

No. S-224806  
Vancouver Registry  
Estate No. 11-254412

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
PREMIUM COMFORT HEATING & AIR CONDITIONING LTD.

**ORDER MADE AFTER APPLICATION**

**APPROVAL OF AUCTION SERVICES AGREEMENT**

BEFORE THE HONOURABLE )  
JUSTICE VEENSTRA ) August 24, 2022  
)

THE APPLICATION of FTI Consulting Canada Inc., in its capacity as Court-appointed Receiver and Manager (the "Receiver") of the assets, undertakings and properties of Premium Comfort Heating & Air Conditioning Ltd. (the "Debtor") coming on for hearing at the Courthouse at 800 Smithe Street, Vancouver, British Columbia, on the 24<sup>th</sup> day of August, 2022; AND ON HEARING Peter Bychawski, counsel for the Receiver, and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the First Report of the Receiver dated August 12, 2022 and the Confidential Supplemental Report to the First Report of the Receiver dated August 12, 2022;

THIS COURT ORDERS AND DECLARES THAT:

1. The sale transactions (the "**Transactions**") contemplated by the Auction Services Agreement dated for reference August 8, 2022 (the "**Auction Agreement**") between the Receiver and Maynards Industries II Canada Ltd. (the "**Auctioneer**"), a copy of which is attached as **Schedule "B"** to this Order, is hereby approved, and the Auction Agreement is commercially reasonable. The execution of the Auction Agreement by the Receiver is hereby authorized and approved, and 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 Transactions and for the conveyance to the Auctioneer or any Purchaser (as defined herein) of the assets described in the Auction Agreement (the "**Assets**").
2. The compensation payable to the Auctioneer pursuant to the Auction Agreement is hereby approved. The Auctioneer is authorized to market and sell the Assets in accordance with the terms of the Auction Agreement.
3. Upon the sale of the Assets by the Auctioneer pursuant to the Auction Agreement, the net proceeds of such sale which are to be paid to the Receiver in accordance with the terms

of the Auction Agreement (the "**Net Sale Proceeds**") shall be impressed with a charge in favour of the Receiver and shall be held in trust by the Auctioneer for the benefit of the Receiver until such time as the Net Sale Proceeds are paid to the Receiver.

4. Upon the completion of the Transactions contemplated by the Auction Agreement and the payment of the Net Sale Proceeds to the Receiver in accordance with the Auction Agreement, the Receiver shall deliver to the Auctioneer a certificate substantially in the form attached as **Schedule "C"** hereto certifying that the Transactions have been completed to the satisfaction of the Receiver (the "**Receiver's Certificate**").
5. Upon delivery of the Receiver's Certificate to the Auctioneer, all of the Debtor's right, title and interest in and to the Assets described in the Auction Agreement that have been sold by the Auctioneer pursuant to the auction process contemplated by the terms of the Auction Agreement (the "**Purchased Assets**") shall vest absolutely in such person or persons as the Purchased Assets have been sold to (collectively the "**Purchasers**", and each a "**Purchaser**") in fee simple, 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 this Court dated June 15, 2022; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system (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 Assets are hereby expunged and discharged as against the Purchased Assets.
6. For the purposes of determining the nature and priority of Claims, the Net Sale Proceeds from the sale of the Purchased Assets shall (a) stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver's Certificate all Claims shall attach to the Net Sale 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 had possession or control immediately prior to the sale; and (b) be distributed pursuant to further Order of the Court.
7. The Receiver is to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof.
8. Upon the filing of the Receiver's Certificate, the Receiver or the Auctioneer are authorized to, and to the extent necessary the Registrar of the British Columbia Personal Property Registry is upon receipt of a request from the Receiver and a filed copy of this Order together with a filed copy of the Receiver's Certificate directed to, cancel and discharge any registrations in the British Columbia Personal Property Registry (whether made before or after the date of this Order) claiming security interests in the Purchased Assets.
9. Upon the filing of the Receiver's Certificate, the Debtor and all persons who claim by, through or under the Debtor in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, shall stand absolutely and forever barred, estopped, foreclosed from and permanently enjoined from

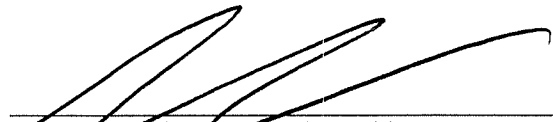
pursuing, asserting, or claiming any right, title, interest or other Claims whatsoever in respect of or to the Purchased Assets and to the extent that any such persons or entities remain in possession or control of any of the Purchased Assets, certificates, instruments, or other indicia of title representing or evidencing any right, title, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchasers (or their respective nominees) upon request.

10. The Purchasers shall, by virtue of the completion of the Transactions contemplated by this Order and the Auction Agreement, have no liability of any kind whatsoever in respect of any Claims against the Debtor.
11. The Purchasers (or their respective nominees) shall be entitled to hold and enjoy the Assets for their own use and benefit without any interference of or by the Debtor or any person claiming by or through or against the Debtor.
12. Notwithstanding:
  - (a) these proceedings;
  - (b) any applications for a bankruptcy order in respect of the Debtor now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
  - (c) any assignment in bankruptcy made by or in respect of the Debtor,


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

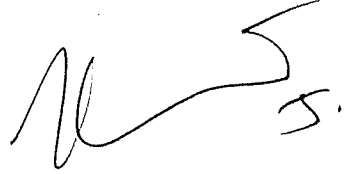
13. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies 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.
14. The Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

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

  
\_\_\_\_\_  
Signature of Peter Bychawski  
Lawyer for the Receiver

BY THE COURT

  
\_\_\_\_\_  
REGISTRAR





**SCHEDULE "A" TO APPROVAL OF AUCTION SERVICES AGREEMENT**

**COUNSEL LIST**

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

**SCHEDULE "B" TO APPROVAL OF AUCTION SERVICES AGREEMENT**

THIS Auction Services Agreement dated for reference the 8 day of August, 2022 (the "Agreement")

MADE BETWEEN:

**FTI CONSULTING, INC., in its capacity as receiver and manager of all the assets, undertakings, and properties of Premium Comfort Heating & Air Conditioning Ltd., and not in its personal capacity.**

(hereinafter referred to as the "Receiver")

OF THE FIRST PART

AND:

**MAYNARDS INDUSTRIES II CANADA LTD.**

(hereinafter referred to as the "Auctioneer")

OF THE SECOND PART

**WHEREAS:**

- A. Pursuant to an Order of the Supreme Court of British Columbia granted on June 15, 2022, the Receiver was appointed as receiver and manager of all the assets, undertakings, and properties of Premium Comfort Heating & Air Conditioning Ltd. (the "Company") including the "Assets" listed in **Schedule "A"** hereto; and
- B. The Receiver wishes to retain the Auctioneer to sell the Assets, subject to the terms and conditions hereof, and the Auctioneer is willing to provide auction services to the Receiver, subject to the terms and conditions hereof;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that the Receiver and the Auctioneer agree as follows:

**1. RETENTION OF THE AUCTIONEER**

- 1.2 The Receiver hereby retains the Auctioneer to carry out, and the Auctioneer hereby agrees to carry out, a sales program and run a liquidation and auction with respect to the Assets on the terms and conditions set forth in this Agreement. The Auctioneer will determine the best way of selling the Assets with a view to maximizing the Receiver's realization on the Assets. For greater certainty, the term "**Auction**" used in this Agreement shall mean the sale of the Assets to be conducted by the Auctioneer on behalf of the Receiver, which may include an auction of the Assets conducted at the Premises (as defined below) or any combination of a private or public sale prior to or in place of an auction at the Premises (as defined below) or on the internet.
- 1.3 The Auctioneer is acting only in its capacity as an independent contractor dealing with the Receiver and is otherwise not the Receiver's employee or assign, nor is it assuming the legal responsibilities, duties, or obligations of the Receiver or of a "Secured Party". All sales of Assets shall be made by the Auctioneer as agent in fact for the Receiver. Title to the Assets shall remain with the Company through to the completion of the Auction contemplated by this Agreement. The Auctioneer will

not, and has no authority to, incur any liability or obligation on behalf of the Receiver, unless otherwise specifically authorized and approved by the Receiver.

**2. PAYMENT OF NET MINIMUM GUARANTEE, DISTRIBUTION OF SALE PROCEEDS, AND BUYER'S PREMIUM**

- 2.1 The Auctioneer shall pay to the Receiver by certified cheque, bank draft or wire transfer, as directed by the Receiver in its sole discretion, a non-refundable net minimum guarantee in the amount of [REDACTED] (the "Net Minimum Guarantee"), which amount shall be net of all provincial and federal sales taxes which for greater certainty shall be collected and remitted by the Auctioneer, for the right to sell the Assets. For greater certainty, if the Assets are not sold through the Auction for any reason other than a termination under section 9.1(c) of this Agreement, or Sale Proceeds (as defined below) are less than the Net Minimum Guarantee, the Net Minimum Guarantee shall nonetheless be payable by the Auctioneer to the Receiver without prejudice to any rights or remedies the Receiver may have in law or under this Agreement in connection with any default of the Auctioneer.
- 2.2 The Auctioneer shall track and manage all proceeds of the sale of the Assets (the "Sale Proceeds"). After sufficient Sale Proceeds have been collected from the sale of the Assets to first pay the Net Minimum Guarantee (or to reimburse Auctioneer for the payment of the Net Minimum Guarantee), the Auctioneer shall be entitled to be paid the next available Sale Proceeds in an amount not to exceed [REDACTED] (the "Auctioneer's Fee").
- 2.3 Any additional Sale Proceeds above the Net Minimum Guarantee and the Auctioneer's Fee (the "Overage") shall be allocated and paid out as follows:
- (a) [REDACTED] of the Overage to the Receiver (the "Receiver's Overage"); and
  - (b) [REDACTED] of the Overage to the Auctioneer.
- 2.4 The Net Minimum Guarantee and the Receiver's Overage shall be payable as follows:
- (a) The Auctioneer shall pay a deposit of [REDACTED] on account of the Net Minimum Guarantee within three (3) days of the Receiver's acceptance of this Agreement;
  - (b) Unless otherwise agreed to in writing by the Receiver and the Auctioneer, the Auctioneer shall pay to the Receiver the balance of the Net Minimum Guarantee on the earlier of (i) the date that is fourteen (14) days following the completion of the Auction or (ii) September 15, 2022.
  - (c) The Auctioneer shall pay to the Receiver the Receiver's Overage within fourteen (14) days of the completion of the Auction.
- 2.5 The Auctioneer shall be entitled to charge and retain for its own account a reasonable and customary buyer's premium (the "Buyer's Premium") on all purchased Assets, which Buyer's Premium shall not exceed [REDACTED]. Any such Buyer's Premium shall not be considered Sale Proceeds and shall not be subject to the terms of section 2.2 of this Agreement.
- 2.6 The Auctioneer shall be responsible for the payment of all direct and indirect costs and expenses incurred by the Auctioneer and/or the Auctioneer's agents or employees in connection with the exercise of its rights and obligations under this Agreement including, without limitation, the sale



of the Assets and the conduct of the Auction, including, without limitation, all costs and expenses associated with the advertising and sale of the Assets, refurbishing and cleaning of the Assets, and set up and checkout at the Auction; provided, however, that the Auctioneer shall be authorized to incur up to \$5,000 in costs and expenses to prepare the Assets for sale and such costs and expenses may be deducted from the Net Minimum Guarantee payable by the Auctioneer to the Receiver hereunder.

- 2.7 Notwithstanding section 2.6 of this Agreement, the Auctioneer will not be responsible for the following costs, claims, or liabilities, even if such are payable:
- (a) lease payments to third parties under any leases of the Assets;
  - (b) any pre-existing environmental costs;
  - (c) any legal costs associated with dealing with liens against the Assets; and,
  - (d) any product warranties, conditions, or liabilities, including without limitation those set forth in the *International Sale of Goods Contracts Convention Act (Canada)*.

### 3. THE AUCTION

- 3.1 The Receiver shall deliver to the Auctioneer a copy of all reasonably requested pertinent documents that are in the possession of the Receiver, if any, relating to the Assets, including, without limitation, any documents of title, operating manuals, warranties, and all documents respecting registrations to the extent they are in the Receiver's possession.
- 3.2 The Receiver shall provide, or make commercially reasonable efforts to provide, to the Auctioneer and its agents, employees and representatives, reasonable access to the Assets located at North Central Bailiffs Ltd. 2900 East Boundary Road #101A West Kelowna, B.C V4T 3K5 (the "**Premises**") for the purpose of conducting an Auction until August 31, 2022, or such later date as agreed by the parties hereto (the "**General Deadline**"), for the purposes of showing the Assets to prospective purchasers, preparing for and conducting the Auction, completing all sales, and removing the sold Assets upon their sale. The Auctioneer shall not be responsible for the cost, applicable rent, or the supply of utilities to the Premises including, without limitation, gas, water, heat, and hydro, and for the maintenance of insurance coverage on the Premises and Assets.
- 3.3 The Auctioneer shall sell the Assets on an "as is, where is" and "all sales are final" basis to the highest bidder, without any representations of any kind or nature whatsoever, including as to merchantability or fitness, and without warranty or agreement as to the condition of such Assets. Neither the Receiver, nor the Auctioneer, have made nor shall make, vis-à-vis any third-party purchasers, any representations, conditions, or warranties, with respect to the Assets. For greater certainty, the Receiver and Auctioneer agree that there are no terms or conditions whatsoever, whether expressed, implied, statutory, or otherwise with respect to the Assets, or any of them, or any other matters whatsoever in any way related to the subject matter of this Agreement, other than as expressly provided for in this Agreement. The Receiver specifically acknowledges that the Auctioneer is acting solely in the capacity of Auctioneer for the Receiver and has no knowledge with respect to the fitness or usability of the Assets.
- 3.4 The Auctioneer shall be the sole party authorized to sell the Assets. The Assets will be sold in such lots as the Auctioneer may determine; provided, however, that the Assets shall not be sold as part of any lot(s) with other assets (the "**Other Assets**") unless:

- (a) The Receiver agrees in writing to the sale of some or all of the Assets as part of a lot with Other Assets; and
- (b) The Receiver and Auctioneer agree in writing as to:
  - (i) The split of the Buyer's Premium as between the Assets and Other Assets; and
  - (ii) How the proceeds of sale will be distributed between the Assets and the Other Assets.

3.5 Nothing in section 3.4 of this Agreement shall limit the ability of the Auctioneer to auction the Assets with Other Assets so long as the Assets and Other Assets do not form part of the same lot.

3.6 The Auctioneer is authorized to accept any reasonable means of payment for the Assets sold provided it is in immediately available funds.

3.7 Upon completion of the Auction contemplated hereby, the Auctioneer shall oversee the removal or preparation of the removal of the Assets from the Premises in an orderly and professional manner in accordance with industry practices. Any third- party costs or expenses incurred in connection with the storage of the Assets on the Premises shall not be the responsibility of the Auctioneer. The Auctioneer shall not be responsible for the clean-up of the Premises upon the removal of the Assets from the Premises unless such third-party costs are required to be incurred because of the Auctioneer's and/or its agents' and employees' failure to remove such Assets in an orderly and professional manner in accordance with industry standards as required by this Agreement.

#### 4. DUTIES OF AUCTIONEER

4.1 The Auctioneer shall at its own cost and expense carry out the Auction in an orderly and professional manner, in accordance with industry practices, including by, without limitation:

- (a) overseeing the liquidation and disposal of the Assets, including, without limitation, the carrying out of and the managing of all aspects of the on-site preparation and organization of the Assets for sale, obtaining any permits or licenses necessary to carry out the Auction, and mobilizing a team of personnel to carry out the foregoing tasks;
- (b) organizing and managing site visits and inspections of the Assets by potential bidders;
- (c) enabling on-site and real-time online bidding on the day of the Auction;
- (d) providing and supervising fully qualified and experienced personnel, including without limitation all managerial, labour, accounting and Auction day personnel, who will prepare for and sell the Assets in accordance with the terms of this Agreement;
- (e) selling the Assets for cash or other immediately available funds to the highest bidder(s) on an "as is, where is" and "all sales are final" basis and in accordance with the terms of this Agreement;
- (f) charging and collecting from all purchasers any purchase price together with all applicable taxes in connection therewith;

- (g) promptly paying to the applicable authority all provincial sales tax (if applicable), goods and services tax, and any other tax resulting from any sale transaction entered into by the Auctioneer with respect to any of the Assets and confirming such payment to the Receiver;
- (h) preparing any reporting forms, certificates, reports and other documentation required in connection with the payment of applicable sales taxes to the appropriate taxing authorities and processing all of the foregoing on behalf of the Receiver;
- (i) providing the Receiver within fourteen (14) days of the completion of the Auction with reporting and reconciliation of accounting information and detailed post-Auction settlement in a form satisfactory to the Receiver acting reasonably. With such accounting, the Auctioneer shall also deliver any funds due and payable to the Receiver under this Agreement;
- (j) removing sold Assets from the Premises within fourteen (14) days of the completion of the Auction unless otherwise agreed in writing by the Receiver; and
- (k) providing such other related service deemed necessary or prudent by Receiver and Auctioneer under the circumstances presented.

## **5. REPRESENTATIONS, WARRANTIES, AND CONDITIONS**

5.1. The Receiver represents and warrants to the Auctioneer that, subject to the granting of the Approval Order (as defined below), it has good and sufficient power and authority to enter into this Agreement and to complete the transactions contemplated by this Agreement.

5.2. The Auctioneer represents, warrants, and acknowledges to the Receiver that:

- (a) the Auctioneer is a corporation duly incorporated, organized and subsisting under the laws of the Province of British Columbia;
- (b) the Auctioneer has good and sufficient power and authority to enter into this Agreement and to complete the transactions contemplated by this Agreement;
- (c) this Agreement constitutes a valid and legally binding obligation of the Auctioneer, enforceable against the Auctioneer in accordance with its terms;
- (d) the Auctioneer has conducted its own due diligence, independent inspection, and investigation respecting the Assets and is satisfied with the Assets in all respects.
- (e) the Auctioneer will, prior to conducting any sales pursuant to this agreement, be registered under Part IX of the *Excise Tax Act* (Canada) and shall have all necessary registrations and authority to collect, report and remit any applicable taxes on or with respect to any sale of any Assets by the Auctioneer pursuant to this agreement, in all applicable jurisdictions; and
- (f) the Auctioneer has not jointly elected with the Receiver pursuant to section 177(1.3) of the *Excise Tax Act* (Canada); and
- (g) the Auctioneer holds all required permits and licenses required to perform its obligations under this Agreement.

## 6. RISK OF LOSS, INSURANCE

- 6.1 The Receiver shall be responsible for loss or damage to the Assets, other than loss or damage arising because of the negligence of the Auctioneer, its agents or employees, until the earlier of (a) the removal of the Assets from the Premises by a purchaser or (b) receipt by the Receiver of the Sale Proceeds attributable to the applicable Assets (the “**Transfer Date**”).
- 6.2 In the event of material damage to, or destruction of, the Assets or any part thereof, prior to the Transfer Date, the Auctioneer may reduce the Net Minimum Guarantee, by notice to the Receiver, by an amount equal to the cost of repair, or, if the relevant assets are destroyed or damaged beyond repair, by an amount equal to the replacement cost of the assets forming part of the Assets that have been materially damaged or destroyed, and complete the transaction contemplated under this Agreement, provided that the Receiver must agree to the amount of any reduction to the Net Minimum Guarantee.
- 6.3 Any insurance proceeds or other compensation proceeds paid or payable with respect to Assets that have been damaged but not materially damaged and/or destroyed, prior to the Transfer Date, will be assigned or paid by the Receiver to the Auctioneer, and the Net Minimum Guarantee will be reduced by the cost of repair or replacement to the extent that any such insurance or other proceeds do not compensate for the repair or replacement costs of the damaged Assets, provided that the Receiver must agree in writing to the amount of any reduction to the Net Minimum Guarantee.
- 6.4 The Auctioneer will maintain insurance, and will provide to the Receiver with proof of insurance, with respect to any liability which could flow from the activities of the Auctioneer, its agents, or employees, naming the Receiver as beneficiary of such insurance, providing for coverage of not less than \$5,000,000 per occurrence and otherwise in a form satisfactory to the Receiver acting reasonably.

## 7. INDEMNITY

- 7.1 The Auctioneer shall and hereby agrees to defend, indemnify, and hold harmless the Receiver and its officers, directors, agents, employees and principals from and against any and all known or unknown losses, damages, liabilities, claims, actions, judgments, penalties, fines, court costs and legal or other expenses which the Receiver may incur as a direct or indirect consequence of: (a) negligent or intentional acts or omissions of Auctioneer or its agents, employees, representatives and principals in connection with the sale or the removal of the Assets from the Premises; and/or (b) the material breach by Auctioneer of any of its representations, warranties or other obligations under this Agreement and/or (c) any claims asserted by Auctioneer’s supervisors, employees, or agents, including Auctioneer’s employees’ or agents’ payroll claims (wage claims, claims for taxes required to be withheld from wages, social security, etc.), or unemployment compensation claims.
- 7.2 The Auctioneer shall indemnify and hold the Receiver harmless from any and all demands, liabilities or claims, including, but not limited to, fines, penalties, losses, costs and expenses, which the Receiver may sustain, incur or be subject to, arising out of, or by reason of, any failure by the Auctioneer to collect, pay or remit any applicable taxes under, or in accordance with, the provisions of the *Excise Tax Act* (Canada) in relation to the sale of the Assets in accordance with the Auction (including without limiting the generality of the foregoing in respect of the Buyer’s Premium described in Section 2.5 of this Agreement).

8. **CONDITION PRECEDENT**

8.1 It is a condition precedent of this Agreement that the Court will have issued prior to the Auction an order authorizing the Receiver to (a) retain the Auctioneer on the terms set forth herein; (b) pay the Auctioneer its compensation on the terms set forth herein without further order of this Court; (c) enter into and consummate the transactions set forth herein, and (d) transfer title to the Assets to any purchasers free and clear of liens, claims, and encumbrances.

9. **TERMINATION**

9.1 This Agreement may only be terminated:

- (a) by the mutual written consent of the Receiver and the Auctioneer;
- (b) by the Receiver by written notice to the Auctioneer:
  - (i) if there has been a material breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by the Auctioneer under this Agreement, which breach, inaccuracy in or failure to perform shall continue uncured seven (7) days after receipt of written notice thereof to the defaulting party; or
  - (ii) if any representation made by Auctioneer proves untrue in any material respect; or
  - (iii) the Auction is not completed by the General Deadline, or such other deadline as agreed the Receiver agrees to in writing.
- (c) by the Auctioneer by written notice to the Receiver:
  - (i) if there has been a material breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by the Receiver under this Agreement, which breach, inaccuracy in or failure to perform shall continue uncured seven (7) days after receipt of written notice thereof to the defaulting party; or
  - (ii) if any representation made by the Receiver proves untrue in any material respect.

(each a "Termination Event")

9.2 In the event of termination of this Agreement in accordance with Section 9.1(b), this Agreement shall forthwith become of no further force or effect, and there shall be no liability on the part of any party hereto except: (a) as set forth in Article 2, Section 3.7, Article 7, and this Article 9; and (b) that nothing herein shall relieve any party hereto from liability for any intentional breach of any provision hereof.

9.3 In the event of termination of this Agreement in accordance with Section 9.1(a) or (c), this Agreement shall forthwith become of no further force or effect, and there shall be no liability on the part of any party hereto except: (a) as set forth in Article 2, Section 3.7, Article 7, and this Article 9; and (b) that nothing herein shall relieve any party hereto from liability for any intentional breach of any provision hereof.

**10. FORCE MAJEURE**

10.1 Neither party shall be held liable or responsible to the other party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement when such failure or delay is caused by or results from causes beyond the reasonable control of the affected party, including but not limited to fires, strikes, floods, adverse weather that has the potential to injure persons or damage property, acts of war, terrorism, riot, or public disorder, acts of God, lawful acts of public authorities, or electronic failures and internet service provider disruptions.

**11. MISCELLANEOUS**

11.1 All references to currency in this Agreement are to lawful currency of Canada.

11.2 If the doing of any act pursuant to this Agreement falls on a day on a bank holiday or weekend, then the time for the doing of such act shall be deemed to be the next day that is not a bank holiday or weekend.

11.3 Any notice, request, instruction, or other communication to be given hereunder by any party to the other shall be in writing and effective when delivered by courier, registered mail, or electronic mail to the addresses set forth as follows:

To the Receiver:

FTI Consulting, Inc.  
701 West Georgia Street, Suite 10089  
Vancouver, BC V7Y 1B6  
Attention: Tom Powell  
Email: tom.powell@fticonsulting.com

With a copy to:

Blake, Cassels & Graydon LLP  
595 Burrard Street  
Suite 2600, Three Bentall Centre  
Vancouver, BC V7X 1L3  
Attention: Peter Bychawski  
Email: peter.bychawski@blakes.com

The Auctioneer:

Maynard's Industries Canada  
Ltd. 1585 West 4th Ave.  
Vancouver, BC V6J 1L6  
Attention: Mike Seibold  
Email: michael@maynards.com

A party may from time to time change its address for notice by giving written notice of such change to the other party.

- 11.4 No waiver by either party of any of the conditions contained in this Agreement or of any breach of any of the covenants contained in this Agreement shall have effect or be binding upon that party unless expressed in writing and any waiver so given shall extend only to the particular condition or breach so waived and shall not limit or affect any rights with respect to any other condition or breach or any future breach.
- 11.5 This Agreement and the attached schedules constitute the entire agreement between the parties relating to the subject matter hereof and supersedes all prior proposals, communications, and agreements, whether written or oral.
- 11.6 This Agreement may be amended or modified only by an instrument in writing executed and delivered by the parties hereto subsequent to the date hereof.
- 11.7 The parties covenant to execute such further documents and do such further acts as may be required to implement the terms of this Agreement.
- 11.8 All stipulations in this Agreement as to time are strictly of the essence.
- 11.9 Neither the Receiver nor the Auctioneer shall assign this Agreement without the express written consent of the other. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.
- 11.10 This Agreement shall be governed by the laws in effect in the Province of British Columbia and the parties hereby attorn to the jurisdiction of the Courts of that Province.
- 11.11 This Agreement may be executed in counterparts by the parties hereto and executed counterparts may be delivered by electronic mail and such execution and delivery shall be valid for all intents and purposes and the executed counterparts shall together form one document.

EXECUTED at Vancouver, BC, this 8 day of August 2022.

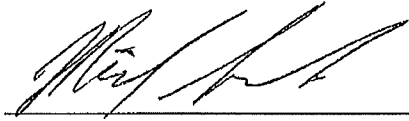
**FTI Consulting Inc. in its capacity as receiver and manager of all the assets, undertakings, and properties of Premium Comfort Heating & Air Conditioning Ltd., and not in its personal capacity.**

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

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

**MAYNARDS INDUSTRIES II CANADA LTD.**

Per:



Name: Michael Seibold

Title: Vice President

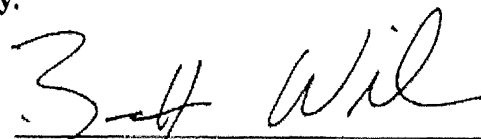


- 11.4 No waiver by either party of any of the conditions contained in this Agreement or of any breach of any of the covenants contained in this Agreement shall have effect or be binding upon that party unless expressed in writing and any waiver so given shall extend only to the particular condition or breach so waived and shall not limit or affect any rights with respect to any other condition or breach or any future breach.
- 11.5 This Agreement and the attached schedules constitute the entire agreement between the parties relating to the subject matter hereof and supersedes all prior proposals, communications, and agreements, whether written or oral.
- 11.6 This Agreement may be amended or modified only by an instrument in writing executed and delivered by the parties hereto subsequent to the date hereof.
- 11.7 The parties covenant to execute such further documents and do such further acts as may be required to implement the terms of this Agreement.
- 11.8 All stipulations in this Agreement as to time are strictly of the essence.
- 11.9 Neither the Receiver nor the Auctioneer shall assign this Agreement without the express written consent of the other. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.
- 11.10 This Agreement shall be governed by the laws in effect in the Province of British Columbia and the parties hereby attorn to the jurisdiction of the Courts of that Province.
- 11.11 This Agreement may be executed in counterparts by the parties hereto and executed counterparts may be delivered by electronic mail and such execution and delivery shall be valid for all intents and purposes and the executed counterparts shall together form one document.

EXECUTED at Calgary, AB, this 8 day of August 2022.

**FTI Consulting Inc. in its capacity as receiver and manager of all the assets, undertakings, and properties of Premium Comfort Heating & Air Conditioning Ltd., and not in its personal capacity.**

Per:



Name: Brett Wilson

Title: Senior Director

**SCHEDULE "A"**  
**THE ASSETS**

**Schedule A - Vehicle Listing**

July 4, 2022

Year	Make	Model	Kilometers	VIN Number	License Plate
2011	Ford	ECONOLINE E350	160294	1FDWE3FLXBDA22903	JA9309
2010	Ford	F150 XLT	199169	1FTFW1EV7AFD46726	NH5035
2014	Ford	F150 XL REG	93079	1FTMF1CM1EKE73261	HT2348
2010	Ford	F150 XL REG	241781	1FTMF1CW7AKE01878	MC0216
2007	Ford	ECONOLINE E150	Unknown	1FTNE14W77DB40206	BX8834
2011	Ford	ECONOLINE E150	296416	1FTNE1EW3BDA39476	RH1622
2011	Ford	ECONOLINE E150	294267	1FTNE1EW4BDA39485	RH1621
2013	Ford	ECONOLINE E250	154490	1FTNE2EW0DDA65820	JD8324
2009	Ford	F150 XLT	248827	1FTPW14V59FA71536	PB2793
2012	Ford	F150 FX4	284874	1FTVX1EF7CKD20123	RJ5897
2019	Ford	TRANSIT 150	62780	1FTYE1ZM2KKA03585	NT4236
2018	Ford	TRANSIT 150	55678	1FTYE1ZM9JKA00326	ML7941
2016	Ford	TRANSIT 250	117,252	1FTYR2CM0GKB13478	PG4762
2019	Ford	TRANSIT 250	50,373	1FTYR2CM4KKA13280	LL5263
2020	GMC	SIERRA 1500	48,912	1GTP9AEK3LZ252782	PK7883
2013	Dodge Ram	CARGO VAN	161,689	2C4JRGAG7DR560608	PC9508
2012	Ford	TRANSIT CONNECT	246,513	NM0LS7BN7CT113243	PY1248
2011	Ford	TRANSIT CONNECT	246,547	NM0LS7BN9BT066232	PW1730
2010	Ford	TRANSIT CONNECT	230,416	NM0LS7DN0AT000924	RE2872

**SCHEDULE "C" TO APPROVAL OF AUCTION SERVICES AGREEMENT**

No. S-224806  
Vancouver Registry  
Estate No. 11-254412

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
PREMIUM COMFORT HEATING & AIR CONDITIONING LTD.

**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Supreme Court of British Columbia (the "**Court**") dated June 15, 2022, FTI Consulting Canada Inc. was appointed as the receiver and manager (in such capacity, the "**Receiver**") of the assets, undertakings, properties of Premium Comfort Heating & Air Conditioning Ltd.

B. Pursuant to an Order of the Court dated August 24, 2022, the Court approved the auction services agreement made as of August 8, 2022 (the "**Auction Agreement**") between the Receiver and Maynards Industries II Canada Ltd. pursuant to which one or more auction transactions were authorized to be completed in accordance with the terms of the Auction Agreement (the "**Auction Transactions**").

**THE RECEIVER CERTIFIES** the following:

1. The Auction Transactions have been completed to the satisfaction of the Receiver.
2. The Certificate was delivered by the Receiver at \_\_\_\_\_ on \_\_\_\_\_.

**FTI Consulting Canada Inc., in its capacity  
as the Receiver of the assets, undertakings  
and properties of Premium Comfort Heating  
& Air Conditioning Ltd.**

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

No. S-224806  
Vancouver Registry  
Estate No. 11-254412

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

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IN THE MATTER OF THE RECEIVERSHIP OF  
PREMIUM COMFORT HEATING & AIR  
CONDITIONING LTD.

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**ORDER MADE AFTER APPLICATION**

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Peter Bychawski  
BLAKE, CASSELS & GRAYDON LLP  
Barristers and Solicitors  
Suite 2600, Three Bentall Centre  
595 Burrard Street, P.O. Box 49314  
Vancouver, B.C. V7X 1L3  
604.631.3300  
Agent: Dye & Durham