable aged greater than 60 days as at the Closing Date; (iii) the property and assets set out in Section 2.2(f); and (iv) all inter-company accounts receivable, accounts and monetary obligations among or between the entities comprising the Corporation (“**Accounts Receivable**”);
- (f) Product Materials. All product and equipment manuals, quality control manuals, designs, engineered designs, product picture gallery, production processes, code and testing documents, prescriptive design tables, architectural details, specifications, product certifications, formulae or enhancements and other technological developments and production techniques (“**Product Materials**”);
- (g) Customer Information. All customer lists and files, sales histories and project bids (historical, pending and/or contracted) relating to the Business;
- (h) Business Plans. Business and marketing plans, including trade show and marketing displays and all other marketing materials relating to the Business;

- (i) Internet Accounts. All internet web sites and, to the extent transferrable, social media accounts relating to the Business, including all product pictures, marketing materials, building plans, designs and drawings posted thereon that do not form part of the Intellectual Property;
- (j) Books and Records. All information in any form relating to the Business, including books of account, financial and accounting information and records, personnel records, tax records, sales and purchase records, customer and supplier lists, lists of potential customers, referral sources, research and development reports and records, production reports and records, business reports, laboratory reports and logs, plans and projections, marketing and advertising materials and all other documents, files, correspondence and other information (whether in written, printed, electronic or computer printout form, or stored on computer discs or other data and software storage and media devices) (collectively, the "**Books and Records**").

## 2.2 Excluded Assets

The Purchased Assets shall not include the following property and assets (collectively, the "**Excluded Assets**"):

- (a) all cash on hand, cash equivalents and bank deposits;
- (b) the accounts receivable specifically excluded from Accounts Receivable in Section 2.1(e);
- (c) all deposits and prepaid expenses;
- (d) all real property leased or owned by the Corporation, including any leasehold improvements;
- (e) all investment in deferred compensation;
- (f) all income tax instalments paid by the Corporation and the right to receive any refund of income or other taxes paid by the Corporation, and all other Tax assets of the Corporation of any kind whatsoever (including, without limitation, in respect of any Scientific Research and Experimental Development (SRED) tax credits or refunds);
- (g) any shares or other equity or debt securities or other interests in any Person;
- (h) all Contracts other than the Assumed Contracts and the Confidentiality Agreements, including all industrial, commercial and institutional Contracts;
- (i) the corporate seals, articles of incorporation, corporate records, minute books, stock books, tax records and returns, and other records having to do with the

corporate organization of the Corporation; all personnel records that the Seller is required by law to retain in its possession; and all other files, data, information and materials of the Corporation not specifically related to or used in connection with the Business;

- (j) Contracts that are not assignable in whole or in part without the consent, approval or waiver of another party or parties to them (a “**Consent**”), where such Consent has not been obtained by the Seller as of the Closing Date on terms satisfactory to the Purchaser;
- (k) all Employee Plans;
- (l) all express or implied customer or product warranties; and
- (m) all inventory of the Corporation that is not Inventory (the “**Excluded Inventory**”).

### 2.3 Assumed Liabilities

Subject to the provisions of this Agreement, the Purchaser agrees, effective at the Time of Closing, to assume and be responsible for and thereafter honour, perform, discharge and pay as and when due only the following obligations and liabilities (collectively, the “**Assumed Liabilities**”):

- (a) all debts, liabilities and obligations with respect to the Purchased Assets arising on or after the Closing Date, including all debts, liabilities and obligations and services to be rendered in connection with the Business solely in relation to the Purchased Assets for the period from and after the Closing Date but excluding, for greater certainty, any Taxes of the Corporation;
- (b) all debts, liabilities and obligations under the Assumed Contracts arising in respect of the period on or after the Closing Date and not related to any default existing at, prior to or as a consequence of the closing of the transactions herein, and all Cure Costs;
- (c) all debts, liabilities and obligations arising on or after the Closing Date in respect of the Transferred Employees, together with the Assumed Vacation Entitlements; and
- (d) any Transfer Taxes payable by the Purchaser pursuant to Section 3.2.

### 2.4 Excluded Liabilities

Other than the Assumed Liabilities, the Purchaser will not assume or have any responsibility with respect to any of the obligations or liabilities of the Corporation, whether or not incurred in connection with the Business or the Purchased Assets. Without limiting the

generality of the foregoing, the Purchaser shall not assume and shall have no obligations in respect of any of the Excluded Assets or with respect to any express or implied customer or product warranties of the Corporation.

## **2.5 Purchase Price**

The Purchase Price (the "**Purchase Price**") payable by the Purchaser to the Seller for the Purchased Assets, exclusive of all applicable Transfer Taxes, shall be the aggregate of: (a) \$2.8 million; (b) the Working Capital Amount; and (c) the aggregate dollar value of the Assumed Vacation Entitlements.

## **2.6 Closing Date Inventory Valuation**

On the last Business Day prior to the Closing Date, or such other date as may be agreed by the parties, the Seller shall provide the Purchaser with a listing of the book value of all Inventory, as converted to U.S. dollars using the Bank of Canada's daily noon rate on such date, including raw materials, work-in-process and finished goods (the "**Inventory Value**"). The Purchaser shall then have two (2) days to conduct a joint physical inventory count with the Seller at any location at which the Inventory Value exceeds \$50,000 for the purpose of confirming the Inventory Value as at the Closing Date. If an inventory count is conducted, the revised Inventory Value determined pursuant such inventory count shall be the Inventory Value for the purpose of this Agreement; if an inventory count is not conducted, the Inventory Value for the purpose of this Agreement shall be the Inventory Value determined by the Seller in accordance with this Section 2.6.

## **2.7 Closing Date Accounts Receivable Valuation**

(a) The Seller shall prepare and deliver, or cause to be prepared and delivered, to Purchaser three (3) days prior to Closing, a complete and accurate list of the estimated Accounts Receivable as at the Closing Date, valued by the Seller in accordance with Schedule 2.7 (the "**Estimated Accounts Receivable Value**"), together with supporting documentation and calculations. The Seller shall prepare and deliver, or cause to be prepared and delivered, to Purchaser within three (3) days after the Closing Date, a complete and accurate list of the actual Accounts Receivable as at the Closing Date, valued by the Seller in accordance with Schedule 2.7 (the "**Accounts Receivable Value**"), together with supporting documentation and calculations; provided that the Purchaser shall provide the Seller with access to all Books and Records necessary to complete the foregoing.

(b) On or prior to the 10th day after the Purchaser's receipt of the Closing Date Accounts Receivable Value (such ten day period, the "**Objection Period**"), the Purchaser may deliver a written notice (the "**Objection Notice**") to the Seller stating the Purchaser's objections, if any, to the Accounts Receivable Value. Any Objection Notice shall detail the dollar amount and nature of any objection and the basis therefor. Unless the Purchaser delivers an Objection Notice during the Objection Period, the Accounts Receivable Value will be conclusive and binding upon the parties for purposes of determining the adjustment in Section 2.7(d) or 2.7(e), as applicable.

(c) If the Purchaser delivers an Objection Notice during the Objection Period, then the Seller and the Purchaser will negotiate in good faith to resolve any dispute regarding the Accounts Receivable Value. If the Seller and the Purchaser are unable to resolve any disputes regarding the Accounts Receivable Value on or prior to the 10th day after the Seller's receipt of the Objection Notice, then either the Seller or the Purchaser may bring a motion to the Court to have determined the outstanding disputes; provided that no dispute may be continued if not commenced before the Court on or prior to the 20th day after the Purchaser's receipt of the Objection Notice.

(d) In the event that the Accounts Receivable Value (as determined pursuant to this Section 2.7) is less than the Estimated Accounts Receivable Value (such difference, the "**Shortfall Amount**"), the Seller shall forthwith refund to the Purchaser the Shortfall Amount, such amount having been retained by the Seller until final determination of the Accounts Receivable Value.

(e) In the event that the Accounts Receivable Value (as determined pursuant to this Section 2.7) greater than the Estimated Accounts Receivable Value (such difference, the "**Excess Amount**"): the Purchaser shall forthwith pay the Excess Amount to the Seller.

(f) Any payment made pursuant to Section 2.7(d) or 2.7(e) shall be made within two (2) Business Days of the final determination of the Accounts Receivable Value, and shall be treated as an adjustment to the Purchase Price.

(g) Should any Accounts Receivable aged over 60 days be collected by the Purchaser following the Closing Date, the Purchaser shall be entitled to retain 15% of any such collections and shall remit the remainder (85%, less any reasonable out-of-pocket expenses incurred by the Purchaser for which evidence of same is provided to Seller) to the Seller within five (5) Business Days of any such collections. The Purchaser shall provide the Seller with reasonable access to any books and records relating to the excluded accounts receivable so that the Seller can verify whether those amounts have been collected. In the event that the Purchaser collects any Accounts Receivable from a Person that has outstanding Accounts Receivable aged both under and over 60 days, the Purchaser shall: (a) apply such amounts in question to designated invoices; (b) where such Person has not designated one or more invoices to which such amounts apply, make reasonable inquiries of the Person to determine the invoices to which such amounts should be applied; and (c) where such Person does not designate one or more invoices to which such amounts apply despite reasonable inquiries by the Purchaser, apply such amounts to the oldest outstanding invoices.

(h) Should any amounts in respect of Accounts Receivable aged under 60 days be collected or otherwise received by the Seller or the Corporation following the Closing Date, the Seller shall forthwith following receipt by it or by the Corporation of any such amounts pay such amounts to the Purchaser.

(i) Should any amounts in respect of accounts receivable that are Excluded Assets be collected or otherwise received by the Purchaser following the Closing Date, the Purchaser shall forthwith following receipt by it of any such amounts pay such amounts to the Seller.

## **2.8 Satisfaction of Purchase Price**

The Purchase Price shall be paid and satisfied as follows:

- (a) At Closing:
  - (i) by the Purchaser assuming the Assumed Vacation Entitlements;
  - (ii) by applying the Deposit in satisfaction of a portion of the Purchase Price equal to a corresponding amount; and
  - (iii) by the Purchaser paying to the Seller by wire transfer of immediately available funds to the account designated in writing by the Seller pursuant to Section 2.9, the aggregate of: (A) \$2.5 million (which amount, for greater certainty, is in addition to the Deposit), plus (B) an amount equal to the Inventory Value, plus (C) an amount equal to the Estimated Accounts Receivable Value; and
- (b) Within two Business Days of the final determination of the Accounts Receivable Value in accordance with Section 2.7, an additional payment as set forth in Section 2.7(e), if applicable, by the Purchaser paying such amount to the Seller by wire transfer of immediately available funds to the account designated in writing by the Seller pursuant to Section 2.9.

## **2.9 Deposit**

The Purchaser shall pay to the Seller concurrently with execution of this Agreement a deposit in the amount of \$300,000 (the “**Deposit**”) by wire transfer of immediately available funds to an account designated in writing by the Seller. If this Agreement is the Successful Bid, the Deposit shall be credited and set off against payment of the Purchase Price, as provided for in 2.8. If this Agreement is not the Successful Bid or this Agreement is otherwise terminated in accordance with Sections 11.1 or 11.2, the Seller shall refund the Deposit, without interest, to the Purchaser forthwith upon the closing of the Successful Bid or the termination of this Agreement, as the case may be. If this Agreement is terminated by the Seller in accordance with Section 11.1(b) by reason of a condition set out in Section 5.5(a) or 5.5(b) not being satisfied or waived, the Purchaser shall forfeit the Deposit.

## **2.10 Allocation of Purchase Price**

The Seller and the Purchaser agree to allocate the Purchase Price among the Purchased Assets no later than two (2) Business Days after the Accounts Receivable Value is determined, and they shall report the sale and purchase of the Purchased Assets for all federal,



provincial and local Tax purposes in a manner consistent with such allocation. Without limitation, such allocation shall clearly allocate the Purchase Price as between Purchased Assets situated in Canada and in the United States, and as between each corporate entity that comprises the Corporation.

**2.11 Future Inventory Sales by Seller**

The Seller shall, prior to selling the Excluded Inventory, notify the Purchaser in writing of its intention to proceed to sell the Excluded Inventory and the Purchaser shall have three (3) Business Days following delivery of such notice by the Seller to confirm to the Seller in writing of the Purchaser's intention to purchase all or any part of such Excluded Inventory (the "Subsequently Acquired Inventory") at book value, with book value to be determined in a manner consistent with Section 2.6. For greater certainty, the Purchaser shall pay any and all Taxes (other than taxes on income) arising in connection with the sale of any Subsequently Acquired Inventory. If the Seller is so notified by the Purchaser, it shall sell the Subsequently Acquired Inventory in question to the Purchaser forthwith. Failing receipt by the Seller of such notice of intention to purchase by the Purchaser in accordance with this Section 2.11, and with respect to any remaining Excluded Inventory, the Seller is at liberty to sell such Excluded Inventory in the Seller's discretion (subject to any approval of the Court that may be required) without further notice to the Purchaser.

**2.12 No Agreement to Assign**

Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Assumed Contract or any right thereunder to the extent that such Assumed Contract is not assignable under any applicable law without the consent of any other party thereto where the consent of such Person has not been given or received. The Purchaser shall have the obligation to obtain all Consents, and the Seller shall, to the extent reasonable, cooperate with the Purchaser with respect to the Purchaser's obtaining such Consents. If a Consent has not been obtained on or before the Closing Date, the Seller shall be at liberty, in its discretion, to disclaim or repudiate the Assumed Contract for which such Consent was required, and there shall be no adjustment to the Purchase Price.

**ARTICLE 3  
TAXES AND TAX ELECTIONS**

**3.1 ETA and QSTA Elections**

The Purchaser and the Seller, on behalf of each of the Canadian Corporation and the U.S. Corporation, shall, on the Closing Date, elect jointly under subsection 167(1) of the ETA, under section 75 of the QSTA, and under any similar provision of any applicable federal, provincial or state legislation, in the form prescribed for the purposes of each such provision, in respect of the sale and transfer of the Purchased Assets hereunder situated in Canada, and the Purchaser shall file such elections with Canada Revenue Agency, Revenu Quebec, and any other applicable Governmental Authorities within the time and in the manner required by the applicable law. The Purchaser shall indemnify and hold the Seller, the Canadian Corporation

and the U.S. Corporation (and their respective shareholders, directors, officers and employees) harmless from and against any Taxes payable under the ETA, the QSTA, or other applicable federal, provincial or state legislation and any penalty or interest in respect thereof which may be payable by or assessed against the Seller, the Canadian Corporation or the U.S. Corporation as a result of or in connection with the Seller's failure to collect the applicable Taxes payable under the ETA, the QSTA, or other applicable federal, provincial or state legislation on the sale of the Purchased Assets hereunder situated in Canada, including any such Taxes, penalties and interest arising as a result of any failure or refusal by any Governmental Authority to accept such election or on the basis that any such election was inapplicable, invalid or not properly made.

### **3.2 Transfer Taxes**

The Purchaser shall be liable for and shall pay all federal and provincial sales Taxes (including any HST and retail sales taxes) and all other similar Taxes and duties, fees or other like charges of any jurisdiction ("**Transfer Taxes**") properly payable in connection with the transfer of the Purchased Assets by the Seller to the Purchaser. The Purchaser agrees to indemnify and save the Seller harmless from and against all claims and demands for payment of such Transfer Taxes including penalties and interest thereon and any liability or costs incurred as a result of any failure by the Purchaser to pay such Transfer Taxes when due.

### **3.3 Income Tax Elections**

(a) Section 22 Tax Election. The Purchaser and the Seller, on behalf of the Canadian Corporation, agree to elect jointly in the prescribed form under Section 22 of the Tax Act, and under the equivalent or corresponding provisions of any other applicable provincial or territorial statute, and within the time period permitted under the Tax Act and under any other applicable provincial or territorial statute, as to the sale of the Accounts Receivable and to designate in such election or elections an amount equal to the portion of the Purchase Price allocated to such assets pursuant to Section 2.10 as the consideration paid by the Purchaser therefor.

(b) Subsection 20(24) Tax Election. The Purchaser and the Seller, on behalf of the Canadian Corporation, shall, if applicable, jointly execute and file an election under subsection 20(24) of the Tax Act in the manner required by subsection 20(25) of the Tax Act and under the equivalent or corresponding provisions of any other applicable provincial or territorial statute, in the prescribed forms and within the time period permitted under the Tax Act and under any other applicable provincial or territorial statute, as to such amount paid by the Seller, on behalf of the Canadian Corporation, to the Purchaser for assuming future obligations. In this regard, the Purchaser and the Seller acknowledge that a portion of the Purchased Assets transferred by the Seller pursuant to this Agreement, having a value equal to the amount elected under subsection 20(24) of the Tax Act and the equivalent provisions of any applicable provincial or territorial statute, is being transferred by the Seller as a payment for the assumption of such future obligations by the Purchaser.

**ARTICLE 4**  
**EMPLOYEE MATTERS**

**4.1           Offers to Employees**

Not later than five (5) Business Days prior to the Closing Date, the Purchaser shall offer employment, commencing on the Closing Date and conditional upon the closing of the transactions contemplated herein, to those Employees that the Purchaser may identify in writing to the Seller in its sole discretion prior to such time. The Employees who accept the Purchaser's offer of employment are collectively referred to herein as the "**Transferred Employees**". Each Transferred Employee will be offered continuing employment with the Purchaser on terms that are substantially similar in the aggregate to his or her existing employment by the Corporation, and his or her years of service with the Corporation will be recognized by the Purchaser and his or her Assumed Vacation Entitlements shall be assumed by the Purchaser.

**4.2           Employment Letters**

Concurrently with the execution of this Agreement, the Purchaser has identified in writing to the Seller by side-letter (the "**Employment Letter**") certain Employees that it intends to make offers of continuing employment pursuant to Section 4.1. In the event that one or more of such Employees does not accept the offer of continuing employment made to him or her by the Purchaser on or before the Closing Date, the Purchaser shall be entitled to the corresponding reduction in the Purchase Price in the amount set out in the Employment Letter; provided, however, that if any of such Employees subsequently accept any form of employment or consulting arrangement with the Purchaser or any Affiliate thereof within six (6) months of the Closing Date, the Purchaser shall be obligated to pay to the Seller forthwith the amount of the reduction in the Purchase Price obtained by the Purchaser in accordance with the Employment Letter.

**ARTICLE 5**  
**CLOSING AND CLOSING CONDITIONS**

**5.1           Transfer**

Subject to compliance with the terms and conditions hereof, the transfer of possession of the Purchased Assets shall be deemed to take effect as at the close of business on the Closing Date. The closing shall take place at the offices of Torys LLP, 79 Wellington Street West, 30th Floor, TD Centre, Toronto, Ontario, M5K 1N2.

**5.2           Closing Deliveries by Seller**

At the Closing Date, the Seller shall deliver or cause to be delivered to the Purchaser:

- (a) customary deeds, assignments, bills of sale and other conveyancing documents to which the Seller is a party, to be settled between counsel for the Seller and counsel for the Purchaser, sufficient to transfer the various categories of Purchased Assets, including, without limitation, an assignment and assumption agreement in respect of any Assumed Contracts;
- (b) specific assignments of all the right, title and interest of the Corporation in and to the Intellectual Property as may be required for registration purposes;
- (c) the elections referred to in Section 3.1 and 3.3;
- (d) a receipt for the Purchase Price;
- (e) originals of the Books and Records;
- (f) a copy of the issued and entered Approval and Vesting Order, together with the Closing Certificate, as referenced therein; and
- (g) any other documents required pursuant to this Agreement in form and substance satisfactory to the Purchaser and the Seller, each acting reasonably.

**5.3 Closing Deliveries by the Purchaser**

At the Closing Date, the Purchaser shall deliver:

- (a) the Purchase Price;
- (b) customary deeds, assignments, bills of sale and other conveyancing documents to which the Purchaser is a party, to be settled between counsel for the Seller and counsel for the Purchaser, sufficient to transfer the various categories of Purchased Assets, including, without limitation, an assignment and assumption agreement in respect of any Assumed Contracts;
- (c) instruments evidencing the Purchaser's assumption of the Assumed Liabilities;
- (d) a copy certified by a senior officer of the Purchaser of the articles of incorporation and by-laws of the Purchaser and the resolution of the Purchaser's directors approving the subject matter of this Agreement;
- (e) a receipt for the Purchased Assets acknowledging the purchase of the Purchased Assets pursuant to this Agreement;
- (f) Consents, if any;
- (g) payment or evidence of payment, as the case may be, of all Transfer Taxes required to be paid on the Closing Date pursuant to applicable law or otherwise

pursuant to Section 3.2, if any, and the elections referred to in Section 3.1 and 3.3; and

- (h) any other documents required pursuant to this Agreement in form and substance satisfactory to the Purchaser and the Seller, each acting reasonably.

#### 5.4 **Conditions of Closing in Favour of the Purchaser**

The sale and purchase of the Purchased Assets is subject to the following terms and conditions for the exclusive benefit of the Purchaser to be performed or fulfilled at or prior to the Time of Closing and which may be waived in whole or in part by the Purchaser at any time:

- (a) **Representations and Warranties.** The representations and warranties of the Seller contained in this Agreement shall be true and correct in all material respects at the Time of Closing (unless they are expressed to be made only as of an earlier fixed date, in which case they need be true and correct only as of such earlier date);
- (b) **Covenants.** All of the terms, covenants and conditions of this Agreement to be complied with or performed by the Seller and the Corporation at or before the Time of Closing shall have been complied with or performed in all material respects;
- (c) **No Action or Proceeding.** No legal or regulatory action or proceeding shall be pending or threatened by any Governmental Authority to enjoin, restrict or prohibit the purchase and sale of the Purchased Assets contemplated hereby;
- (d) **Injunctions.** There shall be in effect no injunction against closing the transactions contemplated by this Agreement entered by a court of competent jurisdiction;
- (e) **U.S. Recognition Order:** The U.S. Recognition Order shall have been obtained, and the operation and effect of such order shall not have been stayed, amended, modified, reversed or dismissed at the Time of Closing;
- (f) **Documents.** The Seller shall have delivered the documents referred to in Section 5.2; and
- (g) **Customer Terminations.** Not more than two (2) of the top five (5) customers of the Corporation, as determined based on the quantum of the Corporation's revenue accounted for by such customers in the past 12 months prior to the date hereof, shall have terminated their agreements or otherwise informed the Seller or the Corporation between the date of execution of this Agreement and the Closing Date (as defined in the Bidding Procedures) that they have, or intend, to permanently cease doing business with the Corporation and such terminated or discontinued business is not transferred by such customers to, or continued with, the Purchaser.

**5.5 Conditions of Closing in Favour of the Seller**

The sale and purchase of the Purchased Assets is subject to the following terms and conditions for the exclusive benefit of the Seller, to be performed or fulfilled at or prior to the Time of Closing and which may be waived in whole or in part by the Seller at any time:

- (a) Representations and Warranties. The representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects at the Time of Closing (unless they are expressed to be made only as of an earlier fixed date, in which case they need be true and correct only as of such earlier date);
- (b) Covenants. All of the terms, covenants and conditions of this Agreement to be complied with or performed by the Purchaser at or before the Time of Closing shall have been complied with or performed in all material respects;
- (c) No Action or Proceeding. No legal or regulatory action or proceeding shall be pending or threatened by any Governmental Authority to enjoin, restrict or prohibit the purchase and sale of the Purchased Assets contemplated hereby;
- (d) Injunctions. There shall be in effect no injunction against closing the transactions contemplated by this Agreement entered by a court of competent jurisdiction; and
- (e) Documents. The Purchaser shall have made the payments and delivered the documents referred to in Section 5.3.

**5.6 Other Conditions of Closing in Favour of the Seller and the Purchaser**

The sale and purchase of the Purchased Assets is subject to the following terms and conditions for the mutual benefit of each of the Seller and the Purchaser, to be performed or fulfilled at or prior to the Time of Closing:

- (a) Bidding Procedures Order. The Bidding Procedures Order shall have been duly granted, and the operation and effect of such order shall not have been stayed, amended, modified, reversed or dismissed at the Time of Closing;
- (b) Successful Bid. This Agreement shall be the Successful Bid; and
- (c) Approval and Vesting Order. The Approval and Vesting Order shall have been duly granted, and the operation and effect of such order shall not have been stayed, amended, modified, reversed or dismissed at the Time of Closing.

**5.7 Risk of Loss**

The Purchased Assets shall be at the risk of the Seller until the Closing Date. If before the Closing Date, all or any material part of the Purchased Assets are lost, damaged or

destroyed or are appropriated, expropriated or seized by any Governmental Authority, then the Purchaser shall have the option:

- (a) to terminate this Agreement forthwith upon written notice to the Seller to such effect; or
- (b) to complete the transactions contemplated by this Agreement, on Closing, and:
  - (i) reduce the Purchase Price by an amount equal to the cost of repair, or, if destroyed or damaged beyond repair, by an amount equal to the replacement cost of the assets forming part of the Purchased Assets so damaged or destroyed, provided that any proceeds of insurance paid to the Purchaser in respect of such destruction or damage be paid to the Seller immediately upon receipt thereof by the Purchaser; or
  - (ii) not reduce the Purchase Price and require the Seller to assign to the Purchaser the proceeds of any insurance payable as a result of the occurrence of such loss, damage or destruction and to reduce the Purchase Price by the amount of the replacement cost of the Purchase Assets which were lost, damaged or destroyed less the amount of any proceeds of insurance payable as a result of the occurrence.

## **ARTICLE 6**

### **REPRESENTATIONS AND WARRANTIES OF SELLER**

The Seller represents and warrants to the Purchaser as follows and acknowledges that the Purchaser is relying on such representations and warranties in connection with its purchase of the Purchased Assets:

#### **6.1 Residency**

The Seller and the Canadian Corporation are not non-residents of Canada for the purposes of the Tax Act.

#### **6.2 Canadian Purchased Assets**

None of the Corporation other than the Canadian Corporation and the U.S. Corporation owns Purchased Assets used in, or in respect of, that portion of the Business being carried on in Canada. All of the Purchased Assets owned by the U.S. Corporation are "excluded property" for the purpose of section 116 of the Tax Act.

#### **6.3 HST and QST Registration**

The Canadian Corporation is a registrant for purposes of the ETA and its registration number is 86980 3569 RT0001. The Corporation is not a registrant for the purposes of the QSTA.

**6.4 Brokers of Finders**

There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement made by or on behalf of the Seller or made by the Seller on behalf of the Corporation; save and except that the Seller has retained a consultant and the terms and conditions of such consulting arrangement include, *inter alia*, the payment of a bonus by the Seller to the consultant in the event of the successful completion of a sale transaction for the Purchased Assets and/or Business of the Corporation.

**ARTICLE 7**  
**REPRESENTATIONS AND WARRANTIES OF PURCHASER**

The Purchaser represents and warrants to the Seller as follows and acknowledges and confirms that the Seller is relying on such representations and warranties in connection with its sale of the Purchased Assets:

**7.1 Organization**

The Purchaser is a corporation validly existing under the laws of the State of Nebraska, U.S.A. and has the corporate power to enter into this Agreement and to perform its obligations hereunder.

**7.2 Authorization**

This Agreement has been duly authorized, executed and delivered by the Purchaser and is a legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser by the Seller in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

**7.3 No Violation**

The execution and delivery of this Agreement by the Purchaser and the consummation of the transactions herein provided for will not result in the violation of, or constitute a default under, or conflict with or cause the acceleration of any obligation of the Purchaser under: (a) any material contract to which the Purchaser is a party or by which it is bound; (b) any provision of the constating documents or by-laws or resolutions of the board of directors (or any committee thereof) or shareholders of the Purchaser; or (c) any applicable law, statute, ordinance, regulation or rule.



**7.4 Consents and Approvals**

There is no requirement for the Purchaser to make any filing with, give any notice to or obtain any licence, permit, certificate, registration, authorization, consent or approval of, any Governmental Authority as a condition to the lawful consummation of the transactions contemplated by this Agreement.

**7.5 HST Registration**

The Purchaser is a registrant for purposes of the ETA whose registration number is 819487265 RT0001. The Purchaser is not a registrant for the purposes of the QSTA.

**7.6 Funding**

The Purchaser has sufficient liquid assets available to the Purchaser to pay the Purchase Price on the Closing Date and to pay and perform the Assumed Vacation Entitlements as they become due.

**7.7 Brokers or Finders**

There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement made by or on behalf of the Purchaser.

**ARTICLE 8**  
**COVENANTS**

**8.1 Covenants of the Seller**

The Seller covenants and agrees with the Purchaser as follows:

- (a) until the Time of Closing, it shall furnish the Purchaser and its representatives reasonable access to the Business and the Employees, customers and suppliers and the Purchased Assets at all times during normal business hours, as well as such information within the possession or control of the Seller regarding the Business as the Purchaser and its representatives may reasonably request;
- (b) until the Time of Closing, it shall cause to be maintained in full force all policies and contracts of insurance that are now in effect (or renewals thereof, to the extent available at reasonable cost) and under which it, the Business or any of the Purchased Assets are insured;
- (c) until the Time of Closing, it shall use All Commercially Reasonable Efforts to preserve the Business and the Purchased Assets; and

- (d) it shall use All Commercially Reasonable Efforts to fulfill the conditions set out in Sections 5.4, 5.6(a) and 5.6(c) of this Agreement, and shall cooperate with the Purchaser in its efforts to cause the satisfaction of the conditions set out in Section 5.5 of this Agreement.

**8.2 Covenants of the Purchaser**

The Purchaser covenants and agrees with the Seller as follows:

- (a) it shall use All Commercially Reasonable Efforts to fulfill the conditions set out in Sections 5.5, 5.6(a) and 5.6(c) of this Agreement and shall cooperate with the Seller in its efforts to cause the satisfaction of the conditions set out in Section 5.4 of this Agreement;
- (b) for a period of six (6) years following the Closing Date, or such longer period as may be required by law, it shall retain and use reasonable care to preserve the Books and Records and to permit the Seller and its representatives and successors and assigns and any trustee in bankruptcy of the Corporation access to, and to make copies of (at its expense), such Books and Records as any of such Persons may reasonably request; and
- (c) upon taking assignment of the Assumed Liabilities, it shall and does hereby indemnify the Seller, its agents, partners and employees from, and hold them harmless against, any loss, liability or expense incurred or suffered by them arising out of or in connection with the Purchaser's failure to pay when due and to perform, observe, discharge and satisfy in accordance with their individual terms, the Assumed Liabilities, including the reasonable costs and expenses of legal counsel in defending itself against any claim made against it hereunder; provided however that such loss, liability or expense is not the result of the gross negligence or wilful misconduct of such indemnified Person.

**ARTICLE 9  
AS IS, WHERE IS SALE**

**9.1 "As is, Where is"**

The Purchaser acknowledges that the Seller is selling the Purchased Assets on an "as is, where is" basis as they shall exist on the Closing Date and that, as of the date of this Agreement, the Purchaser has completed all of its due diligence in respect of the transactions contemplated by this Agreement and has satisfied itself in all respects as to the Purchased Assets, the Business and the Assumed Liabilities. No reduction in the Purchase Price will be made for any change in the condition, value, quantity, or quality of any of the Purchased Assets from the date hereof to the Closing Date, or otherwise, except as expressly set out herein (including as set out in Sections 4.2 and 5.7). Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the Sale of Goods Act (Ontario), as amended, the Civil Code of Quebec or similar legislation in other jurisdictions do

not apply hereto and have been waived by the Purchaser. Any information provided by the Seller to the Purchaser describing the Purchased Assets, the Business or the Assumed Liabilities has been prepared solely for the convenience of prospective purchasers and is not warranted to be complete, accurate or correct. Unless specifically stated herein, no representation, warranty or condition, whether statutory, express or implied, oral or written, legal, equitable, conventional, collateral or otherwise, is being given in this Agreement or in any instrument furnished in connection with this Agreement as to title, outstanding liens, encumbrances, description, merchantability, value, suitability or marketability thereof or in respect of any other matter or thing whatsoever, including the right, title and interest of the Seller, if any, therein. The Purchaser shall be deemed to have relied entirely on its own inspection and investigation in proceeding with the transactions contemplated hereunder. This Section 9.1 shall not merge on the closing of the transaction contemplated herein and is deemed incorporated by reference in all documents delivered pursuant to the terms of this Agreement or in connection with the closing of the transactions contemplated herein. Accordingly, subject to the terms and conditions of this Agreement, the Purchaser will accept the Purchased Assets at the Closing, "as is," "where is," and "with all faults."

## **ARTICLE 10**

### **BIDDING PROCEDURES**

#### **10.1 Bidding Procedures**

(a) The Seller and the Purchaser acknowledge that this Agreement and the transactions contemplated hereby are subject to Court approval.

(b) The Seller and the Purchaser acknowledge and agree that the Seller shall apply to the Court by no later than December 23, 2013, or such other date as they may agree, for an order (the "**Bidding Procedures Order**"), inter alia, recognizing this Agreement, and in particular the Purchase Price, as a baseline or "stalking horse bid" (the "**Stalking Horse Bid**") and approving the Bidding Procedures, the payment of the break fee and expense reimbursement in the circumstances set out in Section 10.2, and the parties will use All Commercial Reasonable Efforts to have the Bidding Procedures Order issued. The Purchaser acknowledges and agrees that the Bidding Procedures are in contemplation of determining whether a superior bid can be obtained for the Purchased Assets, the Business and Assumed Liabilities.

#### **10.2 Break Fee and Expense Reimbursement**

In consideration for the Purchaser's expenditure of time and money and agreement to act as the initial bidder through the Stalking Horse Bid, and the preparation of the Agreement, and in performing due diligence pursuant to this Agreement, and subject to Court approval, the Purchaser shall be entitled to: (i) a break fee in the amount of \$150,000; and (ii) an expense reimbursement in the amount not to exceed \$150,000, in each case payable by the Seller to the Purchaser only in the event that a Successful Bid other than the Stalking Horse Bid is accepted by the Seller, approved by the Court and completed. The expense reimbursement shall be paid only after the Seller has received from the Purchaser documentation establishing

reasonable third party costs that have actually been incurred by the Purchaser in connection with this Agreement and the transactions contemplated herein. The payment of the foregoing amounts shall be approved in the Bidding Procedures Order and shall be payable to the Purchaser out of the sale proceeds derived from and upon completion of the Successful Bid. Each of the parties hereto acknowledges and agrees that the foregoing amounts represent a fair and reasonable estimate of the costs and damages that will be incurred by the Purchaser as a result of non-completion of this Agreement, and is not intended to be punitive in nature nor to discourage competitive bidding for the Purchased Assets, Business and Assumed Liabilities. For greater certainty, the Seller shall not be liable in its personal capacity for the payment to the Purchaser of the foregoing break fee and expense reimbursement. The Purchaser agrees to indemnify and hold harmless the Seller (and its shareholders, directors, officers and employees) from and against any Tax, interest and penalties assessed, reassessed or imposed upon the Seller or the Corporation as a result of or in connection with the failure to withhold or remit any amount required to be withheld and remitted under Part XIII of the Tax Act in respect the break fee or expense reimbursement payable pursuant to this Section 10.2.

## **ARTICLE 11** **TERMINATION**

### **11.1        Termination of Agreement**

This Agreement may be terminated and the transactions contemplated hereby abandoned at any time prior to the Closing Date:

- (a) by the Purchaser,
  - (i) if any of the conditions contained in Sections 5.4 or 5.6 shall not be performed or fulfilled at or prior to the Time of Closing to the satisfaction of the Purchaser, acting reasonably, or otherwise waived by the Purchaser; or
  - (ii) pursuant to Section 5.7(a), if before the Closing Date, all or any material part of the Purchased Assets are lost, damaged or destroyed,

in which case, the Purchaser may, by notice to the Seller, terminate this Agreement and the obligations of the Seller and the Purchaser under this Agreement shall be terminated;

- (b) by the Seller, if any of the conditions contained in Sections 5.5 or 5.6 shall not be performed or fulfilled at or prior to the Time of Closing to the satisfaction of the Seller, acting reasonably, or otherwise waived by the Seller, in which case, the Seller may, by notice to the Purchaser, terminate this Agreement and the obligations of the Seller and the Purchaser under this Agreement shall be terminated; or

- (c) by either party if the closing of the transactions herein has not occurred by the close of business on the Closing Date; provided that a party may not terminate this Agreement under this Section 11.1(c) if it has failed to perform any one or more of its material obligations or covenants under this Agreement to be performed at or prior to the Closing Date and the closing of the transactions herein has not occurred because of such failure.

**11.2 Automatic Termination of Agreement**

In the event that the Stalking Horse Bid is not the Successful Bid, this Agreement shall automatically terminate in accordance with the terms of the Bidding Procedures and the Seller shall return the Deposit to the Purchaser as provided for herein.

**ARTICLE 12**  
**MISCELLANEOUS**

**12.1 Notices**

(a) Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be delivered in person, transmitted by telecopy, e-mail, or similar means of recorded electronic communication or sent by registered mail, charges prepaid, addressed as follows:

- (i) if to the Seller:

Duff & Phelps Canada Restructuring Inc.  
333 Bay Street, 14th Floor  
Toronto, Ontario, M5H 2R2

Attention: David Sieradzki / Noah Goldstein  
Fax No.: 647.497.9473  
E-Mail: david.sieradzki@duffandphelps.com /  
noah.goldstein@duffandphelps.com

and a copy to:

Torys LLP  
79 Wellington Street West  
30th Floor, TD South Tower  
Toronto, Ontario, M5K 1N2

Attention: David Bish / Lily Coodin  
Fax No.: 416.865.7380  
E-Mail: dbish@torys.com / lcoodin@torys.com

(ii) if to the Purchaser:

Airlite Plastics Co.  
6110 Abbott Dr  
Omaha NE 68128  
USA

Attention: Patrick J. Kenealy, CFO  
Fax No.: 402.408.5100  
E-Mail: PKenealy@airliteplastics.com

with a copy to:

Stikeman Elliott LLP  
1155 boul. Rene-Levesque Ouest, 40e Etage  
Montreal, Quebec, H3B 3V2

Attention: Guy P. Martel  
Fax No.: 514.397.3222  
E-Mail: gmartel@stikeman.com

(b) Any such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a Business Day or if delivery or transmission is made on a Business Day after 5:00 p.m. at the place of receipt, then on the next following Business Day) or, if mailed, on the third (3rd) Business Day following the date of mailing; provided, however, that if at the time of mailing or within three (3) Business Days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid.

Either party may at any time change its address for service from time to time by giving notice to the other party in accordance with this Section 12.1.

## 12.2 Further Assurances

Each party to this Agreement covenants and agrees that it will at all times after the Closing Date, at the expense of the requesting party, promptly execute and deliver all such documents, including all such additional conveyances, transfers, consents and other assurances and do all such other acts and things as the other party, acting reasonably, may from time to time request be executed or done in order to better evidence or perfect or effectuate any provision of this Agreement or of any agreement or other document executed pursuant to this Agreement or any of the respective obligations intended to be created hereby or thereby.

**12.3 Survival**

Except as otherwise expressly set out herein, the representations and warranties of the parties contained in this Agreement shall merge and expire at the Time of Closing and only the covenants of the parties contained herein to be performed after the Closing Date shall survive the closing of the transactions herein and remain in full force and effect.

**12.4 Expenses**

Except as otherwise expressly provided herein, all costs and expenses incurred in connection with the negotiation and execution of this Agreement and in closing and carrying out the transactions contemplated hereby shall be paid by the party incurring such cost or expense.

**12.5 Enurement and Assignment**

This Agreement shall enure to the benefit of and shall be binding on and enforceable by the parties and, where the context so permits, their respective successors and permitted assigns. The Purchaser may assign its rights under this Agreement in whole or in part to any Affiliate of the Purchaser; provided, however, that any such assignment shall not relieve the Purchaser from any of its obligations hereunder. Otherwise, no party may assign any of its rights or obligations hereunder without the prior written consent of the other party. Each party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the parties hereto and their successors and permitted assigns, and no Person, other than the parties hereto and their successors and permitted assigns, shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

**12.6 Paramountcy**

In the event of any conflict or inconsistency between the provisions of this Agreement and any other document or instrument executed or delivered in connection with the transactions herein or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

**12.7 Commission**

The Purchaser agrees to indemnify the Seller against any claim for compensation or commission by any third party or agent retained by the Purchaser in connection with, or in contemplation of, the transactions herein and the Seller indemnifies the Purchaser for any third party or agent or broker fees or other commissions payable by the Seller on the Purchase Price or otherwise, including those incurred by the Corporation in connection with the transactions contemplated herein.

**12.8 Amendment and Waivers**

No amendment or waiver of any provision of this Agreement shall be binding on either party unless consented to by such party in a writing specifically referencing the provision waived.

**12.9 Seller's Capacity**

The Purchaser acknowledges and agrees that in all matters pertaining to this Agreement, including its execution, Duff & Phelps Canada Restructuring Inc. is acting solely in its capacity as Court-appointed receiver of the assets, property and undertaking of the Corporation and not in its personal capacity or any other capacity, and as such, its liability under this Agreement, if any, will be in its capacity as Court-appointed receiver and the Seller and its agents, partners, employees shall have no personal, corporate or other liability of any kind, whether in contract, tort or otherwise.

**12.10 Counterparts**

This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in any number of counterparts, with the same effect as if all parties had signed and delivered the same document, and all counterparts shall be construed together to be an original and will constitute one and the same agreement. Execution and delivery of this Agreement may be made and evidenced by facsimile or other electronic transmission.

**12.11 Entire Agreement**

This Agreement together with the exhibits and schedules hereto and the other documents executed in connection herewith embody the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersede all prior oral or written agreements and understandings relating to the subject matter hereof. There are no promises, conditions, representations, warranties, covenants, understandings or other agreements of any kind, oral or written, express, implied or collateral, between the parties in connection with the subject matter of this Agreement except as expressly set out herein and in any other documents executed in connection herewith. Any cost estimates, projections or other predictions contained in or referred to in any other material that has been provided to the Purchaser or its agents, advisors, employees or representatives are not and shall not be deemed to be representations or warranties of the Seller, the Corporation or any of their respective agents, advisors, employees or representatives.

**12.12 Severability**

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any



manner materially adverse to any party hereto. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties hereto as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

**12.13            Applicable Law**

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to hear appeals therefrom.

**[The next page is the signature page.]**

IN WITNESS WHEREOF this Agreement has been executed by the parties on the date first written above.

**AIRLITE PLASTICS CO.**

by Patrick J. Benezky  
Name: Patrick J. Benezky  
Title: Chief Financial Officer

**DUFF & PHELPS CANADA  
RESTRUCTURING INC.**, in its  
capacity as the Court-appointed Receiver  
of ARXX Building Products Inc., ARXX  
Corporation, ARXX Building Products  
U.S.A. Inc., ECB Holdings, LLC, APS  
Holdings, LLC, Unisas Holdings, LLC,  
and Eco-Block International, LLC, and  
not in its personal capacity

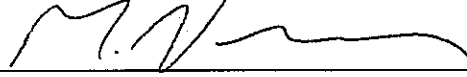
by \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF this Agreement has been executed by the parties on the date first written above.

**AIRLITE PLASTICS CO.**

by \_\_\_\_\_  
Name:  
Title:

**DUFF & PHELPS CANADA  
RESTRUCTURING INC.**, in its  
capacity as the Court-appointed Receiver  
of ARXX Building Products Inc., ARXX  
Corporation, ARXX Building Products  
U.S.A. Inc., ECB Holdings, LLC, APS  
Holdings, LLC, Unisas Holdings, LLC,  
and Eco-Block International, LLC, and  
not in its personal capacity

by   
Name: Mitch Vininsky  
Title: Director

**Schedule 1.1(a)**

**Form of Approval and Vesting Order**

**Schedule 1.1(b)**

**Bidding Procedures**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) MONDAY, THE 29th  
JUSTICE ■ ) DAY OF JANUARY, 2014

BETWEEN:

COMERICA BANK

Applicant

- and -

ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING  
PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS  
HOLDINGS, LLC, AND ECO-BLOCK INTERNATIONAL, LLC

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by Duff & Phelps Canada Restructuring Inc. (“D&P”) in its capacity as the Court-appointed receiver (the “Receiver”) of the undertaking, property and assets of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (collectively, the “ARXX Group”) for an order approving the sale transaction (the “Transaction”) contemplated by an agreement of purchase and sale (the “Sale Agreement”) between the Receiver and Airlite Plastics Co. (the “Purchaser”) dated December 19, 2013, and appended to the Report of the Receiver dated January ■, 2014 (the “Second Report”), and vesting in the Purchaser the ARXX Group’s right, title and interest in and to the assets described in the Sale Agreement (the “Purchased Assets”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, the Purchaser and Comerica Bank (the “**Bank**”), no one appearing for any other person on the service list, although properly served as appears from the affidavit of ■ sworn December ■, 2013, filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule A hereto (the “**Receiver’s Certificate**”), all of the ARXX Group’s right, title and interest in and to the Purchased Assets described in the Sale Agreement, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Morawetz dated December 9, 2013; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule B hereto (all of which are collectively referred to as the “**Encumbrances**”) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets

with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

5. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the ARXX Group's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the ARXX Group.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the ARXX Group and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the ARXX Group;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the ARXX Group and shall not be void or voidable by creditors of the ARXX Group, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.



7. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. **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.

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**Schedule A – Form of Receiver’s Certificate**

Court File No. CV-13-10353-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**BETWEEN:**

**COMERICA BANK**

Applicant

- and -

**ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING  
PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS  
HOLDINGS, LLC, AND ECO-BLOCK INTERNATIONAL, LLC**

Respondents

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Morawetz of the Ontario Superior Court of Justice [Commercial List] (the “**Court**”) dated December 9, 2013, Duff & Phelps Canada Restructuring Inc. (“**D&P**”) was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (collectively, the “**ARXX Group**”).

B. Pursuant to an Order of the Court dated January ■, 2014, the Court approved the agreement of purchase and sale made as of December 19, 2013 (the “**Sale Agreement**”), between the Receiver and Airlite Plastics Co. (the “**Purchaser**”) and provided for the vesting in the Purchaser of the ARXX Group’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 5

of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Article 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ on \_\_\_\_\_.

**Duff & Phelps Canada Restructuring Inc., in its capacity as Receiver of the undertaking, property and assets of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC, and not in its personal capacity**

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

Name:

Title:

**Schedule B – Claims**

**ARXX PPSA Registrations**

1. Ontario

<b>DEBTOR(S)</b>	<b>SECURED PARTY</b>	<b>REGISTRATION DATE</b>	<b>REGISTRATION EXPIRY DATE</b>	<b>COLLATERAL CLASSIFICATION</b>
ARXX Building Products Inc.	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
ARXX Building Products Inc.	Xerox Canada Ltd.	09/14/2009	09/14/2015	EQUIPMENT, OTHER
ARXX Building Products Inc.	MMV Finance Canada Inc.	01/31/2008	01/31/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
ARXX Corporation	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
ARXX Building Products U.S.A. Inc.	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
ECB Holdings, LLC	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
APS Holdings, LLC	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER,

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
				MOTOR VEHICLE
UNISAS Holdings, LLC	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
Eco-Block International, LLC	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE

2. Alberta

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
ARXX Building Products Inc.	Comerica Bank	09/20/2010	09/20/2018	ALL PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY OF THE DEBTOR
ARX Acquisition Corp.	Gienow Building Products Ltd.	10/30/2003	10/30/2029	ALL PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY OF THE DEBTOR ALSO A LAND CHARGE (DOES NOT EXPIRE)

3. Quebec

<b>DEBTOR(S)</b>	<b>SECURED PARTY</b>	<b>REGISTRATION DATE</b>	<b>REGISTRATION EXPIRY DATE</b>	<b>COLLATERAL CLASSIFICATION</b>
ARXX Building Products Inc.	Comerica Bank	09/29/2010	09/20/2020	THE UNIVERSALITY OF ARXX BUILDING PRODUCTS INC.'S MOVABLE PROPERTY, PRESENT AND FUTURE, CORPOREAL AND INCORPOREAL, WHEREVER SITUATED
ECB Holdings, LLC	Comerica Bank	09/29/2010	09/29/2020	THE UNIVERSALITY OF ECB HOLDINGS, LLC'S MOVABLE PROPERTY, PRESENT AND FUTURE, CORPOREAL AND INCORPOREAL, WHEREVER SITUATED

COMERICA BANK and ARXX BUILDING PRODUCTS INC., ARXX CORPORATION,  
ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS,  
LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, AND  
ECO-BLOCK INTERNATIONAL, LLC  
RESPONDENTS

Court File No. CV-13-10353-00CL

APPLICANT

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

Proceedings commenced in Toronto

**APPROVAL AND VESTING ORDER**

**Torys LLP**

79 Wellington Street West, Suite 3000  
Box 270, TD Centre  
Toronto, Ontario M5K 1N2

**David Bish (LSUC#: 41629A)**

Tel: 416.865.7353

**Lily Coodin (LSUC#: 62143S)**

Tel: 416.865.7541

Fax: 416.865.7380

Lawyers for Duff & Phelps Canada  
Restructuring, Inc., in its capacity as  
the receiver for ARXX Building  
Products Inc., ARXX Corporation,  
ARXX Building Products U.S.A. Inc.,  
ECB Holdings, LLC, APS Holdings,  
LLC, UNISAS Holdings LLC, and  
Eco-Block International, LLC

## Bidding Procedures

Set forth below are the bidding procedures (the “**Bidding Procedures**”) to be employed with respect to the sale (the “**Sale**”) of the assets, property and undertakings (the “**Purchased Assets**”) of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (the “**Corporation**”) by Duff & Phelps Canada Restructuring Inc., in its capacity as the Court-appointed receiver of the Corporation (the “**Receiver**”).

On December 27, 2013, the Court issued an order (the “**Bidding Procedures Order**”) approving and accepting for the purpose of conducting a “stalking horse” sales process (the “**Stalking Horse Process**”) in accordance with these Bidding Procedures that certain asset purchase agreement dated December 19, 2013 (the “**Stalking Horse Bid**”) between the Receiver and Airlite Plastics Co. (the “**Stalking Horse Bidder**”), including, without limitation, the payment of a break fee and expense Reimbursement (the “**Break Fee and Expense Reimbursement**”) by the Receiver to the Stalking Horse Bidder in accordance with the provisions of the Stalking Horse Bid, and approving these Bidding Procedures.<sup>1</sup> All amounts specified herein are in U.S. dollars.

Subject to Court availability, within three (3) business days following the Auction (defined below), the Receiver shall bring a motion (the “**Sale Approval Motion**”) seeking the granting of an order by the Court authorizing and approving the Sale of the Purchased Assets to the Qualified Bidder making the Successful Bid (each as defined below) (the “**Successful Bidder**”) (such order, as approved, the “**Approval and Vesting Order**”).

### Assets to Be Sold

The Receiver is offering for sale all of the Corporation’s right, title and interest in and to all of the Purchased Assets and encourages bids for all or substantially all of the Purchased Assets, in whole but not in part.

### The Bidding Process

The Receiver shall: (i) determine whether any person is a Qualified Bidder (as defined below); (ii) coordinate the efforts of Qualified Bidders in conducting their due diligence investigations; (iii) receive offers from Qualified Bidders; and (iv) negotiate any offers made to purchase the Purchased Assets (collectively, the “**Bidding Process**”). The Receiver shall have the right to adopt such other rules for the Bidding Process (including rules that may depart from those set forth herein) that in its reasonable business judgment will better promote the goals of the Bidding Process, *provided, however*, that the adoption of any rule that materially deviates from these Bidding Procedures shall require the consent of the Stalking Horse Bidder herein.

### Participation Requirements

A “**Qualified Bidder**” is a potential bidder that the Receiver determines is likely (based on financial information submitted by the bidder, the availability of financing, experience and other considerations deemed relevant by the Receiver) to be able to consummate a sale if selected as the Successful Bidder. For greater certainty, the Stalking Horse Bidder is, and shall be deemed to be, a Qualified Bidder.

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<sup>1</sup> The Stalking Horse Asset Purchase Agreement is attached as Appendix “B” to the Receiver’s First Report.



### Due Diligence

Any person that wishes to participate in the Bidding Process must: (a) execute and deliver to the Receiver a confidentiality agreement in form and substance acceptable to the Receiver, which confidentiality agreement shall: (i) be in substantially the same form as the confidentiality agreement entered into between the Corporation and the Stalking Horse Bidder; and (ii) expressly permit the assignment of such confidentiality agreement by the Receiver to the Successful Bidder; and (b) be a Qualified Bidder. The Receiver shall not be obligated to furnish information of any kind whatsoever to any Person that the Receiver determines not to be a Qualified Bidder. The Receiver will afford any Qualified Bidder the time and opportunity to conduct reasonable due diligence, subject to the time frames contemplated by these Bidding Procedures. The Receiver will designate a representative to coordinate all reasonable requests for additional information and due diligence access from such Qualified Bidders.

### Bid Deadline

A Qualified Bidder that desires to make a bid shall deliver written copies of its bid and the Required Bid Materials (defined below) to each of:

- (i) the Receiver, Duff & Phelps Canada Restructuring Inc., 333 Bay Street, 14th Floor, Toronto, Ontario, M5H 2R2, Attn. David Sieradzki; and
- (ii) counsel to the Receiver, Torys LLP, 79 Wellington St. W., 30th Floor, Box 270, TD South Tower, Toronto, ON M5K 1N2, Attn.: David Bish,

so that such bid is received by each of the foregoing by not later than 5:00 p.m. (prevailing Eastern time) on January 22, 2014 (the “**Bid Deadline**”). In the event that a bid is determined to be a Qualified Bid (as defined below), the Receiver shall deliver a written copy of any such Qualified Bid and the Required Bid Terms and Materials to the Stalking Horse Bidder’s counsel.

### Bid Requirements

All bids (other than the Stalking Horse Bid) must include, unless such requirement is waived by the Receiver, the following (collectively, the “**Required Bid Terms and Materials**”):

- (i) A base cash purchase price equal to or greater than \$3,150,000 (the “**Minimum Bid Amount**”),<sup>2</sup> plus additional consideration that is equal to or greater than the value of the Assumed Liabilities and the Working Capital Amount (as each of those terms is defined in the Stalking Horse Bid);
- (ii) A provision stating that the bidder’s offer is irrevocably open for acceptance until the first business day after the Purchased Assets have been sold pursuant to the closing of the sale approved by the Court;
- (iii) An executed copy of a proposed purchase agreement and a redline of the bidder’s proposed purchase agreement reflecting variations from the Stalking Horse Bid (the “**Marked Agreement**”). All Qualified Bids must provide: (a) a commitment to close within one (1) business day after satisfaction of all conditions and a covenant to use all reasonable commercial efforts to satisfy all conditions; and (b) the identity of and contact information for the bidder and full disclosure of any affiliates and any debt or equity financing sources involved in such bid;

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<sup>2</sup> This is the sum of the Stalking Horse Bid’s base cash purchase price, the Break Fee and Expense Reimbursement, and the Overbid Amount (as defined below).

- (iv) A cash deposit in the amount of not less than \$300,000 in the form of a wire transfer, certified cheque or such other form acceptable to the Receiver (the "**Bid Deposit**"), which shall be placed by the Receiver in a non-interest bearing escrow account (the "**Escrow Account**"). Funds shall be disbursed from the Escrow Account only as follows: (i) if the Qualified Bidder is the Successful Bidder at the Auction, its Bid Deposit will be applied to the purchase price payable by it under its bid on the closing thereof; and (ii) if the Qualified Bidder is not the Successful Bidder at the Auction, then its Bid Deposit shall be returned to it forthwith following the expiration of its offer;
- (v) A representation of the bidder and written evidence that the bidder has a commitment for financing or other evidence of the proposed purchaser's ability to consummate the proposed transaction, including executed copies of any financing agreements, commitments, guarantees of the payment obligations of the proposed purchaser, and which the Receiver believes to be sufficient to satisfy the bidder's obligations under its proposed agreement submitted by it as provided above;
- (vi) The bid shall identify with particularity those contracts of the Corporation with respect to which the bidder seeks to receive an assignment, if any;
- (vii) The bid shall not request or entitle the bidder to any transaction or break fee, expense reimbursement, termination or similar type of fee or payment and shall include an acknowledgement and representation of the bidder that it has had an opportunity to conduct any and all due diligence regarding the Purchased Assets prior to making its offer, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Purchased Assets in making its bid, and that it did not rely upon any written or oral statement, representations, warranties, or guarantees, express, implied, statutory or otherwise, regarding the Purchased Assets, the financial performance of the completeness of any information provided in connection therewith or the Auction, except as expressly stated in these Bidding Procedures or the Stalking Horse Bid;
- (viii) The bid shall not contain any due diligence, financing or regulatory contingencies of any kind, though the bid may be subject to the satisfaction of other specific conditions in all material respects at Closing;
- (ix) The bid shall fully disclose the identity of each entity that will be bidding for the Purchased Assets or otherwise participating in connection with such bid, and the complete terms of any such participation;
- (x) The bid shall state that the offering party consents to the jurisdiction of the Court;
- (xi) The bid shall include evidence of authorization and approval from the bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the submitted purchase agreement of the bidder;
- (xii) The bid shall state that the offering party has not acted and will not act in collusion with any other person in connection with its bid; and
- (xiii) The bid shall identify with particularity any liabilities being assumed.

A bid received from a Qualified Bidder that includes all of the Required Bid Terms and Materials and is received by the Bid Deadline is a "**Qualified Bid**". The Receiver reserves the right to determine the value of any Qualified Bid, and which Qualified Bid constitutes the best offer (the "**Lead Bid**"). Forthwith after the Bid Deadline, the Receiver, using its reasonable business judgment, shall determine which Qualified Bid shall

be the Lead Bid for the purposes of the Auction. A copy of the Lead Bid will be provided to all Qualified Bidders prior to the Auction Date.

Notwithstanding the bid requirements detailed above, the Stalking Horse Bid shall be deemed a Qualified Bid.

### **Credit Bidding**

No person shall be permitted to credit bid the indebtedness owed to them by the Corporation in connection with the making of a Qualified Bid or in the conduct of the Auction.

### **"As Is, Where Is, With All Faults"**

The sale of the Purchased Assets shall be on an "as is, where is" and "with all faults" basis and without representations, warranties, or guarantees, express, implied or statutory, written or oral, of any kind, nature, or description by the Receiver or its agents, representatives, partners or employees, or any of the other parties participating in the sales process pursuant to these Bid Procedures, except as may otherwise be provided in a definitive purchase agreement with the Receiver. By submitting a bid, each Qualified Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Purchased Assets prior to making its bid, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Purchased Assets in making its bid, and that it did not rely upon any written or oral statements, representations, warranties, or guarantees, express, implied, statutory or otherwise, regarding the Purchased Assets, the financial performance of the Purchased Assets or the physical condition or location of the Purchased Assets, or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in these Bidding Procedures or as set forth in a definitive purchase agreement with the Receiver.

### **Free of Any and All Liens**

Except as otherwise provided in the Stalking Horse Bid or another Successful Bidder's purchase agreement, and subject to any permitted encumbrances therein, all of the Corporation's right, title and interest in and to the Purchased Assets shall be sold free and clear of all liens and encumbrances pursuant to the Approval and Vesting Order.

### **The Auction and Auction Procedures**

If one or more Qualified Bids (other than that submitted by the Stalking Horse Bidder) have been received by the Receiver on or before the Bid Deadline, the Receiver shall conduct an auction (the "Auction") to determine the highest and/or best bid with respect to the Purchased Assets, with the Lead Bid as the starting bid for the Auction. The Auction shall be conducted at the offices of Torys LLP (the "Auction Site") at 11 a.m. (prevailing Eastern time) on January 24, 2014 (the "Auction Date"), or such other place and time as the Receiver shall notify all Qualified Bidders who have submitted Qualified Bids and expressed their intent to participate in the Auction as set forth above.

If no Qualified Bid is submitted by the Bid Deadline or all Qualified Bids that have been submitted have been withdrawn prior to the Bid Deadline or the Auction Date, then the Receiver shall cancel the Auction (in which case, the Stalking Horse Bid shall be the Successful Bid, and the Stalking Horse Bidder shall be the Successful Bidder).

**Attendance at Auction:** Only authorized representatives of Qualified Bidders (including the Stalking Horse Bidder) and their legal and financial advisors, and such other persons as expressly invited by the Receiver, may attend at the Auction.

Conduct of Auction: Except as otherwise provided herein, based upon the terms of the Qualified Bids received, the number of Qualified Bidders participating in the Auction, and such other information as the Receiver determines is relevant, the Receiver may conduct the Auction in any manner that it determines will achieve the maximum value for the Purchased Assets, provided that all Qualified Bidders that have timely submitted a Qualified Bid shall be entitled to be present during each round of bidding, the identity of each such Qualified Bidder shall be disclosed to all other Qualified Bidders, and all material terms of each Qualified Bid and each subsequent bid made by each such Qualified Bidder shall be disclosed to all other Qualified Bidders. The Receiver may set opening bid amounts in each round of bidding as the Receiver determines to be appropriate.

Overbid Amount; Minimum Bid Increment: There shall be an overbid amount that a Qualified Bidder must bid to exceed the Stalking Horse Bid ("**Overbid Amount**"), and that amount shall be at least \$50,000 for all bids made by Qualified Bidders. At the Auction, the bidding shall begin with the Lead Bid as the opening bid and all subsequent bids shall not be less than \$25,000 in excess of the preceding bid (the "**Minimum Bid Increment**"), unless modified by the Receiver in subsequent rounds of bidding; provided however that the Minimum Bid Increment shall at no time be less than \$10,000. In each round of bidding, the Receiver will take into account the fact that the Break Fee and Expense Reimbursement is not payable with respect to the Stalking Horse Bid but is payable with respect to any other Qualified Bidder's offer. During each round of bidding, all bids made must comply with the conditions for a Qualified Bid (save that the Bid Deadline shall not apply).

Receiver To Determine Highest and/or Best Bid: The Receiver shall determine, in its reasonable business judgment, which Qualified Bid is the Lead Bid and, at the Auction, which bid after each round of bidding is the then-prevailing highest and/or best bid. In making such determination, the Receiver may consider, without limitation: (i) the amount and nature of the consideration; (ii) the proposed assumption of liabilities, if any; (iii) the ability of the Qualified Bidder in question to close the proposed transaction; (iv) the number of employees to be employed by the Qualified Bidder pursuant to the proposed transaction; (v) the proposed closing date and the likelihood, extent and impact of any potential delays in closing; (vi) any purchase price adjustment; (vii) the net economic effect of any changes made to the Stalking Horse Bid; and (viii) such other considerations as the Receiver deems relevant in its reasonable business judgment. At the end of each round of bidding at the Auction, the Receiver shall announce the material terms of the then highest and/or best bid, and the basis for calculating the total consideration offered in such bid. The Receiver may, at any time, make one or more adjournments to the Auction. If at the end of any round of bidding a Qualified Bidder has elected not to submit a further bid meeting the criteria set out herein (including the Minimum Bid Increment), then such Qualified Bidder shall not be entitled to continue to participate in the next round of the Auction or in any subsequent round and shall leave the Auction.

Successful Bid: Upon conclusion of the bidding, the Auction shall be closed and the Receiver shall immediately review the final bids made in the final round of bidding (if more than one such bid was made) in order to determine the highest and/or best bid (the "**Successful Bid**").

### Highest versus Best Bids

**In determining the Lead Bid, the highest and/or best bid during each round of the Auction, and the Successful Bid, the Receiver is not required to select the bid that is the highest bid and may, exercising its reasonable business judgment, select another bid on the basis that it is the best bid even though not the highest bid in value. Without limiting the foregoing, the Receiver may give such weight to cash versus non-cash consideration set out in any bid (including, without limitation, assumed liabilities and the continuation of employment of the Corporation's employees) as it determines, exercising its reasonable business judgment, is appropriate and reasonable.**

### **Break Fee and Expense Reimbursement**

To provide an incentive and to compensate the Stalking Horse Bidder for performing the substantial due diligence and incurring the expenses necessary in entering into the Stalking Horse Bid with the knowledge and risk that arises from participating in the sale and subsequent bidding process, the Receiver has agreed to pay the Stalking Horse Bidder, under the conditions outlined herein and in the Stalking Horse Bid, the Break Fee in the amount of \$150,000 and an Expense Reimbursement on account of its reasonable and documented fees and expenses, up to a maximum of \$150,000. The Receiver will take into account the Break Fee and Expense Reimbursement in each round of bidding with respect to the Stalking Horse Bidder.

The Break Fee and Expense Reimbursement were material inducements for, and a condition of, the Stalking Horse Bidder's entry into the Stalking Horse Bid. The Break Fee and Expense Reimbursement, if payable in accordance with the Stalking Horse Bid, shall be paid in accordance with the Stalking Horse Bid and the Bidding Procedures Order.

### **Sale Approval Motion Hearing**

The Sale Approval Motion shall, subject to court availability, be made returnable on or before January 29, 2014, at 10:00 a.m. (prevailing Eastern Time) in the Court. A hearing to recognize the Approval and Vesting Order in the United States pursuant to Chapter 15 of the U.S. Bankruptcy Code, shall, if so required by the Successful Bidder, and subject to court availability, be made returnable on or before January 31, 2014, at 10:00 a.m. (prevailing Eastern Time) in the United States Bankruptcy Court for the District of Delaware. The Receiver, in the exercise of its business judgement, reserves its right to the extent consistent with the Stalking Horse Bid to change the date of the hearing of Sale Approval Motion and/or the U.S. recognition hearing in order to achieve the maximum value for the Assets.

At the hearing of the Sale Approval Motion, the Receiver shall, among other things, seek approval from the Court to consummate the Successful Bid.

### **Acceptance of Qualified Bids**

The sale of the Purchased Assets to any Successful Bidder by the Receiver is expressly conditional upon the approval of the Successful Bid by the Court at the hearing of the Sale Approval Motion. The Receiver's presentation of the Successful Bid to the Court for approval does not obligate the Receiver to close the transaction contemplated by such Successful Bid unless and until the Court approves the Successful Bid. The Receiver will be deemed to have accepted a bid only when the bid has been approved by the Court at the hearing on the Sale Approval Motion.

### **Miscellaneous**

The Auction and these Bidding Procedures are solely for the benefit of the Receiver and nothing contained in the Bidding Procedures Order or these Bidding Procedures shall create any rights in any other person (including, without limitation, any bidder or Qualified Bidder, and any rights as third party beneficiaries or otherwise) other than the rights expressly granted to a Successful Bidder under the Bidding Procedures Order. The bid protections incorporated in these Bidding Procedures are solely for the benefit of the Stalking Horse Bidder.

Except as provided in the Bidding Procedures Order and Bidding Procedures, the Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of the Bidding Procedures Order, the Stalking Horse Process and the Bidding Procedure.

**Schedule 1.1(c)**  
**Permitted Encumbrances**

None.

## Schedule 2.1(a)

### Equipment

Owned By	Mold ID	Location Name	Description
Arxx Building Products Inc.	1143	Fourmark, ON	8" WEB EXPOSED XX
Arxx Building Products Inc.	1139	Fourmark, ON	6" EXPOSED WEB XX
Arxx Building Products Inc	1165	Fourmark, ON	6"-8" CORNER TAB PRIME
Arxx Building Products Inc	1166	Fourmark, ON	4" WEB EXPOSED PRIME
Arxx Building Products Inc	1167	Fourmark, ON	6" WEB 1 SIDE PRIME
Arxx Building Products Inc	1168	Fourmark, ON	6" WEB 1 SIDE PRIME
Arxx Building Products Inc	1170	Fourmark, ON	6" WEB 2 SIDE PRIME
Arxx Building Products Inc	1171	Fourmark, ON	6" WEB EXPOSED PRIME
Arxx Building Products Inc	1172	Fourmark, ON	6" WEB EXPOSED XX PRIME
Arxx Building Products Inc	1173	Fourmark, ON	8" WEB 1 SIDE PRIME
Arxx Building Products Inc	1175	Fourmark, ON	8" WEB 2 SIDE PRIME
Arxx Building Products Inc	1176	Fourmark, ON	8" WEB EXPOSED PRIME
Arxx Building Products Inc	1177	Fourmark, ON	8" WEB EXPOSED XX PRIME
Arxx Building Products Inc	1178	Fourmark, ON	10" WEB 1 SIDE PRIME
Arxx Building Products Inc	1179	Fourmark, ON	10" WEB 1 SIDE PRIME
Arxx Building Products Inc	1192	Fourmark, ON	6" WEB EXPOSED SUPER X PRIME
Arxx Building Products Inc	1193	Fourmark, ON	6" WEB EXPOSED SUPER X PRIME
Arxx Building Products Inc	1194	Fourmark, ON	8" WEB EXPOSED SUPER X PRIME
Arxx Building Products Inc	1195	Fourmark, ON	8" WEB EXPOSED SUPER X PRIME
Arxx Building Products Inc	1140	Drader Manufacturing Industries Ltd, AB	6" EXPOSED WEB
Arxx Building Products Inc	1141	Drader Manufacturing Industries Ltd, AB	6" WEB 1 SIDE
Arxx Building Products Inc	1142	Drader Manufacturing Industries Ltd, AB	8" WEB EXPOSED
Arxx Building Products Inc	1144	Drader Manufacturing Industries Ltd, AB	10" ARROW
Arxx Building Products Inc	1146	Drader Manufacturing Industries Ltd, AB	6"-8" CORNER STRAP
Arxx Building Products Inc	1111	Terrasse-Vaudreuil Tool Shop, QC	6" CORNER PRIME
Arxx Building Products Inc.	1112	Terrasse-Vaudreuil Tool Shop, QC	6" CORNER PRIME
Arxx Building Products Inc	1113	Terrasse-Vaudreuil Tool Shop, QC	6" STRAIGHT PRIME
Arxx Building Products Inc	1115	Terrasse-Vaudreuil Tool Shop, QC	8" CORNER PRIME
Arxx Building Products Inc	1116	Terrasse-Vaudreuil Tool Shop, QC	8" STRAIGHT PRIME
Arxx Building Products Inc	1117	Terrasse-Vaudreuil Tool Shop, QC	8" STRAIGHT PRIME
Arxx Building Products Inc	1008	Terrasse-Vaudreuil, QC	6" END CAP
Arxx Building Products Inc	1009	Terrasse-Vaudreuil, QC	6" HEIGHT ADJUSTER
Arxx Building Products Inc	1013	Terrasse-Vaudreuil, QC	10" STRAIGHT PRIME
Arxx Building Products Inc	1057	Terrasse-Vaudreuil, QC	8" STRAIGHT PRIME
Arxx Building Products Inc	1121	Terrasse-Vaudreuil, QC	6" CORNER PRIME
Arxx Building Products Inc	1122	Terrasse-Vaudreuil, QC	6" CORNER PRIME
Arxx Building Products Inc	1124	Terrasse-Vaudreuil, QC	6" STRAIGHT PRIME
Arxx Building Products USA Inc	1015	AK Foam Fusion LLC, AK	6" STRAIGHT PRIME
Arxx Building Products USA Inc	1016	AK Foam Fusion LLC, AK	6" CORNER PRIME
Arxx Building Products USA Inc	1017	AK Foam Fusion LLC, AK	8" CORNER PRIME
Arxx Building Products USA Inc	1018	AK Foam Fusion LLC, AK	8" STRAIGHT PRIME
Arxx Building Products USA Inc	1091	AK Foam Fusion LLC, AK	6" STRAIGHT PRIME
Arxx Building Products USA Inc	1064	Benchmark, SD	6" STRAIGHT PRIME
Arxx Building Products USA Inc	1066	Benchmark, SD	8" STRAIGHT PRIME
Arxx Building Products USA Inc	1093	Benchmark, SD	8" CORNER PRIME NEW FURTAB

Owned By	Mold ID	Location Name	Description
Arxx Building Products USA Inc	1094	Benchmark, SD	8" STRAIGHT PRIME
Arxx Building Products USA Inc	1096	Colorado Spring, CO	6" ADJUSTIBLE CORNER
Arxx Building Products USA Inc	1098	Colorado Spring, CO	6" BRICKLEDGE PRIME
Arxx Building Products USA Inc	1099	Colorado Spring, CO	6" TAPERTOP PRIME
Arxx Building Products USA Inc	1101	Colorado Spring, CO	8" END CAP PRIME
Arxx Building Products USA Inc	1002	Diversified Plastics, Missouri	6" STRAIGHT PRIME
Arxx Building Products USA Inc	1065	Diversified Plastics, Missouri	8" CORNER PRIME
Arxx Building Products USA Inc	1169	Diversified Plastics, Missouri	6" WEB 12" HIGH PRIME
Arxx Building Products USA Inc	1174	Diversified Plastics, Missouri	8" WEB 12" HIGH PRIME
Arxx Building Products USA Inc	1063	Diversified, MS	6" CORNER PRIME
Arxx Building Products USA Inc	1075	Diversified, MS	6" STRAIGHT PRIME
Arxx Building Products USA Inc	1019	Edmonton, AB	6" CORNER PRIME new furtab
Arxx Building Products USA Inc	1020	Edmonton, AB	6" STRAIGHT PRIME
Arxx Building Products USA Inc	1000	Erie, PA	6" CORNER 12" HIGH PRIME
Arxx Building Products USA Inc	1001	Erie, PA	6" STRAIGHT 12" HIGH PRIME
Arxx Building Products USA Inc	1003	Erie, PA	6" STRAIGHT PRIME
Arxx Building Products USA Inc	1012	Erie, PA	10" CORNER PRIME
Arxx Building Products USA Inc	1049	Erie, PA	6" 45 DEG CORNER PRIME
Arxx Building Products USA Inc	1050	Erie, PA	6" CORNER PRIME
Arxx Building Products USA Inc	1051	Erie, PA	6" CORNER PRIME
Arxx Building Products USA Inc	1052	Erie, PA	6" BRICKLEDGE PRIME
Arxx Building Products USA Inc	1053	Erie, PA	6" TAPERTOP PRIME
Arxx Building Products USA Inc	1054	Erie, PA	8" 45 CORNER PRIME
Arxx Building Products USA Inc	1055	Erie, PA	8" CORNER PRIME
Arxx Building Products USA Inc	1056	Erie, PA	8" BRICKLEDGE PRIME
Arxx Building Products USA Inc	1102	Erie, PA	8" CORNER 12" HIGH PRIME
Arxx Building Products USA Inc	1103	Erie, PA	8" STRAIGHT 12" HIGH PRIME
Arxx Building Products USA Inc	1137	Erie, PA	4" CORNER PRIME
Arxx Building Products USA Inc	1138	Erie, PA	4" STRAIGHT PRIME
Arxx Building Products USA Inc	1087	Pardeeville, WI	6" CORNER PRIME
Arxx Building Products USA Inc	1088	Pardeeville, WI	6" CORNER PRIME
Arxx Building Products USA Inc	1089	Pardeeville, WI	6" STRAIGHT PRIME
Arxx Building Products USA Inc	1092	Pardeeville, WI	6" STRAIGHT PRIME
Arxx Building Products USA Inc	1021	Post Falls, ID	6" CORNER PRIME
Arxx Building Products USA Inc	1022	Post Falls, ID	6" STRAIGHT PRIME
Arxx Building Products USA Inc	1023	Post Falls, ID	8" CORNER PRIME
Arxx Building Products USA Inc	1024	Post Falls, ID	8" STRAIGHT PRIME
Arxx Building Products USA Inc	1118	Post Falls, ID	4" CORNER PRIME NEW
Arxx Building Products USA Inc	1119	Post Falls, ID	4" STRAIGHT PRIME NEW
Eco Block Holdings, LLC	1106	Colorado Spring, CO	STRAIGHT PANEL EDGE
Eco Block Holdings, LLC	1107	Colorado Spring, CO	6" CORNER EDGE
Eco Block Holdings, LLC	1108	Colorado Spring, CO	8" CORNER EDGE
Eco Block Holdings, LLC	1109	Colorado Spring, CO	STRAIGHT PANEL 24" HIGH
Eco Block Holdings, LLC	1110	Colorado Spring, CO	8" CORNER EDGE 24" HIGH
Eco Block Holdings, LLC	1067	Diversified, MS	STRAIGHT PANEL EDGE
Eco Block Holdings, LLC	1010	Erie, PA	STRAIGHT PANEL EDGE
Eco Block Holdings, LLC	1011	Erie, PA	6" CORNER EDGE
Eco Block Holdings, LLC	1014	Erie, PA	8" CORNER EDGE
Eco Block Holdings, LLC	1148	Fourmark, ON	4" CONNECTOR EDGE
Eco Block Holdings, LLC	1149	Fourmark, ON	5" CONNECTOR EDGE
Eco Block Holdings, LLC	1150	Fourmark, ON	6" CONNECTOR EDGE
Eco Block Holdings, LLC	1151	Fourmark, ON	8" CONNECTOR EDGE
Eco Block Holdings, LLC	1152	Fourmark, ON	SPLICE CONNECTOR EDGE
Eco Block Holdings, LLC	1153	Fourmark, ON	TIE ANCHOR EDGE
Eco Block Holdings, LLC	1154	Fourmark, ON	10" CONNECTOR EDGE



Owned By	Mold ID	Location Name	Description
Eco Block Holdings, LLC	1180	Fourmark, ON	16" BRICKLEDGE WEB EDGE
Eco Block Holdings, LLC	1181	Fourmark, ON	16" WEB EDGE
Eco Block Holdings, LLC	1182	Fourmark, ON	16" FURTAB EDGE - 90 DEG
Eco Block Holdings, LLC	1183	Fourmark, ON	16" FURTAB WEB 45 DEG EDGE
Eco Block Holdings, LLC	1184	Fourmark, ON	24" WEB EDGE
Eco Block Holdings, LLC	1185	Fourmark, ON	CLIP reFIT EDGE
Eco Block Holdings, LLC	1186	Fourmark, ON	SHIM reFIT EDGE
Eco Block Holdings, LLC	1187	Fourmark, ON	24" FURTAB WEB 90 DEG EDGE
Eco Block Holdings, LLC	1188	Fourmark, ON	16" WEB EDGE
Eco Block Holdings, LLC	1062	Jefferson, GA	STRAIGHT PANEL EDGE
Eco Block Holdings, LLC	1076	Jefferson, GA	STRAIGHT PANEL EDGE
Eco Block Holdings, LLC	1145	Millennium Service Provider Inc., ON	90 DEG PANEL CONNECTOR EDGE
Eco Block Holdings, LLC	1155	Millennium Service Provider Inc., ON	45 DEG PANEL CONNECTOR EDGE
Eco Block Holdings, LLC	1157	Millennium Service Provider Inc., ON	45 DEG PANEL CONNECTOR 24" EDGE
Eco Block Holdings, LLC	1158	Millennium Service Provider Inc., ON	90 DEG PANEL CONNECTOR EDGE
Eco Block Holdings, LLC	1095	Pardeeville, WI	STRAIGHT PANEL EDGE
Eco Block Holdings, LLC	1025	Post Falls, ID	STRAIGHT PANEL EDGE
Eco Block Holdings, LLC	1026	Post Falls, ID	6" CORNER EDGE
Eco Block Holdings, LLC	1027	Post Falls, ID	8" CORNER EDGE
Eco Block Holdings, LLC	1028	Terrasse-Vaudreuil Tool Shop, QC	STRAIGHT PANEL 24" HIGH
Eco Block Holdings, LLC	1029	Terrasse-Vaudreuil Tool Shop, QC	6" CORNER EDGE 24" HIGH
Eco Block Holdings, LLC	1030	Terrasse-Vaudreuil Tool Shop, QC	8" CORNER EDGE 24" HIGH
Eco Block Holdings, LLC	1031	Terrasse-Vaudreuil Tool Shop, QC	8" CORNER EDGE 24" HIGH
Eco Block Holdings, LLC	1068	Terrasse-Vaudreuil Tool Shop, QC	8" CORNER EDGE
Eco Block Holdings, LLC	1077	Terrasse-Vaudreuil Tool Shop, QC	6" CORNER EDGE
Eco Block Holdings, LLC	1127	Terrasse-Vaudreuil, QC	BRICKLEDGE PANEL EDGE
Eco Block Holdings, LLC	1128	Terrasse-Vaudreuil, QC	STRAIGHT PANEL EDGE
Eco Block Holdings, LLC	1129	Terrasse-Vaudreuil, QC	STRAIGHT PANEL EDGE
Eco Block Holdings, LLC	1130	Terrasse-Vaudreuil, QC	4" CORNER EDGE
Eco Block Holdings, LLC	1131	Terrasse-Vaudreuil, QC	6" 45 DEG CORNER EDGE
Eco Block Holdings, LLC	1132	Terrasse-Vaudreuil, QC	6" CORNER EDGE
Eco Block Holdings, LLC	1133	Terrasse-Vaudreuil, QC	8" CORNER EDGE
Eco Block Holdings, LLC	1134	Terrasse-Vaudreuil, QC	STRAIGHT PANEL 24" HIGH
Eco Block Holdings, LLC	1135	Terrasse-Vaudreuil, QC	8" CORNER EDGE 24" HIGH
Eco Block Holdings, LLC	1136	Terrasse-Vaudreuil, QC	TAPERTOP EDGE
APS Holdings, LLC	1005	Erie, PA	6" CORNER STEEL 12" HIGH
APS Holdings, LLC	1048	Erie, PA	6"-8" 45 DEG CORNER STEEL 12" HIGH
APS Holdings, LLC	1044	Erie, PA	6" STRAIGHT STEEL 24" HIGH
APS Holdings, LLC	1045	Erie, PA	6" CORNER 24" HIGH STEEL
APS Holdings, LLC	1046	Erie, PA	8" STRAIGHT STEEL 24" HIGH
APS Holdings, LLC	1047	Erie, PA	8" CORNER STEEL 24" HIGH
APS Holdings, LLC	1078	Jefferson, GA	6" STRAIGHT STEEL 24" HIGH
APS Holdings, LLC	1080	Jefferson, GA	8" STRAIGHT STEEL 24" HIGH
APS Holdings, LLC	1081	Jefferson, GA	8" CORNER STEEL 24" HIGH
APS Holdings, LLC	1084	Jefferson, GA	6" CORNER STEEL 24" HIGH
APS Holdings, LLC	1085	Jefferson, GA	8" STRAIGHT STEEL 24" HIGH
APS Holdings, LLC	1039	Jerome, ID	6" STRAIGHT STEEL 24" HIGH
APS Holdings, LLC	1040	Jerome, ID	6"-8" 45 DEG CORNER 24" HIGH STEEL
APS Holdings, LLC	1041	Jerome, ID	6" CORNER STEEL 24" HIGH
APS Holdings, LLC	1042	Jerome, ID	8" STRAIGHT STEEL 24" HIGH
APS Holdings, LLC	1043	Jerome, ID	8" CORNER STEEL 24" HIGH
APS Holdings, LLC	1191	Progress Wire, OH	6"-8" STEEL WEB FLATWALL
APS Holdings, LLC	1079	Terrasse-Vaudreuil Tool Shop, QC	6" CORNER 24" HIGH STEEL
APS Holdings, LLC	1082	Terrasse-Vaudreuil Tool Shop, QC	6" STRAIGHT STEEL 24" HIGH
APS Holdings, LLC	1083	Terrasse-Vaudreuil Tool Shop, QC	6"-8" 45 DEG CORNER STEEL 24" HIGH

Owned By	Mold ID	Location Name	Description
APS Holdings, LLC	1086	Terrassee-Vaudreuil Tool Shop, QC	8" CORNER STEEL 24" HIGH
APS Holdings, LLC	1203	Jerome, ID	POLYPRO 12" BRICKLEDGE
APS Holdings, LLC	1160	Millennium Service Provider Inc., ON	FURSTRIP POLYPRO 12" STEEL
APS Holdings, LLC	1159	Millennium Service Provider Inc., ON	FURSTRIP POLYPRO 24" STEEL
APS Holdings, LLC	1161	Millennium Service Provider Inc., ON	4" CONNECTOR POLYPRO STEEL
APS Holdings, LLC	1162	Millennium Service Provider Inc., ON	6" CONNECTOR POLYPRO STEEL
APS Holdings, LLC	1163	Millennium Service Provider Inc., ON	6" CONNECTOR EXT. POLYPRO STEEL
APS Holdings, LLC	1164	Millennium Service Provider Inc., ON	8" CONNECTOR POLYPRO STEEL
APS Holdings, LLC	1059	Erie, PA	6" CORNER STEEL WAFFLE
APS Holdings, LLC	1060	Erie, PA	8" STRAIGHT STEEL WAFFLE
APS Holdings, LLC	1061	Erie, PA	8" CORNER STEEL WAFFLE
APS Holdings, LLC	1071	Erie, PA	6" STRAIGHT STEEL WAFFLE
APS Holdings, LLC	1033	Jerome, ID	10" STRAIGHT STEEL
APS Holdings, LLC	1034	Jerome, ID	10" CORNER STEEL
APS Holdings, LLC	1035	Jerome, ID	6" STRAIGHT STEEL WAFFLE
APS Holdings, LLC	1036	Jerome, ID	6"-8" 45 DEG CORNER STEEL WAFFLE
APS Holdings, LLC	1037	Jerome, ID	8" STRAIGHT STEEL WAFFLE
APS Holdings, LLC	1038	Jerome, ID	8" CORNER STEEL WAFFLE
APS Holdings, LLC	1189	Progress Wire, OH	6" STEEL WEB WAFFLE
APS Holdings, LLC	1190	Progress Wire, OH	8" STEEL WEB WAFFLE
APS Holdings, LLC	1058	Terrassee-Vaudreuil Tool Shop, QC	6" STRAIGHT STEEL WAFFLE
APS Holdings, LLC	1069	Terrassee-Vaudreuil Tool Shop, QC	6" STRAIGHT STEEL WAFFLE
APS Holdings, LLC	1070	Terrassee-Vaudreuil Tool Shop, QC	6"-8" 45 DEG CORNER STEEL WAFFLE
APS Holdings, LLC	1072	Terrassee-Vaudreuil Tool Shop, QC	6" CORNER STEEL WAFFLE
APS Holdings, LLC	1073	Terrassee-Vaudreuil Tool Shop, QC	8" STRAIGHT STEEL WAFFLE
APS Holdings, LLC	1074	Terrassee-Vaudreuil Tool Shop, QC	8" CORNER STEEL WAFFLE

**Schedule 2.1(b)**

**Intellectual Property**

See attached.

**INTELLECTUAL PROPERTY**  
**ARXX BUILDING PRODUCTS INC.**  
**PATENTS**

Country	Application Number	Patent Number	Title
CA	2,159,318	2,159,318	Concrete Form Walls
CA	2,193,630	2,193,630	Web Member for Concrete Form Walls
CA	2,244,537	2,244,537	Buck for Use With Insulated Concrete Forms
CA	2,256,261	2,256,261	One-Sided Insulated Formwork
CA	2,360,710	2,360,710	Temporary Bracing System for Insulated Wall Form and Method
CA	2,367,016	2,367,016	Bridging Member for Concrete Form Walls
CA	2,389,313	2,389,313	Building Component for Concrete Form Walls Incorporating a Supporting Shelf
CA	2,631,947	2,631,947	One-Sided Insulated Formwork
CA	2,704,828	2,704,828	Bridging Member for Concrete Form Walls
US	08/041,412	5,390,459	Concrete Form Walls
US	08/262,505	5,657,600	Web Member for Concrete Form Walls
US RE	09/374,598	RE 41,994	Web Member for Concrete Form Walls
US	08/772,090	5,809,727	Web Member for Concrete Form Walls
US	09/127,792	6,530,185	Buck for Use with Insulated Concrete Forms
US	09/213,176	6,250,024	Temporary Bracing for Insulated Concrete Form Walls and Method
US	09/218,616	6,314,694	One-Sided Insulated Formwork
US	09/984,668	7,114,296	Temporary Bracing System for Insulated Wall Form and Method
US	10/266,635	7,032,357	Bridging Member for Concrete Form Walls
US	11/295465	7,284,351	Bridging Member for Concrete Form Walls
US	11/856,593	7,654,052	Bridging Member for Concrete Form Walls
US	61/390,882	Expired Provisional	Hinged Corner Form for an Insulating Concrete Form

			System
US	13/267,514	Pending	Hinged Corner Form for an Insulating Concrete Form System
CA	2,754,966	Pending	Hinged Corner Form for an Insulating Concrete Form System

ARXX BUILDING PRODUCTS INC.


TRADEMARKS

Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
CA	TMA496,055	A GRADE ABOVE	"Building components, namely prefabricated units for constructing permanent concrete form walls, connecting webs for concrete form walls; strapping for concrete form walls; high density foam building insulation, door and window frames and fittings therefor"  "Consulting services in wall and building construction"	06/16/98	06/16/13 - not renewed
CA	TMA446,731	AAB	"Building components; namely, prefabricated units for constructing permanent concrete form walls, connecting webs for concrete form walls"  "Consulting services in wall and building construction"	08/25/95	08/25/10 - not renewed  Expunged 04/07/11
CA	TMA568,314	ARXX	"Building materials, namely prefabricated units for constructing permanent concrete walls and form walls, connecting webs for concrete walls and form walls, strapping for concrete walls and form walls, foam	10/01/02	10/01/17

Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
			<p>building insulation, door and window frames and fittings therefor"</p> <p>"Consulting services in wall and building construction; training services in wall and building construction; training builders in the use of insulated concrete wall form systems and their application to specific construction projects"</p>		
CA	TMA568,219	<b>arxx</b>	<p>"Building materials, namely, prefabricated units for constructing permanent concrete walls and form walls, connecting webs for concrete walls and form walls, strapping for concrete walls and form walls, foam building insulation, door and window frames and fittings therefor"</p> <p>"Consulting services in wall and building construction; training services in wall and building construction; training builders in the use of insulated concrete wall form systems and their application to specific construction"</p>	09/30/02	09/30/17


Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
			projects"		
CA	TMA520,491	THE MAXX	"Building components, namely prefabricated units for constructing permanent concrete form walls, connecting webs for concrete form walls; strapping for concrete form walls; high density foam building insulation, door and window frames and fittings therefor"  "Consulting services in wall and building construction"	12/14/99	12/14/14
CZ	247112	ARXX	"Building materials, especially prefabricated components and wholes for durable (permanent) concrete wall building and shaped walls, joining ribs (components) for concrete walls and non-metallic shaped walls, joining stirrups, strapping for concrete walls and shaped walls, prefabricated components and wholes including foam building insulations for building of durable (permanent) concrete walls and shaped walls, door and window frames"	09/24/02	Lapsed per Arxx's instructions.



Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
			<p>"Providing training and instructions in walls and buildings buildup, training of builders about using systems of concrete wall isolation and their use for specific building projects"</p> <p>"Consultant services while walls and buildings construction"</p>		
CZ	247111		<p>"Building materials, especially prefabricated components and wholes for durable (permanent) concrete wall building and shaped walls, joining ribs (components) for concrete walls and non-metallic shaped walls, joining stirrups, strapping for concrete walls and shaped walls, prefabricated components and wholes including foam building insulations for building of durable (permanent) concrete walls and shaped walls, door and window frames"</p> <p>"Providing training and instructions in walls and buildings buildup, training of builders about using systems of concrete wall isolation and</p>	09/30/02	Lapsed per Arxx's instructions.

Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
			<p>their use for specific building projects"</p> <p>"Consultant services while walls and buildings construction"</p>		
EU	2108827	ARXX	<p>"Building materials, namely prefabricated units for constructing permanent concrete walls and form walls, connecting webs for concrete walls and form walls, strapping for concrete walls and form walls, foam building insulation, door and window frames and fittings therefor"</p> <p>"Consulting services in wall and building construction"</p> <p>"Training services in wall and building construction; training builders in the use of insulated concrete wall form systems and their application to specific construction projects"</p>	10/31/02	02/28/11  Lapsed per Arxx's instructions.
EU	2108843	<b>arxx</b>	"Building materials, namely prefabricated units for constructing permanent concrete walls and form walls, connecting webs for concrete walls and form walls, strapping for concrete walls and form walls, foam	07/04/03	Lapsed per Arxx's instructions.

Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
			<p>building insulation, door and window frames and fittings therefor (as far as comprised in class 19"</p> <p>"Consulting services in wall and building construction"</p> <p>"Training services in wall and building construction; training builders in the use of insulated concrete wall form systems and their application to specific construction projects"</p>		
RU	227915	ARXX	<p>"Metal building materials, namely prefabricated units for constructing permanent concrete walls and form walls, connecting webs for concrete walls and form walls, strapping for concrete walls and form walls, door and window frames and fittings thereof"</p> <p>"Building materials (non-metallic), namely prefabricated units for constructing permanent concrete walls and form walls, connecting webs for concrete walls and form walls, strapping for concrete walls and form walls, foam building insulation,</p>	11/14/02	Lapsed per Arxx's instructions.

Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
			<p>door and window frames and fittings thereof"</p> <p>"Consulting services in wall and building construction"</p> <p>"Training services in wall and building construction; training builders in the use of insulated concrete wall form systems and their application to specific construction projects"</p>		
RU	225810		<p>"Metal building materials, namely prefabricated units for constructing permanent concrete walls and form walls, connecting webs for concrete walls and form walls, strapping for concrete walls and form walls, door and window frames and fittings thereof"</p> <p>"Building materials (non-metallic), namely prefabricated units for constructing permanent concrete walls and form walls, connecting webs for concrete walls and form walls, strapping for concrete walls and form walls, foam building insulation, door and window frames and fittings"</p>	10/28/02	<p>02/28/11</p> <p>Lapsed per Arxx's instructions.</p>



Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
			thereof" "Consulting services in wall and building construction" "Training services in wall and building construction; training builders in the use of insulated concrete wall form systems and their application to specific construction projects"		
US	2,583,429	ARXX	"Training services, namely, training builders in the use of insulated concrete wall form systems and their application to specific construction projects"	06/18/02	06/18/22
US	2,583,430	ARXX	"Consulting services in wall and building construction"	06/18/02	06/18/22
US	2,650,175	ARXX	"Building components, namely plastic webs for use in prefabricated units comprised of polystyrene panels connected by plastic webs for forming and constructing concrete walls; and building components, namely prefabricated units comprised of polystyrene panels connected by plastic webs for forming and constructing concrete"	11/12/02	11/12/22


Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
			walls"		
US	2,568,368	<b>arxx</b>	"Consulting services in wall and building construction"	05/07/02	05/07/22
US	2,572,135	<b>arxx</b>	"Training services, namely, training builders in the use of insulated concrete wall form systems and their application to specific construction projects"	05/21/02	05/21/22
US	2,650,267	<b>arxx</b>	"Building components, namely plastic webs for use in prefabricated units comprised of polystyrene panels connected by plastic webs for forming and constructing concrete walls; and building components, namely prefabricated units comprised of polystyrene panels connected by plastic webs for forming and constructing concrete walls"	11/12/02	11/12/22
US	2,330,065	THE MAXX	"Non-metal building materials, namely, prefabricated units for constructing permanent concrete form walls, connecting webs for concrete form walls, strapping for	03/14/00	Cancelled/expired 10/15/10

Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
			<p>concrete form walls, door and window frames and fittings therefor, and high density foam building insulation sold in connection therewith"</p> <p>"Consulting services in wall and building construction"</p>		
US	3,819,067	ARXX	<p>"Alignment systems to be used with insulated concrete walls, namely, metal beams, metal scaffolding bracket and metal alignment brace."</p> <p>"Wall system consisting of molded expanded polystyrene (EPS) insulation panels that are connected by cross ties for use in wall systems; sealing and insulating materials to control moisture for below grade walls."</p> <p>"Non-metal windows, non-metal doors, and concrete flooring to be used with insulated concrete walls; plastic buck for framing a window and/or door opening in an insulated concrete form; building construction materials, namely,</p>	07/13/10	07/13/16

Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
			<p>fiber tape and fiber mesh that become a permanent part of the building envelope."</p> <p>"Accessories to be used with insulated concrete walls, namely, non-metal hooks, non-metal claws; non-metal fasteners being bolts, nails, rivets, and screws for foundation wrap."</p> <p>"Consulting services in wall and building construction."</p> <p>"Training services in wall and building construction, training builders in the use of insulated concrete wall form systems and their application to specific construction projects."</p>		
CA	1421412	ARXX ELEMENTS	<p>Wares: (1) Building materials; (2) Publications, namely, publications in the field of wall and building construction; electronic publications, namely, publications in the field of wall and building construction.</p> <p>Services: (1) Training services in</p>	12/11/2008	Abandoned July 16, 2010



Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
			wall and building construction, training builders in the use of insulated concrete wall form systems and their application to specific construction projects; (2) Consulting services in wall and building construction.		
CA	1421413	ARXX ELEMENTS & Design 	Same as ARXX ELEMENTS (immediately above)	12/11/2008	Abandoned July 16, 2010
CA	1419708 TMA767,424	ARXX Design 	Wares: (1) Building materials; namely, insulation-based wall assembly (2) Publications, namely, publications in the field of wall and building construction; electronic publications, namely, publications in the field of wall and building construction. Services: (1) Training services in wall and building construction, training builders in the use of insulated concrete wall form systems and their application to specific construction projects; (2) Consulting services in wall and building	11/26/2008 Registered on May 19, 2010	05/19/25

Country	Reg./App No.	Mark	Identification of Goods and Services	Reg./Filing Date	Exp. Date
			construction.		
CA	1500536 TMA817,639	ARXX Refit & Design 	Thermal Insulation	10/21/2010 Registered on 02/15/2012	02/15/2027

**ARXX BUILDING PRODUCTS INC.**

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<b>Country</b>	<b>Reg. No.</b>	<b>Claimant</b>	<b>Title</b>	<b>Reg. Date</b>
US	TX0004751225	AAB Building Systems, Inc.	Blue Maxx--stronger, safer, superior : a product of AAB Building Systems, Inc.	10/20/98

**APS HOLDINGS, LLC**

**PATENTS**

<b>Serial No.</b>	<b>Patent No. Publication No.</b>	<b>Filing Date</b>	<b>Issue Date Publication Date</b>	<b>Title</b>
<b>United States</b>				
11/618,980	7,827,752	01/02/2007	11/9/2010	Insulating Concrete Form
10/656,359	7,415,804	09/04/2003	8/26/2008	Insulated Concrete Form and Welded Wire Form Tie
07/183,730	4,879,855 (expired)	04/20/1988	11/14/1989	Attachment and Reinforcement Member for Molded Construction Forms
<b>PCT</b>				
PCT/US07/60042	WO 2008/136819	01/03/2007	11/13/2008	Insulated Concrete Form
PCT/US03/27980	WO 2004/022881	09/05/2003	03/18/2004	Insulated Concrete Form and Welded Wire Form Tie
<b>India</b>				
530/KOLNP/2005 (Abandoned)	227334	03/30/2005	1/6/2009	Insulated Concrete Form and Welded Wire Form Tie
<b>Ukraine</b>				
A 2005 02277 (Abandoned)	87,967	03/14/2005	9/10/2009	Insulated Concrete Form and Welded Wire Form Tie
<b>Russian Federation</b>				
2005 108562 (To be abandoned)	2,338,847	04/05/2005	11/20/2008	Insulated Concrete Form and Welded Wire Form Tie
<b>Australia</b>				

Serial No.	Patent No. Publication No.	Filing Date	Issue Date Publication Date	Title
2003 265971 (Abandoned)	2003 265971	03/17/2005	5/7/2009	Insulated Concrete Form and Welded Wire Form Tie
<b>New Zealand</b>				
538974	538974	03/21/2005	12/11/2008	Insulated Concrete Form and Welded Wire Form Tie
<b>Canada</b>				
2498002	2498002	09/05/2003	12/21/2010	Insulated Concrete Form and Welded Wire Form Tie
601,899	1,310,201 (expired)	06/06/1989	11/17/1992	Attachment and Reinforcement Member for Molded Construction Forms
2,635,776		01/03/2007	07/11/2007	Insulating Concrete Form
<b>China</b>				
03824529.9 (Abandoned)	1688816 (A)	04/22/2005	10/26/2005	Insulated Concrete Form and Welded Wire Form Tie
<b>European Patent Office</b>				
03794656.3	EP 1540116	04/01/2005	06-16-2005	Insulated Concrete Form and Welded Wire Form Tie
07873295.5	2010734	08/08/2008	10/26/2011 Validated in Great Britain and France	Insulating Concrete Form
<b>Japan</b>				
2004 534707 (abandoned)	2005538280 (T)	03/07/2005	12/15/2005	Insulated Concrete Form and Welded Wire Form Tie

Serial No.	Patent No. Publication No.	Filing Date	Issue Date Publication Date	Title
<b>Mexico</b>				
PA/A/2005/002579	268513	03/04/2005	7/21/2009	Insulated Concrete Form and Welded Wire Form Tie
<b>United Arab Emirates</b>				
689/2008 (To be abandoned)		07/13/2008		Insulating Concrete Form

APS HOLDINGS, LLC

TRADEMARKS

COUNTRY	REG. NO.	MARK	IDENTIFICATION OF GOODS AND SERVICES	REG. DATE	EXP. DATE
WIPO/GB	M876058	POLYSTEEL	"Insulated concrete forms"	01/06/2006	01/06/16
WIPO/GB	M876059	POLYSTEEL WE'RE BUILDING A BETTER WORLD (with design)	"Insulated concrete forms"	01/06/2006	01/06/16
US	3,021,980	POLYPRO	"Insulating concrete forms"	11/29/2005	11/29/15
WIPO/GB	M876057	POLYPRO	"Insulated concrete forms"	01/06/2006	01/06/16

ECB HOLDINGS, LLC

PATENTS

TITLE	FILING DATE	SERIAL NO./ PUBLICATION NO.	PATENT NO/ ISSUE DATE
Concrete Form System	07/24/97	08/899,960	5,887,401 3/30/1999
Insulated Concrete Form (Method of Making Tilt-Up)	01/16/98	09/008,437	6,170,220 1/9/2001
Concrete Form System and Method (Connector Link)	10/25/99	09/426,572	6,314,697 11/13/2001
Concrete Form System and Method (Corner Web Member)	10/25/99	09/427,373	6,318,040 11/20/2001
Concrete Form System and Method (Ledge Assembly)	10/25/99	09/427,374	6,336,301 1/8/2002
Insulated Concrete Form (System & Tilt-Up Structure)	09/01/00	09/654,024	6,363,683 4/2/2002
Tilt-Up Wall (Wet Set Method and Structure with Anchors)	03/29/01	09/821,299	6,481,178 11/19/2002
Concrete Structures Formed Using Texas-T and a Flexible Linking Member	05/03/01	09/848,398	6,609,340 8/26/2003
Latching Design for Web Members and Connectors Used in a Concrete Structure	05/03/01	09/848,595	6,438,918 8/27/2002
Concrete Structure Formed Using Plywood Sheet and EPS Side Panel	05/03/01	09/848,736	6,526,713 3/4/2003



**ECB HOLDINGS, LLC****TRADEMARKS**

<b>COUNTRY</b>	<b>REG. NO.</b>	<b>MARK</b>	<b>IDENTIFICATION OF GOODS AND SERVICES</b>	<b>FILING DATE</b>	<b>ISSUE DATE</b>	<b>EXP. DATE</b>
US	2,452,783	ECO-Block	"Non-metal insulating concrete forms for use in the construction industry."	12/09/99	05/22/01	05/22/21
CA	531,359	ECO-Block	"Insulating concrete forms for use in the construction industry"	07/09/98	08/17/00	08/17/15
Australia	981,020	ECO-Block	"Building materials (non-metallic); non- metallic insulating concrete forms for use in the construction industry"	12/05/03	11/1/04	12/05/13
NZ	700,660	ECO-Block	"Building materials (non-metallic); non- metallic insulating concrete forms for use in the construction industry"	09/01/03	02/10/05	09/01/13
Kuwait	59,529	ECO-Block	"Non-metal insulating concrete forms for use in the construction industry"	09/24/05	08/16/06	09/23/15
Bahrain	45,664	ECO-Block	"Non-metal insulating concrete forms for use in the construction industry"	10/04/05	05/05/08	10/04/15

**ARXX CORPORATION**

**PATENTS**

<b>Country</b>	<b>Application Number</b>	<b>Patent Number</b>	<b>Title</b>
US	12/790,267	8,205,406	Wall Clip and Shim Adapted for Insulating Concrete Walls and Similar Materials
US	13/474,520	8,443,556	Wall Clip and Shim Adapted for Insulating Concrete Walls and Similar Materials
CA	2,732,490		Wall Clip and Shim Adapted for Insulating Concrete Walls and Similar Materials
EP	11167779.5		Wall Clip and Shim Adapted for Insulating Concrete Walls and Similar Materials

**Schedule 2.1(c)**

**Assumed Contracts**

None.

**Schedule 2.1(d)**

**Inventory**

<b>INVENTORY PART NUMBERS</b>	<b>DESCRIPTIONS</b>
BL06-E-STD PRIME	6" Standard Form
BL08-E-STD PRIME	8" Standard Form
BL06-E-90 PRIME	6" 90° Corner Form
BL08-E-90 PRIME	8" 90° Corner Form
WE06-E-WEBXX	6" Exposed Web XX
WE06-E-WEB	6" Exposed Web
WE08-E-WEB	8" Exposed Web
WE08-E-WEBXX	8" Exposed Web XX

**Schedule 2.7**

**Accounts Receivable Valuation Methodology**

The Estimated Accounts Receivable Value and the Accounts Receivable Value are each to be calculated based on aging as at the Closing Date, on the following basis, in each case as converted to U.S. Dollars:

	Accounts Receivable aged 0 – 44 days	Accounts Receivable aged 45 – 60 days	Accounts Receivable aged Over 60 days	Account Receivable from installed Commercial industrial Projects
To be valued at and Purchaser to pay:	Book value less 5%	Book value less 10%	Nil	Nil

# TAB G

January 22, 2014

**DELIVERED VIA E-MAIL**

Duff & Phelps Canada Restructuring Inc.  
333 Bay Street, 14th Floor, Bay Adelaide Centre  
Toronto, Ontario, Canada  
M5H 2R2

**Attention: David Sieradzki  
Noah Goldstein**

Dear Sirs:

**Re: Security interests asserted against ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (collectively, the "ARXX Group").**

In connection with the appointment of Duff & Phelps Canada Restructuring Inc. as Court-appointed receiver of all of the assets, property and undertaking of the ARXX Group (in such capacity, the "Receiver"), and the asset purchase agreement (the "APA") proposed to be entered into by the Receiver and the purchaser party thereto, you have asked us to provide an opinion in respect of the Security Documents (as defined below).

**I. Scope and Documents Reviewed**

This opinion is provided to you in your capacity as Receiver and is limited to our review of copies of the following documents:

- (a) a loan agreement dated September 24, 2010, among ARXX Building Products Inc. ("ARXX Inc."), as borrower, Comerica Bank (the "Bank"), as lender, and ARXX Corporation, ARXX Building Products U.S.A. Inc., 924843 Ontario Inc., Hilltribe Homes Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC, as guarantors (collectively, the "Guarantors"), as amended by the First Amendment to Loan Agreement dated September 15, 2011, the Second Amendment to Loan Agreement dated November 3, 2011, the Third Amendment to Loan Agreement dated February 9, 2012, the Fourth Amendment to Loan Agreement dated May 30, 2012, the Fifth Amendment to Loan Agreement dated October 17, 2012, the Sixth Amendment to Loan Agreement dated April 29, 2013, and the Seventh Amendment to Loan Agreement dated October 28, 2013 (collectively, the "Loan Documents");

- (b) a pledge and security agreement dated October, 2012 [specific date not completed], between ARXX Inc. and the Bank, in relation to the Loan Agreement;
- (c) a general security agreement dated September 24, 2010, granted by ARXX Inc. to and in favour of the Bank;
- (d) a security agreement and interest pledge agreement dated September 24, 2010, among the Guarantors, as grantors, and the Bank;
- (e) a general security agreement dated September 24, 2010, granted by ECB Holdings, LLC, to and in favour of the Bank; and
- (f) the intellectual property security agreements each dated September 24, 2010, granted by each of the Guarantors to and in favour of the Bank.

The documents in (b) – (f) above are collectively referred to herein as the “**Security Documents**”. The undertaking, business, property, assets, interests, and rights of the ARXX Group subject to the Security Documents are collectively referred to herein as the “**Charged Property**”. 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 or Security Documents, the security interests created therein, or the perfection of such security interests.

In conducting our review and for the purposes of the opinions given herein, we have made the assumptions contained herein and as set out on Schedule “A” attached hereto. Additionally, our opinions herein are subject to the qualifications and limitations contained herein and as set out on Schedule “A”. We confirm that the restrictions and limitations on our opinion, as herein contained, are satisfactory to you.

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 (including the States of Delaware and Georgia and the Provinces of Alberta and Quebec), we express no opinion thereon. However, we have summarized herein the results of certain searches from these jurisdictions for your convenience).

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

## II. Searches

We have conducted, or have caused to be conducted, such public registration searches for filings or registrations made in Ontario, Alberta, Quebec and the States of Delaware and Georgia, in the applicable offices of public record, against the ARXX Group as we have deemed appropriate. These searches include corporate profile and status searches, *Personal Property Security Act* (“PPSA”) searches in Ontario and Alberta, Register of Personal and Movable Real Rights (“RPMRR”) searches in Quebec, Uniform Commercial Code (“UCC”) searches in the State of Delaware, litigation searches, execution searches, bankruptcy searches and *Bank Act* searches,



all as more specifically set out in Schedule "B" attached hereto, in each case as of the dates set forth in Schedule "B". The results of the searches are set out in Schedule "B"; however, we highlight the following:

(i) There are two PPSA registrations in Ontario that were filed prior in time to the Bank's first PPSA registration. These registrations were made in favour of:

- as against ARXX Inc., MMV Finance Canada Inc. (registered in Ontario against the following collateral classifications: inventory, equipment, accounts, other, motor vehicle included); and
- Xerox Canada Ltd. (registered in Ontario with collateral classification: equipment, other); and

(ii) Although not relevant to the opinions expressed herein, we note as a convenience that our Alberta PPSA searches revealed as against a predecessor of ARXX Inc., a registration in favour of Gienow Building Products Ltd. (registered in Alberta against the following collateral classifications: all present and after-acquired personal property of the debtor. We also note that our PPSA search in Alberta revealed two registrations against real property interests of a predecessor of ARXX Inc. in favour of Gienow Building Products Ltd.

(iii) We have been advised by the Receiver that the Xerox Canada Ltd. registration relates to leases of photocopiers, and the MMV Finance Canada Inc. registration relates to the financing of a transaction that was paid out in March of 2011 (and in respect of which there are no further obligations of the ARXX Group to such person). We have no information as to interests or transactions to which the Gienow Building Products Ltd. registration relates; however, it should be noted that such registration is against a predecessor of ARXX Inc. – ARXX Acquisition Corp. – and that the registration has not been amended to reflect the current name of the company. It may be that such registration has become unperfected if the secured party knew of the change of name of ARXX Acquisition Corp. and did not register a financing change statement, pursuant to section 51 of the PPSA (Alberta).

(iv) The date on the executed version of the Pledge and Security Agreement has not been filled in. The failure to specify the specific date of this agreement is not a material defect, in our view, and does not alter the opinions expressed herein.

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.

### III. Opinions

Subject to the assumptions and qualifications set forth on Schedule "A" hereto and comments we have made herein, we are of the opinion that:

1. Each of the Security Documents constitute a legal, binding and enforceable obligation of the applicable ARXX Group entity that is a party thereto in favour of the Bank;
2. Each of the Security Documents, creates in favour of the Bank a valid security interest in the Charged Property identified therein to which the Ontario PPSA applies; and
3. Each of the Security Documents 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 such Security Document in the applicable Charged Property to which the Ontario PPSA.

This opinion is provided solely for the use of the addressee hereof and may not be relied on by any other person without the prior written consent of Torys LLP.

Yours truly,

A handwritten signature in black ink that reads "Torys LLP". The signature is written in a cursive, slightly slanted style.

## **SCHEDULE "A"**

### **ASSUMPTIONS**

#### **A. Loan Documents and Security Documents**

We have assumed that none of the Loan Documents or Security Documents have 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 other than those identified herein.

#### **B. Authority, Existence of Debt and Security Matters**

We have assumed that:

- (a) each of the Loan Documents and Security Documents was duly authorized, executed and delivered by each of the parties thereto;
- (b) each member of the ARXX Group was a duly incorporated and validly existing corporation at the time that each of the Loan Documents and Security Documents was authorized, executed and delivered, and that each member of the ARXX Group has continued to be duly incorporated and validly existing since that time;
- (c) each member of the ARXX Group had the requisite corporate power, capacity and authority to enter into and perform its obligations under each of the Loan Documents and Security Documents at the time each of the Loan Documents Security Documents was authorized, executed and delivered;
- (d) valuable consideration, including any consideration required to be given under the Loan Documents or Security Documents, was given by the Bank to each member of the ARXX Group;
- (e) all conditions precedent to the Loan Documents and Security Document, if any, have been satisfied or waived;
- (f) attachment of the security interests created by the Security Documents has occurred within the meaning of the Ontario PPSA;
- (g) the ARXX Group has an interest in the Charged Property expressed to be subject to each of the Security Documents, as applicable; and
- (h) insofar as any obligation under any of the Loan Documents and Security Documents is to be performed in any jurisdiction outside the Province of Ontario, its performance will not be illegal or unenforceable by virtue of the laws of that other jurisdiction.

#### **C. Factual Matters**

We have assumed that no fact exists, or has existed, that would entitle the ARXX Group 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 or Security Documents.

**D. 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 or Security Documents and that, except as expressly noted herein, there have been no amendments, restatements, deletions or other modifications to any of the Loan Documents or Security Documents.

**E. Choice of Law**

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

**F. 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.

### QUALIFICATIONS

1. **Title:** We express no opinion concerning:
  - (a) title to any property that is purportedly subject to any security interest created by the Security Documents and such title has been assumed to the full extent necessary to express the opinions contained herein; and
  - (b) the effectiveness of each of the Security Documents 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 the Security 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 Ontario PPSA 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 Security 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 Security Document;
  - (ix) the validity and enforceability of provisions that purport to sever from the Security 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 Security 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 Security Documents, or by any person on its behalf, whether such enforcement involves the operation of the business of the ARXX Group 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 Security Documents that purports to constitute a receiver or receiver and manager thereunder as agent of the ARXX Group 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 any of the Security Documents 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 Security Documents; and
  - (xix) remedies exercisable upon default in any of the Security Documents must be exercised in good faith and in a commercially reasonable manner.
3. **Searches:** We have only conducted those searches described in Schedule "B" hereto. 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. We have only searched against the names set out in Schedule "B" hereto. We have not examined the underlying pleadings associated with the litigation search results set out in Schedule "B".
  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 Security Documents.
  5. **Reviewable Transactions:** No opinion is given as to whether any security interest given under any of the Security Documents constitutes a fraudulent preference or other 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 the ARXX Group 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 vessel registered under the *Canada Shipping Act*, 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 the ARXX Group;
  - (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 Ontario PPSA, Alberta PPSA and Quebec RPMRR, 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 such Provinces;
  - (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 Ontario PPSA; or
  - (ix) property that is Consumer Goods or a Security (as each is defined in the Ontario 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 any of the Security Documents with respect to any property



of the ARXX Group or any proceeds of such property that are not identifiable or traceable.

7. **Specific Collateral:** A security interest in a motor vehicle or serial-numbered equipment may be ineffective as against certain third parties under the Ontario PPSA unless the vehicle identification number or serial number, as the case may be, is set out in the corresponding PPSA registration. None of the Security Documents 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 the ARXX Group on any ship, or as against any coal, mineral, placer, mining or petroleum and natural gas lease, license or claim, owned or which may be acquired by the ARXX Group. 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 Security Documents.

## SCHEDULE "B"

### LIST OF SEARCHES COMPLETED FOR THE ARXX GROUP

- See below

Certain searches, as set out below, have also been conducted for the following predecessors of ARXX BUILDING PRODUCTS INC.:

- AAB Building Systems Inc
- 946653 Ontario Limited
- A A B Building System of British Columbia Ltd
- Arxx Acquisition Corp

#### I. CORPORATION SEARCHES

##### (a) ARXX Corporation

A Delaware Status Search was conducted on December 16, 2013, with respect to ARXX Corporation. Such report indicates that ARXX Corporation is a Delaware corporation that was incorporated on May 14, 2003, under the laws of the State of Delaware. Such report indicates the status of ARXX Corporation as "AR Filed, Tax Due since 12-02-2013," which means that, although ARXX Corporation remains active, it is not in good standing as a result of taxes being due. The registered office address is listed as: 1209 Orange Street, Wilmington, DE, 19801.

##### (b) ARXX Building Products Inc.

A Corporation Profile Report was obtained from the Province of Ontario Ministry of Government Services on December 16, 2013, with respect to ARXX Building Products Inc. Such report indicates that ARXX Building Products Inc. was amalgamated under the laws of Ontario pursuant to the *Ontario Business Corporations Act* (the "OBCA") by articles of amalgamation of ARXX Acquisition Corp. and ARXX Building Products Inc. dated January 3, 2008. Such report indicates the status of ARXX Building Products Inc. as "Active" and the registered office address is listed as: 800 Division Street, Cobourg, Ontario, K9A 5V2. ARXX Inc. is a wholly-owned subsidiary of ARXX Corp.

On September 5, 1991, 946653 Ontario Limited was incorporated in the Province of Ontario. On October 8, 1993, this company changed its name to AAB Building System Inc. AAB Building System Inc. amalgamated with A A B Building System of British Columbia Ltd. on January 1, 1998, and continued to operate as AAB Building System Inc. On November 27, 2000, AAB Building System Inc. changed its name to ARXX Building Products Inc., when then amalgamated with ARXX Acquisition Corp. on January 3, 2008, to form ARXX Building Products Inc.

##### (c) ARXX U.S.A. Inc.

A Delaware Status Search was conducted on December 16, 2013, with respect to ARXX U.S.A. Inc. Such report indicates that ARXX U.S.A. Inc. is a Delaware corporation that was incorporated on December 15, 1997, under the laws of the State of Delaware. Such report indicates the status of ARXX U.S.A. Inc. as "Good Standing since 03-08-2013," meaning that it is active and in good standing. The registered office address is listed as: Suite 400, 2711 Centerville Road, Wilmington, DE.

**(d) ECB Holdings, LLC**

A Delaware Status Search was conducted on December 16, 2013, with respect to ECB Holdings, LLC. Such report indicates that ECB Holdings, LLC, is a Delaware limited liability company that was incorporated on September 2, 2008, under the laws of the State of Delaware. Such report indicates the status of ECB Holdings, LLC, as "Good Standing since 11-03-2009," meaning that it is active and in good standing. The registered office address is listed as: 1209 Orange Street, Wilmington, DE.

**(e) APS Holdings, LLC**

A Delaware Status Search was conducted on December 16, 2013, with respect to APS Holdings, LLC. Such report indicates that APS Holdings, LLC, is a Delaware limited liability company that was incorporated on May 21, 2008, under the laws of the State of Delaware. Such report indicates the status of APS Holdings, LLC, as "Good Standing since 11-03-2009," meaning that it is active and in good standing. The registered office address is listed as: 1209 Orange Street, Wilmington, DE.

**(f) UNISAS Holdings, LLC**

A Delaware Status Search was conducted on December 16, 2013, with respect to UNISAS Holdings, LLC. Such report indicates that UNISAS Holdings, LLC, is a Delaware limited liability company that was incorporated on June 23, 2008, under the laws of the State of Delaware. Such report indicates the status of UNISAS Holdings, LLC, as "Good Standing since 02-026-2010," meaning that it is active and in good standing. The registered office address is listed as: 1209 Orange Street, Wilmington, DE. APS is a Delaware limited liability company which was incorporated on May 21, 2008 under the laws of the State of Delaware and has its office at 1209 Orange Street, Wilmington, DE.

**(g) Eco-Block International, LLC**

A report was obtained on December 16, 2013, from the Georgia Secretary of State, Corporations Division, with respect to Eco-Block International, LLC. Such report indicates that Eco-Block International, LLC, is a Georgia limited liability company that was incorporated on March 29, 2005, under the laws of the State of Georgia. Such report indicates the status of Eco-Block International, LLC, as "Active/Compliance," meaning that it is active. The registered office address is listed as: 800 Division Street, Cobourg, Ontario, Canada.

## II. BANK ACT SEARCH

A Bank Act Security – Section 427 report was obtained on January 13, 2014, with respect to each member of the ARXX Group. Such report indicated that there are no notices of intention to give security under the *Bank Act* (Canada) registered in the Province of Ontario, the Province of Alberta or the Province of Quebec as at January 13, 2014.

## III. BANKRUPTCY SEARCH

A Bankruptcy and Insolvency Records Search report was obtained from Industry Canada on December 17, 2013, with respect to each member of the ARXX Group. Such report revealed no results for the period of 1978 to December 17, 2013.

## IV. LITIGATION SEARCH

We conducted, or caused to be conducted, a litigation search for the City of Toronto and the County of Northumberland (Cobourg), and for the Province of Quebec for each member of the ARXX Group.

### (a) Ontario

As of December 17, 2013, the following actions were found in the City of Toronto (with none found in Cobourg)<sup>1</sup>:

CV-13-10353-00CL, *Comerica Bank v. ARXX Building Products Inc. et al*; Case opened December 5, 2013. Case type: bankruptcy or insolvency law.

CV-08-354331, *Humphrey Daisy Corp. v. Cosburn et al*; Case opened May 7, 2008. Case opened May 7, 2008. Case type: Real property (incl. leases; excl. mortgage/charge).

CV-12-459246, *Solray Investments et al v. Lee*; Case opened July 19, 2012. Case type: Contract law.

### (b) Alberta

No records were found.

### (c) Quebec

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<sup>1</sup> This summary includes only court files whose status is listed as “Active” or whose status is not reported, and, for the province of Quebec, it does not include court files that appear to have been settled or are otherwise inactive.

As of December 16, 2013, the following actions were found in the Province of Quebec:

500-22-095631-043, *Gestions Noraykan Inc. v. ARXX Building Products Inc.*; Case opened March 26, 2004.

#### V. EXECUTION ACT (ONTARIO AND ALBERTA)

We conducted, or caused to be conducted, a search for writs of execution filed against each member of the ARXX Group in the City of Toronto and the County of Northumberland (Cobourg), as well as in the Province of Alberta (no such search is available in Quebec). These searches revealed no writs of execution filed in the City of Toronto or the County of Northumberland (Cobourg) against the ARXX Group as of January 13, 2014. Writs of execution are registered in the PPSA registry in the Province of Alberta, and are not identified as writs of execution within the registry. As of December 16, 2013, it does not appear as though any writs of execution have been filed in the Province of Alberta; however, this cannot be confirmed without further action.

#### VI. PPSA SEARCHES

Torys obtained searches against each member of the ARXX Group from the registries maintained under the Ontario PPSA, the Alberta PPSA, and the Quebec RPMRR, in order to determine whether registrations or filings have been made in connection with the relevant Security Documents.

The searches have disclosed the following registrations made:

##### 1. Ontario (file currency date of December 15, 2013):

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE AND NUMBER	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
<b>1. ARXX BUILDING PRODUCTS INC.</b>				
ARXX Building Products Inc.	Comerica Bank	09/20/2010 20100920 1718 1590 8790	09/20/2018 AMENDED BY FINANCING CHANGE STATEMENT REGISTERED AS REGISTRATION NO. 20130613 1003 5064 8308	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE AND NUMBER	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
			TO RENEW FOR FIVE YEARS.	
ARXX Building Products Inc.	Xerox Canada Ltd.	09/14/2009 20090914 1407 1462 7984	09/14/2015	EQUIPMENT, OTHER
ARXX Building Products Inc.	MMV Finance Canada Inc.	01/31/2008 20080131 1002 1862 3977	01/31/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
<b>1A. PREDECESSORS OF ARXX BUILDING PRODUCTS INC.</b>				
A A B Building System Inc.	None.			
946653 Ontario Limited	None.			
A A B Building System of British Columbia Ltd.	None.			
ARXX Acquisition Corp.	None.			
<b>2. ARXX CORPORATION</b>				
ARXX Corporation	Comerica Bank	09/20/2010 20100920 1716 1590 8789	09/20/2018 AMENDED BY FINANCING CHANGE STATEMENT REGISTERED AS REGISTRATION NO. 20130613 1005 5064 8309 TO RENEW FOR FIVE YEARS.	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE AND NUMBER	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
<b>3. ARXX BUILDING PRODUCTS U.S.A. INC.</b>				
ARXX Building Products U.S.A. Inc.	Comerica Bank	09/20/2010 20100920 1715 1590 8788	09/20/2018 AMENDED BY FINANCING CHANGE STATEMENT REGISTERED AS REGISTRATION NO. 20130613 1132 5064 8317 TO RENEW FOR FIVE YEARS.	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
<b>4. ECB HOLDINGS, LLC</b>				
ECB Holdings, LLC	Comerica Bank	09/20/2010 20100920 1711 1590 8785	09/20/2018 AMENDED BY FINANCING CHANGE STATEMENT REGISTERED AS REGISTRATION NO. 20130613 1136 5064 8319 TO RENEW FOR FIVE YEARS.	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
<b>5. APS HOLDINGS, LLC</b>				
APS Holdings, LLC	Comerica Bank	09/20/2010 20100920 1709 1590 8784	09/20/2018 AMENDED BY FINANCING CHANGE STATEMENT REGISTERED AS REGISTRATION NO. 20130613 1133 5064 8318 TO RENEW FOR FIVE YEARS.	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE AND NUMBER	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
<b>6. UNISAS HOLDINGS, LLC</b>				
UNISAS Holdings, LLC	Comerica Bank	09/20/2010 20100920 1708 1590 8783	09/20/2018 AMENDED BY FINANCING CHANGE STATEMENT REGISTERED AS REGISTRATION NO. 20130613 1125 5064 8313 TO RENEW FOR FIVE YEARS.	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
<b>7. ECO-BLOCK INTERNATIONAL, LLC</b>				
Eco-Block International, LLC	Comerica Bank	09/20/2010 20100920 1706 1590 8782	09/20/2018 AMENDED BY FINANCING CHANGE STATEMENT REGISTERED AS REGISTRATION NO. 20130613 1001 5064 8307 TO RENEW FOR FIVE YEARS.	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE

## 2. Alberta (file currency date of December 16, 2013):

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE AND NUMBER	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
<b>1. ARXX BUILDING PRODUCTS INC.</b>				
ARXX Building Products Inc.	Comerica Bank	09/20/2010 10092022739	09/20/2018	ALL PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY OF



DEBTOR(S)	SECURED PARTY	REGISTRATION DATE AND NUMBER	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
				THE DEBTOR
<b>1A. PREDECESSORS OF ARXX BUILDING PRODUCTS INC.</b>				
A A B Building System Inc.	None.			
946653 Ontario Limited	None.			
A A B Building System of British Columbia Ltd.	None.			
ARXX Acquisition Corp.	Gienow Building Products Ltd.	10/30/2003 03103013433 AMENDED BY REGISTRATION 09081733396 TO RENEW.	10/30/2029	ALL PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY OF THE DEBTOR  ALSO TWO LAND CHARGES LISTED AS REGISTRATION NUMBER 03102909367 AND REGISTRATION NUMBER 03103013508 (DO NOT EXPIRE).
<b>2. ARXX CORPORATION ARXX BUILDING PRODUCTS U.S.A. INC. ECB HOLDINGS, LLC UNISAS HOLDINGS, LLC ECO-BLOCK INTERNATIONAL, LLC</b>				
None.				

3. Quebec (file currency date of December 16, 2013):

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE AND NUMBER	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
<b>1. ARXX BUILDING PRODUCTS INC.</b>				
ARXX Building Products Inc.	Comerica Bank	09/29/2010 10-0680565-0001	09/20/2020	THE UNIVERSALITY OF ARXX BUILDING PRODUCTS INC.'S MOVABLE PROPERTY, PRESENT AND FUTURE, CORPOREAL AND INCORPOREAL, WHEREVER SITUATED
<b>1A. PREDECESSORS OF ARXX BUILDING PRODUCTS INC.</b>				
A A B Building System Inc. 946653 Ontario Limited A A B System of British Columbia Ltd. ARXX Acquisition Corp.				
None.				
<b>2. ECB HOLDINGS, LLC</b>				
ECB Holdings, LLC	Comerica Bank	09/29/2010 10-0680522-0001	09/29/2020	THE UNIVERSALITY OF ECB HOLDINGS, LLC'S MOVABLE PROPERTY, PRESENT AND FUTURE, CORPOREAL AND INCORPOREAL, WHEREVER SITUATED

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE AND NUMBER	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
3. ARXX CORPORATION ARXX BUILDING PRODUCTS U.S.A. INC. APS HOLDINGS, LLC UNISAS HOLDINGS, LLC ECO-BLOCK INTERNATIONAL, LLC				
None.				

#### VII. UCC SEARCHES (STATE OF DELAWARE AND STATE OF GEORGIA)

Torys obtained searches against each of the members of the ARXX Group from the registries maintained under the UCC, in order to determine whether registrations or filings have been made in connection with the relevant Security Documents. These searches were conducted for each member of the ARXX Group in the State of Delaware, and for Eco-Block International, LLC, in the State of Georgia.

The searches have disclosed the following registrations made:

1. Delaware

*Searches in progress; to be provided.*

2. Georgia

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE AND NUMBER	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
1. ECO-BLOCK INTERNATIONAL, LLC				
Eco-Block International, LLC	Comerica Bank	09/29/2010 038-2010-005450	Not listed	SEE APPENDIX 1.

TAB 1

**CORPORATION SERVICE COMPANY**

www.cscglobal.com

CSC- Springfield

801 Adlai Stevenson Drive  
Springfield, IL 62703  
217-544-5900  
217-492-2727 (Fax)

**Matter#** ECO-BLOCK  
INTERNATIONAL, LLC

**Order#** 966986-1

**Project Id :**

**Order Date** 01/17/2014

**Additional Reference :** NOT PROVIDED

<b>Subject:</b>	<b>ECO-BLOCK INTERNATIONAL, LLC</b>
<b>Jurisdiction:</b>	<b>GA - COOPERATIVE AUTHORITY</b>
<b>Request For:</b>	<b>UCC Debtor Search</b>
<b>Result:</b>	<b>Records found</b>
<b>Thru Date:</b>	<b>January 14, 2014</b>
<b>No. of findings:</b>	<b>1</b>
<b>Original UCC Filings:</b>	<b>1</b>
<b>Amendments:</b>	<b>0</b>
<b>Continuations:</b>	<b>0</b>
<b>Assignments:</b>	<b>0</b>
<b>Releases:</b>	<b>0</b>
<b>Corrections:</b>	<b>0</b>
<b>Terminations:</b>	<b>0</b>

Ordered by JAMES VERIKIOS at TORYS LLP

Thank you for using CSC. For real-time 24 hour access to the status of any order placed with CSC, access our website at [www.cscglobal.com](http://www.cscglobal.com).

If you have any questions concerning this order or CSCGlobal, please feel free to contact us.

Susan Enstrom  
[menstrom@cscinfo.com](mailto:menstrom@cscinfo.com)

**Corporation Service Company(R) Terms and Conditions**

You agree that all information that Corporation Service Company furnishes to you will be used solely as one factor in your credit, insurance, marketing or other business decisions and will not be used (i) in determining a consumer's eligibility for credit or insurance where such credit or insurance is to be used primarily for personal, family or household purposes, (ii) for employment purposes, or (iii) for governmental licenses. Use of the information in the above manner is a violation of the Fair Credit Reporting Act.

**CORPORATION SERVICE COMPANY**

www.cscglobal.com

CSC- Springfield

801 Adlai Stevenson Drive  
Springfield, IL 62703  
217-544-5900  
217-492-2727 (Fax)

**Matter#** ECO-BLOCK  
INTERNATIONAL, LLC

**Order#** 966986-1

**Project Id :**

**Order Date** 01/17/2014

**Additional Reference :** NOT PROVIDED

**Subject:** ECO-BLOCK INTERNATIONAL, LLC

**Jurisdiction:** GA - COOPERATIVE AUTHORITY

**Request for:** UCC Debtor Search

**Result:** Records found

**File Type:** Original  
**File Number:** 038-2010-005450  
**File Date :** 09/29/2010  
**Current Secured Party of Record:** COMERICA BANK

Ordered by JAMES VERIKIOS at TORYS LLP

Thank you for using CSC. For real-time 24 hour access to the status of any order placed with CSC, access our website at [www.cscglobal.com](http://www.cscglobal.com).

If you have any questions concerning this order or CSCGlobal, please feel free to contact us.

Susan Enstrom  
[menstrom@cscinfo.com](mailto:menstrom@cscinfo.com)

**Corporation Service Company(R) Terms and Conditions**

You agree that all information that Corporation Service Company furnishes to you will be used solely as one factor in your credit, insurance, marketing or other business decisions and will not be used (i) in determining a consumer's eligibility for credit or insurance where such credit or insurance is to be used primarily for personal, family or household purposes, (ii) for employment purposes, or (iii) for governmental licenses. Use of the information in the above manner is a violation of the Fair Credit Reporting Act.

FILED & RECORDED  
 Wednesday, September 29, 2010 8:29:26 AM  
 File Number: 038-2010-005450  
 Cindy G. Brown  
 Coweta County Clerk of Superior Court

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

<b>A. NAME &amp; PHONE OF CONTACT AT FILER [optional]</b> Corporation Service Company 1-800-858-5294
<b>B. SEND ACKNOWLEDGMENT TO: (Name and Address)</b>  53098393 - 358060 - 9/28/2010  Corporation Service Company 801 Adlai Stevenson Drive Springfield, IL 62703  Filed In: Georgia Central Index - Coweta County

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names**

1a. ORGANIZATION'S NAME <b>ECO-BLOCK INTERNATIONAL, LLC</b>					
OR	1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS <b>800 Division Street</b>		CITY <b>Cobourg</b>	STATE <b>ON</b>	POSTAL CODE <b>K9A 5V2</b>	COUNTRY <b>CAN</b>
1d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION <b>LLC</b>	1f. JURISDICTION OF ORGANIZATION <b>GA</b>	1g. ORGANIZATIONAL ID #, if any <b>0525190</b> <input type="checkbox"/> NONE	

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names**

2a. ORGANIZATION'S NAME					
OR	2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY
2d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE	

**3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR(S)/P) - insert only one secured party name (3a or 3b)**

3a. ORGANIZATION'S NAME <b>Comerica Bank</b>					
OR	3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS <b>Suite 2210, South Tower, Royal Bank Plaza, P.O. Box 61</b>		CITY <b>Toronto</b>	STATE <b>ON</b>	POSTAL CODE <b>M4W 3E2</b>	COUNTRY <b>CAN</b>

**4. This FINANCING STATEMENT covers the following collateral:**

PLEASE SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

5. ALTERNATIVE DESIGNATION (if applicable):	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOR	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. This FINANCING STATEMENT is to be filed (for records) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (optional) (ADDITIONAL FEE)	All Debtors	Debtor 1	Debtor 2		
8. OPTIONAL FILER REFERENCE DATA <b>ECO-BLOCK INTERNATIONAL, LLC (1634-1 - DCB) GA SOS</b>						53098393

**EXHIBIT A****DESCRIPTION OF COLLATERAL**

All personal property of Debtor whether presently existing or hereafter created or acquired, and wherever located, including, but not limited to:

(a) all accounts (including health-care-insurance receivables), chattel paper (including tangible and electronic chattel paper), deposit accounts, documents (including negotiable documents), equipment (including all accessions and additions thereto), general intangibles (including payment intangibles and software), goods (including fixtures), instruments (including promissory notes), inventory (including all goods held for sale or lease or to be furnished under a contract of service, and including returns and repossessions), investment property (including securities and securities entitlements), letter of credit rights, money, and all of Debtor's books and records with respect to any of the foregoing, and the computers and equipment containing said books and records;

(b) all of the membership interests identified on Schedules 3.4(a) and 3.4(b) attached hereto (or any addendum thereto), all membership interests of the Persons identified as Issuers on Schedules 3.4(a) and 3.4(b) attached hereto (each an "Issuer"), and all securities convertible or exchangeable into, and all warrants, options, or other rights to purchase, the membership interests of Issuer; to the extent of Debtor's interest therein, all shares of, all securities convertible or exchangeable into, and all warrants, options, or other rights to purchase shares of stock of any Person in which Debtor acquires a direct equity interest, irrespective of whether such Person is or becomes a Subsidiary of Debtor; the certificates or instruments representing such additional shares, convertible or exchangeable securities, warrants, and other rights and all dividends, cash, options, warrants, rights, instruments, and other property or proceeds from time to time received, receivable, or otherwise distributed in respect of or in exchange for any or all of such shares (collectively, the "Pledged Interests");

(c) all common law and statutory copyrights and copyright registrations and applications for registration, now existing or hereafter arising, in the United States of America or in any foreign jurisdiction, obtained or to be obtained on or in connection with any of the foregoing, or any parts thereof or any underlying or component elements of any of the foregoing, together with the right to copyright and all rights to renew or extend such copyrights and the right (but not the obligation) of Secured Party to sue in its own name and/or in the name of the Debtor for past, present and future infringements of copyright;

(d) all trademarks, service marks, trade names and service names and the goodwill associated therewith, together with the right to trademark and all rights to renew or extend such trademarks and the right (but not the obligation) of Secured Party to sue in its own name and/or in the name of the Debtor for past, present and future infringements of trademark;

(e) all (i) patents and patent applications filed in the United States Patent and Trademark Office or any similar office of any foreign jurisdiction, and interests under patent license agreements, including, without limitation, the inventions and improvements described and claimed therein, (ii) licenses pertaining to any patent whether Debtor is licensor or licensee, (iii) income, royalties, damages, payments, accounts and accounts receivable now or hereafter due and/or payable under and with respect thereto, including, without limitation, damages and payments for past, present or future infringements thereof, (iv) right (but not the obligation) to sue in the name of Debtor and/or in the name of Secured Party for past, present and future infringements thereof, (v) rights corresponding thereto throughout the world in all jurisdictions in which such patents have been issued or applied for, and (vi) reissues, divisions, continuations, renewals, extensions and continuations-in-part with respect to any of the foregoing; and

(f) any and all cash proceeds and/or noncash proceeds of any of the foregoing, including, without limitation, insurance proceeds, and all supporting obligations and the security therefor or for any right to payment. All terms above have the meanings given to them in the California Uniform Commercial Code, as amended or supplemented from time to time, including revised Division 9 of the Uniform Commercial Code-Secured Transactions, added by Stats. 1999, c.991 (S.B. 45), Section 35, operative July 1, 2001.



**SCHEDULE 3.4(a)**

**PLEDGED INTERESTS BY ARXX CORPORATION**

<u>Issuer</u>	<u>Membership Interests</u>	<u>Debtor's Percentage Ownership</u>	<u>Jurisdiction of Incorporation / Organization</u>
ECB HOLDINGS, LLC	100%	100%	Delaware
APS HOLDINGS, LLC	100%	100%	Delaware
UNISAS HOLDINGS, LLC	100%	100%	Delaware

**SCHEDULE 3.4(b)**

**PLEDGED SHARES BY ECB HOLDINGS, LLC**

<u>Issuer</u>	<u>Membership Interests</u>	<u>Debtor's Percentage Ownership</u>	<u>Jurisdiction of Incorporation / Organization</u>
ECO-BLOCK INTERNATIONAL LLC	100%	100%	Georgia

**TAB H**

**PAYOUT AND AUTHORIZATION TO DISCHARGE**

**TO: ARXX BUILDING PRODUCTS INC. AND ARXX CORPORATION**  
(collectively, "ARXX")

MMV Finance Inc. ("MMV") hereby acknowledges that payment made by ARXX to MMV as of March 31, 2011 (the "Payout") completely fulfills and discharges all covenants and obligations of ARXX and its affiliates in favour of MMV with respect to certain credit facilities established pursuant to a credit agreement between MMV and ARXX, dated as of the 15th day of February, 2008 (as amended, the "Credit Agreement").

Accordingly, MMV and ARXX hereby agree that, in consideration of the Payout:

1. The Credit Agreement and all security entered into pursuant thereto is immediately terminated and of no further force or effect.
2. Each of MMV and ARXX are hereby released and forever discharged of and from all actions, causes of action, suits, duties, debts, accounts, bonds, covenants, contracts, claims and demands whatsoever that any of MMV or ARXX now has or hereafter can, shall or may have for or by reason of or in any way arising out of any cause, matter or thing whatsoever existing up to the date hereof and, in particular, without in any way limiting the generality of the foregoing, in respect of all claims for money advanced pursuant to the Credit Agreement, excepting only such claims and rights as MMV may be entitled to pursuant to an Amended and Restated Warrant for the Purchase of Series B Convertible Preferred Stock of Arxx Corporation, dated on or about September 24, 2010.
3. ARXX and its counsel are hereby entitled, at its own expense, from time to time to do, execute, acknowledge and deliver all further acts, deeds, conveyances, transfers and assurances, and all discharges, financing change statements and similar notices reasonably necessary or proper for the discharge of any and all security interests in favour of MMV pursuant to the Credit Agreement and, for such purposes, MMV does hereby irrevocably appoint ARXX and its counsel the true and lawful attorney-in-fact of MMV with full power of substitution, for and in its name to execute any discharge statements or financing change statements in any applicable jurisdiction. The power and authority hereby given and granted shall be deemed coupled with an interest and not revocable by any party.

IN WITNESS WHEREOF, the parties hereto, by their officers thereunto duly authorized, have executed this Payout and Authorization to Discharge as of the \_\_\_ day of April, 2011.

MMY FINANCE INC.

By: 

Name: Chris Marshall

Title: General Counsel

ARXX CORPORATION.

By: 

Name: JOSE R. BERTRAND

Title: VP + CFO

ARXX BUILDING PRODUCTS  
INC.

By: 

Name: JOSE R. BERTRAND

Title: VP + CFO

# TAB I

## Sieradzki, David

---

**From:** Sieradzki, David  
**Sent:** Tuesday, January 21, 2014 11:25 AM  
**To:** Sieradzki, David  
**Subject:** FW: Gienow Building Products

**From:** Richard Boyer  
**Sent:** Monday, January 20, 2014 11:35 AM  
**To:** Goldstein, Noah  
**Subject:** Gienow Building Products

Good morning Noah,  
This will confirm that Gienow Building Products Ltd. has no claim against ARXX Building Products.  
I trust the foregoing is satisfactory,  
Regards,  
Richard Boyer

**Richard L. Boyer, CA**  
President

7140 – 40th St. S.E, Calgary, Alberta, T2C 2B6 | p: 403 203 8200 | d: 403 203 8329 | f: 403 203 8351  
e-mail: [richard.boyer@plygem.ca](mailto:richard.boyer@plygem.ca)



# TAB J



January 20, 2014

**BY EMAIL**  
TO THE ATTACHED SERVICE LIST

Dear Sirs/Mesdames:

**Re: Receivership of ARXX Building Products Inc. et al. (the "ARXX Group") -  
Court File No. CV-13-10353-00CL**

In accordance with the sale process approved by the Court on December 27, 2013, a hearing date was set for 10:00 a.m. on January 29, 2014, for the approval of a sale of the business and assets of the ARXX Group. Please be advised that, at that hearing, the Receiver will also request from the Court an Order authorizing a US\$1.5 million distribution from the proceeds of sale to Comerica Bank, and authorization to make additional distributions to Comerica Bank, from time to time in an aggregate amount not to exceed the amount of the secured indebtedness owing by the ARXX Group to Comerica Bank, without further Court Order. Comerica Bank is the principal secured creditor of the ARXX Group.

We will provide you with a copy of the Motion Record in respect of the sale approval and distribution, including the Second Report of the Receiver, in due course. Copies of these materials will also be posted on the Receiver's website at: [www.duffandphelps.com/intl/en-ca/Pages/RestructuringCases.aspx?caseId=912](http://www.duffandphelps.com/intl/en-ca/Pages/RestructuringCases.aspx?caseId=912).

If you intend to appear at this hearing, please advise the undersigned in order that we may advise the Court for scheduling purposes and ensure that sufficient Court time has been booked for the hearing of this matter.

Yours truly,

**Torys LLP**

Per:



Lily Coodin  
LC

Service List

**Service List  
As of January 16, 2014**

**TO: TORYS LLP**  
79 Wellington Street West, 30th Floor Box 270, TD South Tower  
Toronto, ON M5K 1N2

David Bish / Lily Coodin  
Tel: (416) 865-7353 / (416) 865-7541  
Fax: (416) 865-7380  
Email: [dbish@torys.com](mailto:dbish@torys.com) / [lcoodin@torys.com](mailto:lcoodin@torys.com)

Lawyers for Duff & Phelps Canada Restructuring Inc., the Receiver

**AND TO: DUFF & PHELPS CANADA RESTRUCTURING INC.**  
333 Bay Street, 14th Floor, Bay Adelaide Centre  
Toronto, ON M5H 2R2

David Sieradzki / Noah Goldstein  
Tel: (416) 932-6030 / (416) 932-6207  
Fax: (647) 497-9473  
Email: [david.sieradzki@duffandphelps.com](mailto:david.sieradzki@duffandphelps.com) / [noah.goldstein@duffandphelps.com](mailto:noah.goldstein@duffandphelps.com)

**AND TO: STIKEMAN ELLIOTT LLP**  
1155 boul. Rene-Levesque Ouest, 40th Floor  
Montreal, QC H3B 3V2

Guy P. Martel / Dana Borshy  
Tel: (514) 397-3163  
Fax: (514) 397-3222  
Email: [gmartel@stikeman.com](mailto:gmartel@stikeman.com) / [dborshy@stikeman.com](mailto:dborshy@stikeman.com)

**STIKEMAN ELLIOTT LLP**  
5300 Commerce Court West  
199 Bay Street  
Toronto, ON M5L 1B9

Kathryn Esaw  
Tel: (416) 869-6820  
Fax: (416) 947-0866  
Email: [kesaw@stikeman.com](mailto:kesaw@stikeman.com)

Lawyers for Airlite Plastics Co.

**AND TO: MCMILLAN LLP**  
Brookfield Place  
181 Bay Street, Suite 4400  
Toronto, ON, M5J 2T3

Brett Harrison / Adam Maerov  
Tel: (416) 865-7932  
Fax: (416) 865-7048  
Email: [Brett.Harrison@mcmillan.ca](mailto:Brett.Harrison@mcmillan.ca) / [Adam.Maerov@mcmillan.ca](mailto:Adam.Maerov@mcmillan.ca)

Lawyers for Comerica Bank

**AND TO: EXPORT DEVELOPMENT CANADA**  
150 Slater Street  
Ottawa, ON K1A 1K3

Attention: Loans Services - Small Business Financing  
Fax: (613) 598-2514  
Email: [SBF.loanservices@edc.ca](mailto:SBF.loanservices@edc.ca)

Attention: Asset Management  
Fax: (613) 598-3186  
Email: [SBF.assetmanagement@edc.ca](mailto:SBF.assetmanagement@edc.ca)

**AND TO: DEPARTMENT OF JUSTICE**  
The Exchange Tower  
130 King Street West, Suite 3400  
Toronto, ON M5X 1K6

Diane Winters  
Tel: (416) 973-3172  
Fax: (416) 973-0810  
E-Mail: [diane.winters@justice.gc.ca](mailto:diane.winters@justice.gc.ca)

**AND TO: GIENOW BUILDING PRODUCTS LTD.**  
7140-40th Street S.E.  
Calgary, AB T2C 2B6

**AND TO: XEROX CANADA LTD.**  
33 Bloor Street E., 3rd Floor  
Toronto, ON M4W 3H1

**AND TO: MMV FINANCE CANADA INC.**  
95 Wellington Street West, 22nd Floor  
Toronto, ON M5J 2N7

**TAB 1**

This is a confidential appendix.

TAB 3

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) MONDAY, THE 29th  
JUSTICE \_\_\_\_\_ ) DAY OF JANUARY, 2014

BETWEEN:

COMERICA BANK

Applicant

- and -

ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING  
PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS  
HOLDINGS, LLC, AND ECO-BLOCK INTERNATIONAL, LLC

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by Duff & Phelps Canada Restructuring Inc. (“D&P”) in its capacity as the Court-appointed receiver (the “Receiver”) of the undertaking, property and assets of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (collectively, the “ARXX Group”) for an order approving the sale transaction (the “Transaction”) contemplated by an agreement of purchase and sale (the “Sale Agreement”) between the Receiver and Airlite Plastics Co. (the “Purchaser”) dated December 19, 2013, and appended to the Second Report of the Receiver dated January 22, 2014 (the “Second Report”), and vesting in the Purchaser the ARXX Group’s right, title and interest in and to the assets described in the Sale Agreement (the “Purchased Assets”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, the Purchaser and Comerica Bank (the “**Bank**”), no one appearing for any other person on the service list, although properly served as appears from the affidavit of Elizabeth Nigro sworn January 23, 2014, filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule A hereto (the “**Receiver’s Certificate**”), all of the ARXX Group’s right, title and interest in and to the Purchased Assets described in the Sale Agreement, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Morawetz dated December 9, 2013; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule B hereto (all of which are collectively referred to as the “**Encumbrances**”) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets



with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

5. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the ARXX Group's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the ARXX Group.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the ARXX Group and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the ARXX Group;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the ARXX Group and shall not be void or voidable by creditors of the ARXX Group, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. **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.

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**Schedule A – Form of Receiver’s Certificate**

Court File No. CV-13-10353-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**BETWEEN:**

**COMERICA BANK**

Applicant

- and -

**ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING  
PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS  
HOLDINGS, LLC, AND ECO-BLOCK INTERNATIONAL, LLC**

Respondents

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Morawetz of the Ontario Superior Court of Justice [Commercial List] (the “**Court**”) dated December 9, 2013, Duff & Phelps Canada Restructuring Inc. (“**D&P**”) was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (collectively, the “**ARXX Group**”).

B. Pursuant to an Order of the Court dated January \_\_, 2014, the Court approved the agreement of purchase and sale made as of December 19, 2013 (the “**Sale Agreement**”), between the Receiver and Airlite Plastics Co. (the “**Purchaser**”) and provided for the vesting in the Purchaser of the ARXX Group’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 5

of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Article 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ on \_\_\_\_\_.

**Duff & Phelps Canada Restructuring Inc., in its capacity as Receiver of the undertaking, property and assets of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC, and not in its personal capacity**

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

**Schedule B – Claims**

**ARXX PPSA Registrations**

1. Ontario

<b>DEBTOR(S)</b>	<b>SECURED PARTY</b>	<b>REGISTRATION DATE</b>	<b>REGISTRATION EXPIRY DATE</b>	<b>COLLATERAL CLASSIFICATION</b>
ARXX Building Products Inc.	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
ARXX Building Products Inc.	Xerox Canada Ltd.	09/14/2009	09/14/2015	EQUIPMENT, OTHER
ARXX Building Products Inc.	MMV Finance Canada Inc.	01/31/2008	01/31/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
ARXX Corporation	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
ARXX Building Products U.S.A. Inc.	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
ECB Holdings, LLC	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
APS Holdings, LLC	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER,

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
				MOTOR VEHICLE
UNISAS Holdings, LLC	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE
Eco-Block International, LLC	Comerica Bank	09/20/2010	09/20/2018	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE

2. Alberta

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
ARXX Building Products Inc.	Comerica Bank	09/20/2010	09/20/2018	ALL PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY OF THE DEBTOR
ARX Acquisition Corp.	Gienow Building Products Ltd.	10/30/2003	10/30/2029	ALL PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY OF THE DEBTOR ALSO A LAND CHARGE (DOES NOT EXPIRE)

3. Quebec

<b>DEBTOR(S)</b>	<b>SECURED PARTY</b>	<b>REGISTRATION DATE</b>	<b>REGISTRATION EXPIRY DATE</b>	<b>COLLATERAL CLASSIFICATION</b>
ARXX Building Products Inc.	Comerica Bank	09/29/2010	09/20/2020	THE UNIVERSALITY OF ARXX BUILDING PRODUCTS INC.'S MOVABLE PROPERTY, PRESENT AND FUTURE, CORPOREAL AND INCORPOREAL, WHEREVER SITUATED
ECB Holdings, LLC	Comerica Bank	09/29/2010	09/29/2020	THE UNIVERSALITY OF ECB HOLDINGS, LLC'S MOVABLE PROPERTY, PRESENT AND FUTURE, CORPOREAL AND INCORPOREAL, WHEREVER SITUATED

**ARXX UCC Registrations**

1. Delaware

*Searches in progress; to be provided.*

2. Georgia

DEBTOR(S)	SECURED PARTY	REGISTRATION DATE AND NUMBER	REGISTRATION EXPIRY DATE	COLLATERAL CLASSIFICATION
<b>1. ECO-BLOCK INTERNATIONAL, LLC</b>				
Eco-Block International, LLC	Comerica Bank	09/29/2010 038-2010-005450	Not listed	SEE APPENDIX 1.



COMERICA BANK and ARXX BUILDING PRODUCTS INC., ARXX CORPORATION,  
ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS,  
LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, AND  
ECO-BLOCK INTERNATIONAL, LLC  
APPLICANT RESPONDENTS

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

Proceedings commenced in Toronto

**APPROVAL AND VESTING ORDER**

**Torys LLP**  
79 Wellington Street West, Suite 3000  
Box 270, TD Centre  
Toronto, Ontario M5K 1N2

**David Bish (LSUC#: 41629A)**  
Tel: 416.865.7353

**Lily Coodin (LSUC#: 62143S)**  
Tel: 416.865.7541

Fax: 416.865.7380

Lawyers for Duff & Phelps Canada  
Restructuring, Inc., in its capacity as  
the receiver for ARXX Building  
Products Inc., ARXX Corporation,  
ARXX Building Products U.S.A. Inc.,  
ECB Holdings, LLC, APS Holdings,  
LLC, UNISAS Holdings LLC, and  
Eco-Block International, LLC

TAB A

Court File No. CV-13-10353-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE \_\_\_\_\_ )  
JUSTICE \_\_\_\_\_ )  
WEEKDAY MONDAY, THE #29th  
DAY OF MONTH JANUARY, 20YR2014

BETWEEN:

PLAINTIFF COMERICA BANK

Plaintiff

Applicant

- and -

DEFENDANT

Defendant

ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, AND ECO-BLOCK INTERNATIONAL, LLC

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by [~~RECEIVER'S NAME~~] Duff & Phelps Canada Restructuring Inc. ("D&P") in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of [~~DEBTOR~~] (ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (collectively, the "Debtor" "ARXX Group") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [~~NAME OF PURCHASER~~] Airlite Plastics Co. (the "Purchaser") dated [~~DATE~~] December 19, 2013, and appended to the Second Report of the Receiver dated

~~{DATE}~~ January 22, 2014 (the "Second Report"), and vesting in the Purchaser the Debtor ARXX Group's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, ~~{NAMES OF OTHER PARTIES APPEARING}~~ the Purchaser and Comerica Bank (the "Bank"), no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~{NAME}~~ Elizabeth Nigro sworn ~~{DATE}~~ January 23, 2014, filed<sup>1</sup>:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved,<sup>2</sup> and the execution of the Sale Agreement by the Receiver<sup>3</sup> is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor ARXX Group's right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~[and listed on Schedule B hereto]~~<sup>4</sup>, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and

<sup>1</sup> ~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

<sup>2</sup> ~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

<sup>3</sup> ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

<sup>4</sup> ~~To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

whether secured, unsecured or otherwise (collectively, the "Claims"<sup>5</sup>) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice [NAME] Morawetz dated [DATE] December 9, 2013; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule ~~C~~ B hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule ~~D~~ B) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

~~3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]~~<sup>6</sup>, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

3. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior

<sup>5</sup>The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

<sup>6</sup>Elect the language appropriate to the land registry system (Registry vs. Land Titles).

<sup>7</sup>The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

to the sale<sup>8</sup>, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. ~~5-~~ **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

5. ~~6-~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor ARXX Group's past and current employees, ~~including personal information of those employees listed on Schedule "•" to the Sale Agreement.~~ The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor ARXX Group.

6. ~~7-~~ **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor ARXX Group and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor ARXX Group;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor ARXX Group and shall not be void or voidable by creditors of the Debtor ARXX Group, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or

<sup>8</sup> ~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. ~~8.~~ **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. ~~9.~~ **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.

---

Schedule A – Form of Receiver’s Certificate

Court File No. CV-13-10353-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

BETWEEN:

**PLAINTIFF COMERICA BANK**

Plaintiff

**Applicant**

- and -

**DEFENDANT**

Defendant

**ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, AND ECO-BLOCK INTERNATIONAL, LLC**

**Respondents**

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~{DATE OF JUDGE}~~ Justice Morawetz of the Ontario Superior Court of Justice [Commercial List] (the “Court”) dated ~~{DATE OF ORDER}~~, [NAME OF RECEIVER] December 9, 2013, Duff & Phelps Canada Restructuring Inc. (“D&P”) was appointed as the receiver (the “Receiver”) of the undertaking, property and assets of ~~{DEBTOR}~~ (ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (collectively, the “Debtor ARXX Group”)).

B. Pursuant to an Order of the Court dated ~~{DATE}~~, January 14, 2014, the Court approved the agreement of purchase and sale made as of ~~{DATE OF AGREEMENT}~~ December 19, 2013 (the “Sale Agreement”), between the Receiver ~~{Debtor}~~ and ~~{NAME OF~~



~~PURCHASER}Airlite Plastics Co.~~ (the "~~Purchaser~~") and provided for the vesting in the Purchaser of the ~~Debtor~~ARXX Group's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in ~~section~~ **•Article 5** of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in ~~section~~ **•Article 5** of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at ~~[TIME]~~\_\_\_\_\_ on \_\_\_\_\_ ~~[DATE]~~\_\_\_\_\_.

~~[NAME OF RECEIVER}~~Duff & Phelps Canada Restructuring Inc., in its capacity as Receiver of the undertaking, property and assets of ~~[DEBTOR}~~ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC, and not in its personal capacity

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

Name:

Title:



## Schedule B – Purchased Assets Claims

ARXX PPSA Registrations1. Ontario

<u>DEBTOR(S)</u>	<u>SECURED PARTY</u>	<u>REGISTRATION DATE</u>	<u>REGISTRATION EXPIRY DATE</u>	<u>COLLATERAL CLASSIFICATION</u>
<u>ARXX Building Products Inc.</u>	<u>Comerica Bank</u>	<u>09/20/2010</u>	<u>09/20/2018</u>	<u>INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE</u>
<u>ARXX Building Products Inc.</u>	<u>Xerox Canada Ltd.</u>	<u>09/14/2009</u>	<u>09/14/2015</u>	<u>EQUIPMENT, OTHER</u>
<u>ARXX Building Products Inc.</u>	<u>MMV Finance Canada Inc.</u>	<u>01/31/2008</u>	<u>01/31/2018</u>	<u>INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE</u>
<u>ARXX Corporation</u>	<u>Comerica Bank</u>	<u>09/20/2010</u>	<u>09/20/2018</u>	<u>INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE</u>
<u>ARXX Building Products U.S.A. Inc.</u>	<u>Comerica Bank</u>	<u>09/20/2010</u>	<u>09/20/2018</u>	<u>INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE</u>
<u>ECB Holdings, LLC</u>	<u>Comerica Bank</u>	<u>09/20/2010</u>	<u>09/20/2018</u>	<u>INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE</u>
<u>APS Holdings, LLC</u>	<u>Comerica Bank</u>	<u>09/20/2010</u>	<u>09/20/2018</u>	<u>INVENTORY, EQUIPMENT, ACCOUNTS, OTHER,</u>

<u>DEBTOR(S)</u>	<u>SECURED PARTY</u>	<u>REGISTRATION DATE</u>	<u>REGISTRATION EXPIRY DATE</u>	<u>COLLATERAL CLASS-IFICATI ON</u>
				<u>MOTOR VEHICLE</u>
<u>UNISAS Holdings, LLC</u>	<u>Comerica Bank</u>	<u>09/20/2010</u>	<u>09/20/2018</u>	<u>INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE</u>
<u>Eco-Block International, LLC</u>	<u>Comerica Bank</u>	<u>09/20/2010</u>	<u>09/20/2018</u>	<u>INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLE</u>

**2. Alberta**

<u>DEBTOR(S)</u>	<u>SECURED PARTY</u>	<u>REGISTRATION DATE</u>	<u>REGISTRATION EXPIRY DATE</u>	<u>COLLATERAL CLASS-IFICATI ON</u>
<u>ARXX Building Products Inc.</u>	<u>Comerica Bank</u>	<u>09/20/2010</u>	<u>09/20/2018</u>	<u>ALL PRESENT AND AFTER-ACQU IRED PERSONAL PROPERTY OF THE DEBTOR</u>
<u>ARX Acquisition Corp.</u>	<u>Gienow Building Products Ltd.</u>	<u>10/30/2003</u>	<u>10/30/2029</u>	<u>ALL PRESENT AND AFTER-ACQU IRED PERSONAL PROPERTY OF THE DEBTOR</u>  <u>ALSO A LAND CHARGE (DOES NOT EXPIRE)</u>

**3. Quebec**

<b><u>DEBTOR(S)</u></b>	<b><u>SECURED PARTY</u></b>	<b><u>REGISTRATION DATE</u></b>	<b><u>REGISTRATION EXPIRY DATE</u></b>	<b><u>COLLATERAL CLASSIFICATION</u></b>
<b><u>ARXX Building Products Inc.</u></b>	<b><u>Comerica Bank</u></b>	<b><u>09/29/2010</u></b>	<b><u>09/29/2020</u></b>	<b><u>THE UNIVERSALITY OF ARXX BUILDING PRODUCTS INC.'S MOVABLE PROPERTY, PRESENT AND FUTURE, CORPOREAL AND INCORPOREAL, WHEREVER SITUATED</u></b>
<b><u>ECB Holdings, LLC</u></b>	<b><u>Comerica Bank</u></b>	<b><u>09/29/2010</u></b>	<b><u>09/29/2020</u></b>	<b><u>THE UNIVERSALITY OF ECB HOLDINGS, LLC'S MOVABLE PROPERTY, PRESENT AND FUTURE, CORPOREAL AND INCORPOREAL, WHEREVER SITUATED</u></b>

**ARXX UCC Registrations**

**1. Delaware**

**Searches in progress; to be provided.**

**2. Georgia**

<b><u>DEBTOR(S)</u></b>	<b><u>SECURED PARTY</u></b>	<b><u>REGISTRATION DATE AND NUMBER</u></b>	<b><u>REGISTRATION EXPIRY DATE</u></b>	<b><u>COLLATERAL CLASSIFICATION</u></b>
<b><u>1. ECO-BLOCK INTERNATIONAL, LLC</u></b>				
<b><u>Eco-Block International, LLC</u></b>	<b><u>Comerica Bank</u></b>	<b><u>09/29/2010</u></b> <b><u>038-2010-0054</u></b> <b><u>50</u></b>	<b><u>Not listed</u></b>	<b><u>SEE APPENDIX 1.</u></b>

Revised: May 11, 2010

Court File No. CV-13-10353-00CL

COMERICA BANK and ARXX BUILDING PRODUCTS INC., ARXX CORPORATION,  
ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS,  
LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, AND  
ECO-BLOCK INTERNATIONAL, LLC  
APPLICANT RESPONDENTS

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Proceedings commenced in Toronto

APPROVAL AND VESTING ORDER

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Lawyers for Duff & Phelps Canada  
Restructuring, Inc., in its capacity  
the receiver for ARXX Building  
Inc., ARXX Corporation, ARXX  
Building Products U.S.A. Inc., ECB  
Holdings, LLC, APS Holdings, L  
UNISAS Holdings LLC, and Eco  
International, LLC

**Schedule C—Claims to be deleted and expunged from title to Real Property**

\_\_\_\_\_



**Schedule D—Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property  
(unaffected by the Vesting Order)**

Document comparison by Workshare Compare on January-22-14 12:15:51 PM

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Moved to	0
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Format changed	0
Total changes	375

**TAB 4**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE  
JUSTICE \_\_\_\_\_

)  
)  
)

WEDNESDAY, THE 29th  
DAY OF JANUARY, 2014

**B E T W E E N:**

**COMERICA BANK**

Applicant

- and -

**ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING  
PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS  
HOLDINGS, LLC, AND ECO-BLOCK INTERNATIONAL, LLC**

Respondents

**DISTRIBUTION ORDER**

**THIS MOTION**, made by Duff & Phelps Canada Restructuring Inc., in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of the undertaking, property and assets of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (collectively, the “**ARXX Group**”) for an Order in substantially the form set out at Tab 4 of the Receiver’s Motion Record was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Receiver’s Motion Record, filed, in respect of this motion, including the Notice of Motion, and the Second Report;

AND UPON hearing the submissions of counsel for each of the Receiver, Airlite Plastics Co. (the “Purchaser”) and Comerica Bank (the “Bank”), no one else appearing for any other person on the service list, although duly served as appears from the affidavit of service of Elizabeth Nigro sworn January 23, 2014, filed;

**TIME FOR SERVICE**

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

**APPROVAL OF RECEIVER’S FIRST REPORT [AND SECOND REPORT] AND RECEIVER’S ACTIVITIES**

2. THIS COURT ORDERS that the Receiver’s First Report, dated December 19, 2013, is hereby approved and all of the actions and activities of the Receiver described therein are hereby approved.

3. THIS COURT ORDERS that the Second Report is hereby approved and all of the actions and activities of the Receiver described therein are hereby approved.

**AUTHORIZATION OF DISTRIBUTION**

4. THIS COURT ORDERS that the distribution of US\$1.5 million by the Receiver to the Bank, following the closing of the transactions contemplated in the Asset Purchase Agreement, is hereby approved.

5. THIS COURT ORDERS that, subject to reasonable reserves in the discretion of the Receiver (including, without limitation, for any priority claims and the Receiver’s costs of administration), the Receiver may make one or more distributions to the Bank in an aggregate amount equivalent to the ARXX Group’s indebtedness to the Bank, and that the same be and are hereby approved.

**SEALING OF CONFIDENTIAL VALUATION INFORMATION**

6. **THIS COURT ORDERS** that the Confidential Appendix 1 to the Second Report be and is hereby sealed until further order of this Honourable Court.

**GENERAL**

7. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada against all persons, firms, corporations, governmental, municipal and regulatory authorities against whom it may be enforceable.

8. **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 the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province to act in aid of and to be complementary to this Court 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 as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

---

COMERICA BANK

and

ARXX BUILDING PRODUCTS INC., ARXX CORPORATION,  
ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS,  
LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, AND  
ECO-BLOCK INTERNATIONAL, LLC

APPLICANT

RESPONDENTS

Court File No. CV-13-10353-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Proceedings commenced in Toronto

**DISTRIBUTION ORDER**

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Products Inc., ARXX Corporation,  
ARXX Building Products U.S.A. Inc.,  
ECB Holdings, LLC, APS Holdings,  
LLC, UNISAS Holdings LLC, and  
Eco-Block International, LLC

COMERICA BANK

and

ARXX BUILDING PRODUCTS INC., ARXX CORPORATION,  
ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS,  
LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, AND  
ECO-BLOCK INTERNATIONAL, LLC  
RESPONDENTS

Court File No. CV-13-10353-00CL

APPLICANT

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Proceedings commenced in Toronto

**MOTION RECORD**

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Eco-Block International, LLC