

No. S128887 Vancouver Registry

Tercon Investments Ltd. et al.

FIFTH REPORT OF THE RECEIVER

March 6, 2013

No. S128887
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF AN APPLICATION PURSUANT TO
SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c.B-3, AS AMENDED and SECTION 39 OF THE *LAW AND EQUITY*
ACT,
R.S.B.C. 1996 C.253, AS AMENDED

BETWEEN:

DUMAS HOLDINGS INC.

Petitioner

**TERCON INVESTMENTS LTD., TERCON A.C. LTD.,
TERCON EQUIPMENT LTD., TERCON CONSTRUCTION LTD.,
TERCON MINING LTD., TERCON ENTERPRISES LTD.,
TERCON MRC LIMITED, FNP VENTURES INC., TERCON MINING PV LTD.,
TERCON EQUIPMENT ALASKA PARTNERSHIP; AND
TERCON ALASKA LTD.**

Respondents

**FIFTH REPORT TO THE COURT SUBMITTED BY
FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER**

INTRODUCTION

1. On December 14, 2012 (the “**Date of Appointment**”), FTI Consulting Canada Inc. was appointed as receiver (the “**Receiver**”) of all of the assets, undertakings and properties (the “**Property**”) of Tercon Investments Ltd., Tercon A.C. Ltd., Tercon Equipment Ltd., Tercon Construction Ltd., Tercon Mining Ltd., Tercon Enterprises Ltd., Tercon MRC Limited, FNP Ventures Inc., Tercon Mining PV Ltd., Tercon Equipment Alaska Partnership and Tercon Alaska Ltd. (collectively, “**Tercon**” or the “**Company**”) pursuant to the order of Mr. Justice Sewell (the “**Receivership Order**”) granted upon the petition of Dumas Holdings Inc. (“**DHI**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act R.S.C. 1985 c. B-3 as amended* (the “**BIA**”) and section 39 of the *Law and Equity Act, as amended*.
2. As described in the First Report, the Asset Purchase and Sale Agreement dated as of December 21, 2012, was entered into, subject to Court approval, between the Receiver as Vendor and Ritchies Bros. Auctioneers (Canada) Ltd. (“**RB Canada**”) and Ritchies Bros. Auctioneers (America) Inc. (“**RB America**”, RB Canada and RB America together being “**Ritchie Bros**”) as Purchasers (the “**APA**”) with respect to the Equipment and Miscellaneous Property of Tercon (as such terms are defined in the APA).
3. On January 15, 2013, Mr. Justice Sewell granted an Order (the “**Approval and Vesting Order**”) *inter alia* approving the APA and the Return Protocol, as defined in the First Report.
4. On January 21, 2013, Mr. Justice Sewell granted the following Orders:
 - (i) An Order, *inter alia*, providing for the setting up of certain reserves by the Receiver from proceeds of realization and authorizing the distribution of funds in excess of the reserves to HSBC (the “**Distribution Order**”); and

- (ii) An Order, *inter alia*, authorizing and directing the Receiver, unless otherwise agreed with HSBC and DHI, to file assignments in bankruptcy for and on behalf of each of the Tercon companies and providing for the co-ordination of the Receivership Proceedings and the bankruptcy proceedings (the “**Bankruptcy Co-Ordination Order**”).
- 5. On February 28, 2013, Mr. Justice Sewell granted an Order, *inter alia*, authorizing FTI Consulting Canada Inc., in its capacity as receiver of Tercon Construction Ltd. to issue and file an application for a Bankruptcy Order against Tercon Equipment Ltd. (the “**Tercon Bankruptcy Application Order**”).
- 6. To date, the Receiver has filed four reports on various aspects of the Receivership. Each of the reports, and the orders made in the Receivership proceedings are posted on the Receiver’s website at <http://cfcanada.fticonsulting.com/tercon>.
- 7. The purpose of this, the Receiver’s Fifth Report, is to request the granting by the Court of:
 - (i) an order approving a procedure for the submission, evaluation and adjudication of claims against Tercon or against the bonds issued by Trisura Guarantee Insurance Company (“**Trisura**”) in relation to certain Tercon projects; and
 - (ii) an Order approving the Third, Fourth and Fifth Reports of the Receiver and the activities of the Receiver described therein.

TERMS OF REFERENCE

8. In preparing this report, the Receiver has relied upon unaudited financial information of Tercon, Tercon's books and records, certain financial information prepared by Tercon and discussions with Tercon personnel and others. Future oriented financial information reported or relied on in preparing this report is based on assumptions regarding future events; actual results may vary from forecast and such variations may be material.
9. The information and advice described in this Report as being provided to the Receiver by its counsel, Borden Ladner Gervais LLP (the "**Receiver's Canadian Counsel**") and The Law Office of Cabot Christianson, P.C. (the "**Receiver's US Counsel**") and, together with Receiver's Canadian Counsel, the "**Receiver's Counsel**") has been provided to the Receiver to assist it in considering its course of action and is not intended as legal or other advice to, and may not be relied upon by, any other stakeholder.
10. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined are as defined in the Receivership Order or in the Receiver's previous Reports.

THE CLAIMS PROCEDURE

BACKGROUND

11. The Distribution Order provides for the establishment of various reserves (defined in the Distribution Order as the “**Reserves**”) from proceeds of realization of assets and collections of accounts receivable in order to protect the rights of parties that may have a claim thereto that may rank in priority to the secured claims of HSBC Bank Canada, as Lead Arranger, Bookrunner and Administrative Agent under the Senior Secured Credit Agreement dated February 28, 2012 (“**HSBC**”) and Dumas Holdings Inc. (“**DHI**”). Such priority claims may arise under various statutes of British Columbia, Alberta and Alaska or under the BIA. In order to allow for the distribution of Reserves to the appropriate parties it is necessary to determine the priority claims.
12. In addition, certain creditors of Tercon may have claims against the Trisura Bonds (as defined below), which, if paid by Trisura, could give rise to a potential subrogated priority claim against the Reserves by Trisura. The claims against the Trisura Bonds (or asserted against third parties by way of liens on property) are the same claims as may be advanced against Tercon directly or are based on, or arise from, the same potential liability of Tercon. The Receiver and Trisura have agreed that the procedure for adjudication of claims against Tercon and against the Trisura Bonds should be co-ordinated in order to maximize efficiency and to minimize the effort required of potential claimants.
13. Accordingly, the Receiver now seeks approval of a procedure for the submission, evaluation and adjudication of claims against Tercon or against the Trisura Bonds in the form of the draft Order attached hereto as Appendix A (the “**Claims Procedure Order**”)¹.

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the Claims Procedure Order.

THE TRISURA BONDS

14. Trisura has issued the following bonds (the “**Tercon Bonds**”) in respect of Tercon projects:
- (i) Environmental Bond No. VOS109004 (formerly Bond No. VMS 1089004) in favour of Teck Coal on behalf of Tercon Construction Ltd. in respect of the clean-up of a leased storage yard;
 - (ii) Performance Bond No. VCS 1089004 in favour of the Ministry of Transport of British Columbia (the “**MOT**”) on behalf of Tercon Construction Ltd., in respect of the Wall Project;
 - (iii) Labour and Material Payment Bond No. VCS 1089004 in favour of the MOT on behalf of Tercon Construction Ltd. in respect of the Wall Project;
 - (iv) Performance Bond No. VCS 0700004 in favour of the MOT on behalf of Tercon Construction Ltd. in respect of the Water Line Project;
 - (v) Labour and Material Payment Bond No. VCS 0700004 in favour of the MOT on behalf of Tercon Construction Ltd. in respect of the Water Line Project;
 - (vi) Performance Bond No. VCC 0700006 in favour of the MOT on behalf of Tercon Construction Ltd. in respect of the Creek Bridge Bearing Project; and
 - (vii) Labour and Material Payment Bond No. VCS 0700006 in favour of the MOT on behalf of Tercon Construction Ltd. in respect of the Creek Bridge Bearing Project.

15. As previously reported, Tahltan-Tercon Projects Ltd., an affiliate of Tercon Construction Ltd., is the general partner of Tahltan-Tercon Limited Partnership (“TTLP”). Pursuant to a management agreement, Tercon Construction Ltd. provides management services to Tahltan-Tercon Projects Ltd. Neither Tahltan-Tercon Projects Ltd. nor TTLP is subject to the Receivership Order. In addition to the Tercon Bonds, Trisura has issued the following bonds (the “TTLP Bonds”, the TTLP Bonds together with the Tercon Bonds being the “Trisura Bonds”) in respect of the TTLP project:
- (i) Performance Bond No. VMS 0700005 in favour of Red Chris Development Company Ltd. on behalf of Tahltan – Tercon Limited Partnership in respect of the Red Chris Project; and
 - (ii) Labour and Material Payment Bond No. VMS 0700005 in favour of Red Chris Development Company Ltd. on behalf of Tahltan – Tercon Limited Partnership in respect of the Red Chris Project.
16. Work on the Red Chris Project was sub-contracted to Tercon Construction Ltd., which in turn engaged and sub-contracted external suppliers. Accordingly, certain claims against Tercon Construction Ltd. may also be claims against the TTLP Bonds.
17. The Trisura Bonds are indemnified by Tercon and DHI. As stated earlier in this report, claims against the Trisura Bonds could give rise to a potential subrogated priority claims against the Reserves by Trisura.

THE FTI CLAIMS SITE

18. FTI Consulting has developed a proprietary database for the secure on-line filing of information, documents and certain communications relating to claims procedures. For each case, the database is accessed via a dedicated internet website interface. In this case, that website is <https://cmsi.ftitools.com/tercon> (the “FTI Claims Site”).

19. The FTI Claims Site is a secure and user-friendly web-based application. Based on its experience using the application in other insolvency and restructuring cases, the Receiver believes that its use in the Tercon receivership will make it easier for creditors to submit their claims and supporting documentation and will significantly streamline the administration of the Claims Procedure, resulting in efficiencies and cost savings. The process for the determination of claims follows that of a traditional paper-based claims process, but creditors will be able to submit their claim electronically and correspondence between the Claimant and the Receiver occurs via email rather than with paper forms. It is proposed that the FTI Claims Site be used for the administration of the Claims Procedure.
20. The use of the FTI Claims Site was approved in the claims procedure in the *Companies' Creditors Arrangement Act* proceedings of Trident Exploration Corp. et al (Alberta Court of Queen's Bench Action number 0901.13483) and in the receivership proceedings of Skyservice Airlines Inc. (Ontario Superior Court of Justice, Commercial List, Court File No. CV-10-8647-00CL). In both those proceedings the use of the FTI Claims Site yielded significant efficiencies.
21. On accessing the FTI Claims Site for the first time, a Claimant will create a unique username and password. Username and password recovery utilities are available in the event that any Claimant forgets its username or password. Each Claimant is restricted to viewing and editing only its own Claim information.
22. Once logged in, the Claimant will provide its primary contact information as well as other parties that it wishes to be provided notifications in respect of the Claims Procedure, for example other individuals within the organization or the Claimant's legal counsel. The Claimant may designate the level of notice that each contact receives, for example, whether the contact is to be copied on all correspondence or receive notices only.

23. Once a Claimant's contact details have been submitted, the Claimant has the option to submit one Claim or multiple Claims by selecting the option "Start Claim/Dispute". The Claimant is required to submit specific information in respect of each Claim including:
- (i) The amount of the Claim;
 - (ii) The currency of the Claim;
 - (iii) The type of Claim;
 - (iv) Whether the Claim is secured or unsecured and, if secured, the nature of the security; and
 - (v) The category of the Claim (e.g. trade creditor, former employee, landlord etc).
24. The FTI Claims Site saves information automatically as it is input, allowing the Claimant to leave and return to the process. Having entered a Claim, the Claimant has the option of submitting additional claims following the same procedure. Claims are submitted only when the Claimant clicks the "Save and Submit" button. The Claimant is also able to provide commentary to the Receiver to assist in the review and adjudication of its Claim and to attach the appropriate supporting documentation electronically for each Claim filed.
25. Once a Claimant has submitted a claim, the FTI Claims Site issues an automatic notification to the Claimant's designated email to inform the Claimant that its Claim has been received by the Receiver. In addition, the Receiver received a notification that a Claim has been filed that requires review and adjudication.

26. Each Claimant will receive a notification as the status of its Claim is amended (for example, if the Claim is accepted by the Receiver). The Claimant also has the ability to access the FTI Claims Site at any point during the Claims Procedure to review the status of its Claim.
27. The Receiver reviews the Claim and the supporting documentation and provides details of any revision or disallowance on the FTI Claims Site. Once the Receiver has completed its review, a notification is issued to the Claimant. Upon receiving such notification, the Claimant can access the FTI Claims Site, review the information provided by the Receiver and indicate whether they accept or dispute the Receiver's assessment of its Claim.
28. The Receiver can grant any Claims Officer appointed pursuant to the Claims Procedure authority to access the FTI Claims Site to facilitate the Claims Officer's review material related to a Disputed Claim.
29. Attached as Appendix B is an application overview including a selection of screen shots from the FTI Claims Site showing the online process and the fields that a Creditor will be requested to complete in order to submit its Claim using the online application. These fields are the same as those typically seen on traditional paper forms.

THE CLAIMS PROCEDURE

30. The key steps of the Claims Procedure are summarized as follows:
 - (i) A copy of the Notice to Creditors and the Claims Procedure Order will be mailed to Known Creditors within seven (7) Business Days of the granting of the Claims Procedure Order and will be posted on the Monitor's Website within two (2) Business Days of the granting of the Claims Procedure Order;

- (ii) The Notice to Creditors will be published in each of the Globe and Mail National Edition, the Kamloops Daily News, the Journal of Commerce and the Anchorage Daily News within seven (7) Business Days of the granting of the Claims Procedure Order;
- (iii) any Person that wishes to assert a Claim must file such Claim, together with all relevant supporting documentation, via the FTI Claims Site by no later than the Claims Bar Date (being 5:00 p.m. Vancouver time, April 26, 2013 or such later date as may be ordered by the Court), failing which such Claim shall be extinguished;
- (iv) Each Claim will be reviewed by the Receiver and the Receiver may revise or disallow the Claim via the FTI Claims Site;
- (v) If a Claimant disputes the classification or amount of its Claim as set forth by the Receiver and such Claimant intends to contest the revision or disallowance, then such Claimant shall dispute such revision or disallowance via the FTI Claims Site by no later than 5:00 p.m. (Vancouver Time) on the date that is fourteen (14) days after the date of the revision or disallowance by the Receiver or such later date as the Court may order;
- (vi) If the Claimant does not dispute a revision or disallowance within such time period, the Claimant is deemed to have accepted the amount and categorization of the Claim proposed by the Receiver and the Receiver's revision or disallowance shall be final and binding;
- (vii) If the Claimant disputes the revision or disallowance, the Receiver may:
 - (a) attempt to consensually resolve the classification and the amount of the Claim with the Claimant;

- (b) deliver a Dispute Package to the Claims Officer; and/or
 - (c) schedule an appointment with the Court for the purpose of scheduling a motion to resolve the Claim and at such motion the Receiver shall be deemed to be the applicant and the Claimant shall be deemed to be the respondent; and
- (viii) Any decision by the Claims Officer may be appealed to the Court.
31. Any Creditor who is unable or unwilling to utilize the FTI Claim Site has the option of providing the relevant data and supporting documentation to the Receiver by paper copy. The Receiver is authorized to input the data and upload the supporting documentation on the Creditor's behalf. In addition, the Receiver has the ability to provide notices and correspondence via paper copy to any Creditor that is unable or unwilling to provide an email contact address.
32. In order to facilitate a Claims Procedure that is both summary in nature and coordinated with Trisura, certain additional matters are included in the Claims Procedure Order, including:
- (i) a stay of proceedings is created against Trisura in respect of any Claims that might be asserted against the Trisura Bonds;
 - (ii) any Owner of a Bonded Project that has a warranty provided by Tercon shall provide the Receiver and Trisura with particulars of all known claims that it is aware of as of the date of the Claims Procedure Order, on or before the Claims Bar Date;

- (iii) the Bonded Project Funds are to be held by the Receiver are deemed to be segregated funds and impressed with trust rights applicable under the appropriate builder's lien act, held by the Receiver as if the funds were in the hands of the project owner and remain subject to rights of set-off that could be claimed by an owner, subject to further order of the Court; and
 - (iv) the approval of the Receiver-Trisura Protocol by the Court.
33. While no specific provision has been included in the Claims Procedure Order, the Receiver will communicate with HSBC and DHI in respect of its intentions regarding the adjudication of any claim that may rank in priority to their security in order to provide HSBC and DHI an opportunity to object to the Receiver's adjudication.

THE RECEIVER-TRISURA PROTOCOL

34. The Receiver and Trisura have agreed to the form of a protocol for the participation of Trisura the process for the receipt, review and the adjudication of Claims on Trisura Bonded Projects (the "**Bonded Project Claims**") pursuant to the Claims Procedure. The Receiver-Trisura Protocol is attached as Appendix C hereto and provides, in part:
- (i) Each of Trisura and the Receiver will provide to the other copies of all documents submitted by Claimants in connection with, or in support of, any Claim submitted in the Claims Procedure that the Claimant indicates is a Claim on one or more of the Trisura Bonds (the "**Bond Claims**");

- (ii) The Receiver shall review all Bond Claims received pursuant to the Claims Procedure and, within 30 days of receipt of any Bond Claim, provide Trisura with its assessment of the amount, validity and status (regarding lien, trust or other rights associated with the Bond Claim) of the Bond Claim to Trisura;
- (iii) In the event that Trisura considers it necessary for a further review of any Bond Claim after the review by the Receiver, a Claims Adjuster shall be engaged to conduct a further review of such Bond Claim;
- (iv) Trisura and the Receiver will work in good faith to reach an agreement on whether a Bond Claim should, in whole or in part, be accepted as an Allowed Claim. In connection therewith, the Receiver and Trisura each acknowledge the independence, responsibilities and obligations of the other as a Court-appointed officer and a surety, respectively;
- (v) If the amount and classification of any Bond Claim cannot be agreed upon by both the Receiver and Trisura, the Receiver shall issue a revision or disallowance of the Claim in accordance with the Claims Procedure in the lesser amount and/or classification of the Claim that can be agreed upon by both the Receiver and Trisura, if any;
- (vi) Any consensual resolution of the classification or amount of any Bond Claim that is a Disputed Claim shall require the consent of both the Receiver and Trisura;
- (vii) No payment will be made from Bonded Project Funds in respect of any Allowed Claim that is a Bond Claim until all Bond Claims on a Trisura Bonded Project have been resolved, unless such payment is: (i) approved by each of Trisura and the Receiver; and (ii) an Order of the Court is made approving such payment;

- (viii) Any payment from Bonded Project Funds in respect of an Allowed Claim that is a Bond Claim shall be subject to the following conditions precedent:
 - (a) the payment must be made pursuant to an Order of the Court approving such payment; and
 - (b) the Approval Order must specifically provide that the payment in respect of the Allowed Claim shall be deemed to be a reduction of the penal sum of the Trisura Bond on the Trisura Bonded Project;

- (ix) In the event that the conditions set out above are not met, but the Receiver and Trisura have accepted an Allowed Claim that is a Bond Claim, Trisura shall be entitled to pay the Allowed Claim that is a bond Claim from its own resources provided that:
 - (a) Trisura obtains a complete assignment of the Allowed Claim that is a Bond Claim in consideration of such payment pursuant to a Deed of Indemnity, Covenant not to Sue, Undertaking and Grant substantially in the form attached as Appendix "A" to the Receiver-Trisura Protocol;
 - (b) The Allowed Claim that is a Bond Claim and Trisura shall be treated in accordance with paragraph 32 of the Claims Procedure Order.

35. The Receiver-Trisura Protocol is subject to approval by the Court. The Receiver is of the view that the Receiver-Trisura Protocol is an integral part of the Claims Procedure and will assist with the efficient and co-ordinated disposition of Claims and the resolution of matters between Claimants and the Receiver, between Claimants and Trisura (and other third parties) and between Trisura and the Receiver. Accordingly, the Receiver seeks the approval by the Court of the Receiver-Trisura Protocol.

The Receiver respectfully submits to the Court this, its Fifth Report.

Dated this 6th day of March, 2013.

FTI Consulting Canada Inc.

in its capacity as receiver of

Tercon Investments Ltd., Tercon A.C. Ltd., Tercon Equipment Ltd.,

Tercon Construction Ltd., Tercon Mining Ltd., Tercon Enterprises Ltd.,

Tercon MRC Limited, FNP Ventures Inc., Tercon Mining PV Ltd.,

Tercon Equipment Alaska Partnership and Tercon Alaska Ltd.

and not in its personal or corporate capacity



Nigel D. Meakin
Senior Managing Director



Jeff Rosenberg
Managing Director

Appendix A

The Proposed Claims Procedure Order

DRAFT: March-6-13

No. S128887
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF AN APPLICATION PURSUANT TO
SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c.B-3, AS AMENDED and SECTION 39 OF THE *LAW AND EQUITY ACT*,
R.S.B.C. 1996 C.253, AS AMENDED

BETWEEN:

DUMAS HOLDINGS INC.

Petitioner

**TERCON INVESTMENTS LTD., TERCON A.C. LTD., TERCON EQUIPMENT LTD.,
TERCON CONSTRUCTION LTD., TERCON MINING LTD., TERCON ENTERPRISES
LTD., TERCON MRC LIMITED, FNP VENTURES INC., TERCON MINING PV LTD.,
TERCON EQUIPMENT ALASKA PARTNERSHIP AND TERCON ALASKA LTD.**

Respondents

ORDER MADE AFTER APPLICATION

CLAIMS PROCEDURE ORDER

BEFORE THE HONOURABLE)
JUSTICE SEWELL)
)
)
)
)

•/03/2013

THE APPLICATION of FTI CONSULTING CANADA INC., in its capacity as Court-appointed Receiver (the "**Receiver**") of the assets, undertakings and properties of Tercon Investments Ltd., Tercon A.C. Ltd., Tercon Equipment Ltd., Tercon Construction Ltd., Tercon Mining Ltd., Tercon Enterprises Ltd., Tercon MRC Limited, FNP Ventures Inc., Tercon Mining PV Ltd., Tercon Equipment Alaska Partnership and Tercon Alaska Ltd. (collectively, the "**Debtors**") coming on for hearing at Vancouver, British Columbia, on the [•] day of March, 2013; AND ON

HEARING Magnus Verbrugge, counsel for the Receiver, and those other counsel listed on Schedule "A" hereto, and no one appearing for [REDACTED], although duly served; AND UPON READING the material filed, including the Fifth Report of the Receiver dated February [•], 2013 (the "Fifth Report")¹;

THIS COURT ORDERS AND DECLARES THAT:

A. Definitions and Interpretation

1. The following terms in this Order shall have the following meanings ascribed thereto:

- (a) **"Allowed Claim"** means the amount, status, categorization and/or validity of the Claim of a Claimant finally determined in accordance with the Claims Procedure;
- (b) **"Allowed Creditor"** means a Creditor with an Allowed Claim;
- (c) **"Bonded Project Funds"** has the meaning ascribed to it in paragraph [40] hereof;
- (d) **"Business Day"** means any day other than a Saturday, Sunday or a day on which banks in Vancouver, British Columbia are authorized or obligated by applicable law to close or otherwise are generally closed;
- (e) **"Claim"** means any right or claim of any Person that may be asserted or made in whole or in part against;
 - (i) the Debtors (or any of them), whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, in existence on, or which is based on, an event, fact, act or omission which occurred in whole or in part prior to the Receivership Date, at law or in equity, by reason of the commission of a tort (intentional or unintentional), any breach of contract or other agreement (oral or written), any breach of duty (including, without limitation, any legal, statutory, equitable or fiduciary duty), any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise) or for any reason whatsoever against any of the Debtors or any of their property or assets, and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety, warranty or otherwise, and whether or not any right or claim is executory or anticipatory in nature including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or

¹ All capitalized terms not defined herein shall have the meaning ascribed to them in the Fifth Report.

commenced in the future, together with any other rights or claims not referred to above that are or would be claims provable in bankruptcy had the Debtors (or anyone of them) become bankrupt on the Receivership Date, but for further certainty shall not include an Excluded Claim; and

- (ii) the Trisura Bonds;
- (f) **"Claim Support Documents"** shall have the meaning ascribed to it in the Distribution Order;
- (g) **"Claimant"** means a Person asserting a Claim pursuant to the Claims Procedure;
- (h) **"Claims Bar Date"** means April 19, 2013, 2013 at 5:00 p.m. (Vancouver time), or such other date as may be ordered by the Court;
- (i) **"Claims Officer"** means any individual appointed in accordance with paragraph [25] hereof to determine the amount, status, categorization and/or validity of a Disputed Claim for purposes of the Claims Procedure;
- (j) **"Claims Package"** means the document package that includes a copy of: (i) this Order; (ii) the Notice to Creditors; and (iii) such other materials as the Receiver considers necessary or appropriate;
- (k) **"Claims Procedure"** means the procedures outlined in this Order regarding the call for Claims, review of Claims and adjudication of Claims to be administered by the Receiver, pursuant to the terms of this Order;
- (l) **"Court"** means the Supreme Court of British Columbia;
- (m) **"Creditor"** means any Person with a Claim and includes, without limitation, the transferee or assignee of a transferred Claim that is recognized as a Creditor in accordance with paragraph [32] hereof, or a trustee, liquidator, receiver, manager, or other Person acting on behalf of such Person;
- (n) **"DHI"** means Dumas Holdings Inc.;
- (o) **"Disputed Claim"** means any Claim in respect of which a Claimant disputes the Receiver's adjudication of the Claim;
- (p) **"Disputed Claim Package"** means, in respect of a Disputed Claim, a copy of all information submitted via the FTI Claims Site or otherwise provided to the Receiver, or delivered by the Receiver to the Claimant, relating to the Disputed Claim;
- (q) **"Distribution Order"** means the Distribution Order made by Justice Sewell in the Receivership Proceedings, dated January 21, 2013;

- (r) **"Electronic Submission Process"** has the meaning ascribed in paragraph [14] hereof;
- (s) **"Excluded Claim"** means:
 - (i) any right or claim of any Person that might be made in whole or in part against the Debtors for charges incurred by the Receiver on behalf of the Debtors, or any of them, for the supply of goods, services or utilities from and after the Receivership Date;
 - (ii) any Claim of a Debtor against another Debtor;
 - (iii) any Claim of HSBC or the Lenders against the Debtors;
 - (iv) any Claim of DHI against the Debtors; and
 - (v) any Claim secured by any of the Charges (as that term is defined in the Receivership Order) or any subsequent charges ordered or approved by this Court.
- (t) **"FTI Claims Site"** means the website established by the Receiver in connection with the Claims Procedure at <https://cmsi.ftitools.com/tercon>;
- (u) **"HSBC"** means HSBC Bank Canada, as Lead Arranger, Bookrunner and Administrative Agent under the Senior Secured Credit Agreement dated February 28, 2012, as amended;
- (v) **"Information Submission Form"** means the form substantially in accordance with the form attached hereto as Schedule "C";
- (w) **"Improvement"** has the meaning give to it, as applicable, by the *Builders Lien Act*, R.S.B.C 1997 c.45 or the *Builders' Lien Act*, R.S.A. 2000 c.B-7;
- (x) **"Known Creditor"** means a Person: (i) who the Receiver has received actual notice may have a Claim against any of the Debtors; or (ii) that the books and records of the Debtors show as owed an amount arising on or before the Receivership Date;
- (y) **"Lenders"** means the lenders under the Senior Secured Credit Agreement dated February 28, 2012, amended
- (z) **"Lien Claim"** means a right given to any Person to assert a lien upon the interest of an owner of land that is party to a contract with a Debtor for an Improvement or for the contract price for any labor or materials, etc. referred to in *Alaska Statute* § 34.35.050;
- (aa) **"MOT"** means Her Majesty the Queen in Right of British Columbia as represented by the Ministry of Transportation and Infrastructure;

- (bb) **"Notice to Creditors"** means the notice to creditors of the Claims Procedure and the Claims Bar Date, substantially in the form attached hereto as Schedule "B";
- (cc) **"Other Insolvency Proceedings"** means any bankruptcy or insolvency proceedings commenced against any of the Debtors, but for greater certainty does not include the Receivership Proceedings;
- (dd) **"Owner"** has the meaning ascribed in paragraph [35] hereof;
- (ee) **"Performance Bonds"** means, collectively:
 - (i) Performance Bond No. VCS 1089004 issued in favour of the MOT on behalf of Tercon Construction Ltd., by Trisura in respect of the Wall Project;
 - (ii) Performance Bond No. VCS 0700004 issued in favour of the MOT on behalf of Tercon Construction Ltd., by Trisura in respect of the Water Line Project;
 - (iii) Performance Bond No. VCC 0700006 issued in favour of the MOT on behalf of Tercon Construction Ltd., by Trisura in respect of the Creek Bridge Bearing Project; and
 - (iv) Performance Bond No. VMS 0700001 issued in favour of Red Chris Development Company Ltd. on behalf of Tahltan – Tercon Limited Partnership, by Trisura in respect of the Red Chris Project.
- (ff) **"Person"** means any individual, firm, partnership, joint venture, venture capital fund, association, trust, trustee, executor, administrator, legal personal representative, estate, group, body corporate (including a limited liability company and an unlimited liability company), corporation, unincorporated association or organization, governmental authority, syndicate or other entity, whether or not having legal status;
- (gg) **"Potential Property Interest Claimant"** shall have the meaning ascribed to it in the Distribution Order;
- (hh) **"Receiver's Website"** means the website for the Receivership Proceedings located at <http://cfcanada.fticonsulting.com/tercon>;
- (ii) **"Receivership Date"** means December 14, 2012;
- (jj) **"Receivership Proceedings"** means these receivership proceedings commenced by DHI against the Debtors in the Court, being Vancouver Registry No. S128887, on the Receivership Date pursuant to the Receivership Order;

- (kk) "**Receiver-Trisura Protocol**" means the protocol for the coordinated review of Claims on Trisura Bonded Projects summarized as Appendix [•] to the Third Report;
- (ll) "**Released Claims**" shall have the meaning ascribed in paragraph [16(a)] of this Order;
- (mm) "**Reserve Bar Date**" shall have the meaning ascribed to it in the Distribution Order;
- (nn) "**Service List**" means the service list in the Receivership Proceedings updated from time to time and posted on the Receiver's Website;
- (oo) "**Service Requirements**" has the meaning ascribed in paragraph [12] hereof;
- (pp) "**Supporting Documentation Submission Form**" means the form substantially in accordance with the form attached hereto as Schedule "**D**";
- (qq) "**Trisura**" means Trisura Guarantee Insurance Company;
- (rr) "**Trisura Bonded Projects**" means the following projects, as more particularly described in the Third Report:

Tercon Company	Tercon Construction Ltd.	Tercon Construction Ltd.	Tercon Construction Ltd.	Tahltan-Tercon Limited Partnership	Tercon Construction Ltd.
Project	Project # 21754 - 0002: Joint Use Vehicle Inspection Station Public Water System (the " Water Line Project ")	Project # 22594 - 0002: Mount Hunter Creek Bridge, Bearing Replacement and Roof Slab Epoxy Injection (the " Creek Bridge Bearing Project ")	Project # 22592 - 0008: 4 Kilometre Wall and Approaches, Grading, Retaining Wall, Paving and Drainage Construction (the " Wall Project ")	Contract # RC101: Excavation and Earthworks (the " Red Chris Project ")	Leased storage yard clean-up (the " Clean-up Project ")

- (ss) "**Trisura Bonds**" means:
- (i) Environmental Bond No. VOS109004 (formerly Bond No. VMS 1089004) issued in favour of Teck Coal on behalf of Tercon Construction Ltd., by Trisura in respect of the Clean-up Project;
- (ii) Performance Bond No. VCS 1089004 issued in favour of the MOT on behalf of Tercon Construction Ltd., by Trisura in respect of the Wall Project;

- (iii) Labour and Material Payment Bond No. VCS 1089004 issued in favour of the MOT on behalf of Tercon Construction Ltd. by Trisura in respect of the Wall Project;
- (iv) Performance Bond No. VCS 0700004 issued in favour of the MOT on behalf of Tercon Construction Ltd., by Trisura in respect of the Water Line Project;
- (v) Labour and Material Payment Bond No. VCS 0700004 issued in favour of the MOT on behalf of Tercon Construction Ltd. by Trisura in respect of the Water Line Project;
- (vi) Performance Bond No. VCC 0700006 issued in favour of the MOT on behalf of Tercon Construction Ltd., by Trisura in respect of the Creek Bridge Bearing Project;
- (vii) Labour and Material Payment Bond No. VCS 0700006 issued in favour of the MOT on behalf of Tercon Construction Ltd. by Trisura in respect of the Creek Bridge Bearing Project;
- (viii) Performance Bond No. VMS 0700005 issued in favour of Red Chris Development Company Ltd. on behalf of Tahltan – Tercon Limited Partnership, by Trisura in respect of the Red Chris Project; and
- (ix) Labour and Material Payment Bond No. VMS 0700005 issued in favour of Red Chris Development Company Ltd. on behalf of Tahltan – Tercon Limited Partnership, by Trisura in respect of the Red Chris Project.

2. All references herein as to time shall mean local time in Vancouver, British Columbia, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein and any event that occurs on a day that is not a Business Day shall be deemed to occur on the next Business Day.

3. All references in this Order to the word “including” will mean “including without limitation”.

4. All references in this Order to the singular include the plural, to the plural include the singular, and to any gender include the other gender.

5. Any Claims denominated in a currency other than Canadian Dollars shall be converted to Canadian Dollars at the Bank of Canada noon spot rate in effect on the Receivership Date.

B. Approval of Claims Procedure

6. The Claims Procedure, including the Claims Bar Date, is hereby approved. The Receiver is hereby authorized and directed to conduct the Claims Procedure. The Claims Procedure shall be conducted through the FTI Claims Site, except as provided for in this Order. All Persons who intend to assert a Lien Claim, Claims against any of the Debtors, Claims against any of the

Trisura Bonds or Claims against any funds held by the Receiver are directed to comply with the terms of the Claims Procedure.

C. Notice to Creditors

7. Not later than seven (7) Business Days following the date of this Order, the Receiver shall cause a Claims Package to be sent to each Known Creditor in accordance with paragraph [36] hereof to the address of such Known Creditor set out in the applicable Debtor's records.

8. Not later than seven (7) Business Days following the date of this Order, the Receiver shall cause the Notice to Creditors to be published for one (1) Business Day in the Globe and Mail National Edition, the Kamloops Daily News, the Journal of Commerce and the Anchorage Daily News.

9. Not later than two (2) Business Days following the date of this Order the Receiver shall post on the Receiver's Website a copy of this Order and the Notice to Creditors.

10. To the extent that any Creditor requests documents relating to the Claims Procedure prior to the Claims Bar Date, the Receiver shall direct the Creditor to the documents posted on the Receiver's Website and, if requested by the Creditor, cause a Claims Package to be sent to the Creditor in accordance with paragraph [36] hereof and otherwise respond to the request relating to the Claims Procedure as may be appropriate in the circumstances.

11. The forms of Notice to Creditors, Information Submission Form and Supporting Documentation Submission Form substantially in the forms attached to this Order as Schedules "B", "C" and "D", respectively, are hereby approved. The Receiver may, from time to time, make minor changes to such forms as the Receiver considers necessary or desirable.

12. Publication of the Notice to Creditors, the sending to the Creditors of a Claims Package in accordance with this Order, and completion of the other requirements of this Order, shall constitute good and sufficient service and delivery of notice of this Order and the Claims Bar Date on all Persons who may be entitled to receive notice and who may wish to assert a Claim (the "**Service Requirements**"), and no other notice or service need be given or made and no other document or material need be sent to or served upon any Person in respect of this Order.

D. Submission of Claims

13. Except as provided for in paragraph 15 of this Order, all Claims of Creditors must be asserted in, and are subject to, the Claims Procedure, including, without limitation,

- (a) Claims against the Debtors;
- (b) Lien Claims;
- (c) Claims in respect of any of the Trisura Bonds; and
- (d) Claims in respect of the Trisura Bonded Projects, including Claims that involve lien rights, trust rights or other claims to proceeds that would otherwise be

payable to the Debtors or from an Owner to any Person in respect of any of the Trisura Bonded Projects.

14. Any Person other than a Potential Property Interest Claimant that intends to assert a Claim must submit proof of such Claim, together with all supporting documents in respect of such Claim, by electronically submitting all required information, and uploading all relevant documents in support of the Claim, to the FTI Claims Site or as otherwise permitted by this Order, by no later than the Claims Bar Date (the “**Electronic Submission Process**”).

15. Any Potential Property Interest Claimant that has provided the Receiver with its Claim Support Documents prior to the Reserve Bar Date is not required to resubmit proof of such Claim and shall be deemed to have asserted its Claim in accordance with this Claims Procedure. Subject only to the foregoing, the Claims Bar Date and the provisions of this Claims Procedure Order apply to Potential Property Interest Claimants.

16. Any Creditor that does not file proof of its Claim in accordance with this Order such that the Claim is received, or deemed to be received, by the Receiver on or before the Claims Bar Date or such later date as the Court may otherwise direct, shall:

- (a) be and is hereby forever barred, estopped and enjoined from making, asserting or enforcing any such Claim against any of the Debtors, the Receiver, the Trisura Bonds or Trisura and all such Claims shall be forever extinguished as against all such parties (“**Released Claims**”);
- (b) not be permitted to participate in any distribution from the proceeds of any of the Debtors’ assets, funds held by the Receiver, from the Trisura Bonds or otherwise on account of such Claim(s);
- (c) not be entitled to participate as a Creditor in the Receivership Proceedings; and
- (d) not be entitled to receive further notice in respect of the Claims Procedure.

17. The Claims Bar Date shall apply in respect of any Claims against the Trisura Bonds. No Claims may be made against the Trisura Bonds after the Claims Bar Date and all further or other Claims against the Trisura Bonds or against Trisura in respect of the Trisura Bonded Projects shall be forever barred and extinguished.

18. The Receiver shall review all Claims submitted in accordance with this Order that are received on or before the Claims Bar Date. In the event that a Claim is received by the Receiver in respect of a Claim on a Trisura Bond, the Receiver and Trisura shall deal with the Claim pursuant to the Receiver-Trisura Protocol. The Receiver-Trisura Protocol is hereby approved.

19. The Receiver is authorized and directed to use reasonable discretion as to adequacy of compliance with respect to the manner in which the fields of the FTI Claims Site or any paper form, as the case may be, are completed and executed and may, where it is satisfied that a Claim has been adequately filed or proven, waive strict compliance with the requirements of this Order (provided, for greater certainty, that the Receiver may not amend the Claims Bar Date). The

Receiver may request further documentation from a Claimant that the Receiver may require in order to enable the Receiver to adjudicate a Claim and any Claimant that asserts a Claim that is subject to the Claims Procedure shall provide the Receiver with all such documentation forthwith upon request.

E. Adjudication of Claims

20. The Receiver may allow or disallow any Claim asserted in the Claims Procedure, in whole or in part.

21. If the Receiver agrees with a Claim that has been filed in accordance with the Claims Procedure, it shall so notify the Allowed Creditor via the FTI Claims Site or otherwise as provided by this Order.

22. If the Receiver revises or disallows the Claim of a Claimant, in whole or in part, the Receiver shall notify the Claimant via the FTI Claims Site or otherwise as provided by this Order.

23. Any Claimant that wishes to dispute a revision or disallowance of its Claim shall provide notice of such dispute via the FTI Claims Site, or as otherwise provided by this Order, by 5:00 p.m. (Vancouver time) on the date that is fourteen (14) days after the date of notification of such revision or disallowance, or such later date as may be approved by the Court by an order made pursuant to a motion by the Claimant served within such fourteen (14) day period. Any Claimant that fails to dispute a revision or disallowance in accordance with the terms of this paragraph:

- (a) shall be deemed to have accepted the amount and categorization of its Claim as set out in the revision or disallowance, which shall thereafter be such Claimant's Allowed Claim; and
- (b) the Receiver's revision or disallowance in respect of such Claimant's Claim shall be final and binding on all Persons and there shall be no further right to appeal, review or seek recourse to this Court, or any other Court or tribunal, in respect of the Receiver's revision or disallowance;

24. If a Claimant disputes a revision or disallowance of its Claim pursuant to paragraph [23] hereof, the Receiver may:

- (a) attempt to consensually resolve the classification and the amount of the Claim with the Claimant;
- (b) deliver a Disputed Claim Package to the Claims Officer, if one has been appointed; and/or
- (c) schedule an appointment with the Court for the purpose of scheduling a motion to have the classification and amount of the Claim determined by the Court, and at such motion the Receiver shall be deemed to be the applicant and the Claimant shall be deemed to be the respondent.

F. Appointment of Claims Officer(s)

25. The Receiver is authorized to appoint one or more individuals that the Receiver considers to be appropriately qualified to act as a Claims Officer. The Receiver shall provide notification of the appointment of a Claims Officer to the Service List. Any Person that objects to the appointment of the Claims Officer shall advise the Receiver within seven (7) Business Days of such notice. If the Receiver is unable to resolve the objection, the Receiver shall seek direction from the Court as to the appointment of the Claims Officer.

26. Any Claims Officer appointed pursuant to the terms hereof shall have authority to hear and determine the validity of every disputed aspect of a Disputed Claim referred to the Claims Officer by the Receiver in accordance with the Claims Procedure.

27. The Claims Officer is empowered to determine the manner in which evidence may be brought before the Claims Officer, in addition to determining any procedural matter which may arise in respect of the determination of the validity of a Disputed Claim.

28. Upon receipt of notice from the Receiver that a Disputed Claim is to be referred to the Claims Officer, the Claims Officer shall schedule and conduct a hearing to determine the validity of the Disputed Claim as soon as practicable pursuant to a summary hearing scheduled according to a timetable approved by counsel to the Receiver and the Claimant, or as established by Order of the Court. The Claims Officer shall deliver written reasons in connection with the determination of the validity of any Disputed Claim upon which a hearing is conducted.

29. The Receiver shall pay the reasonable fees, expenses and disbursements of each Claims Officer appointed on presentation and acceptance by the Receiver of invoices from the Claims Officer from time to time. The Claims Officer shall be entitled to a reasonable retainer against its fees and disbursements which shall be paid by the Receiver upon request.

G. Binding Effect of Claims Procedure

30. The calling for Claims and the Claims Procedure contemplated by this Order, as it may be amended or supplemented by this Court from time to time, including but not limited to the determination by the Receiver or this Court, as the case may be, with respect to any Claim:

- (a) shall be binding on the Debtors, Trisura, the Receiver and all Creditors; and
- (b) shall be binding and effective in any and all Other Insolvency Proceedings.

31. Nothing in this Order shall be interpreted as substantially consolidating any Claims against any of the Debtors or against any of their respective assets or property.

H. Transferees

32. If, after the Receivership Date, the holder of a Claim transfers or assigns the whole of such Claim to another Person or part of such Claim to another Person or Persons, such transfer or assignment shall not create a separate Claim or Claims and such Claim shall continue to constitute and be dealt with as a single Claim notwithstanding such transfer or assignment, and

the Receiver shall not be obligated to acknowledge or recognize such transfer or assignment and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim in whole as the Creditor in respect of such Claim. The Receiver shall not be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until actual written notice of such transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received and acknowledged by the Receiver in writing and thereafter such transferee or assignee shall for the purposes hereof constitute the "Creditor" in respect of such Claim. For further certainty, the Person last holding a Claim in whole as the Creditor in respect of such Claim may by notice in writing to the Receiver direct that subsequent dealings in respect of such Claim, but only as a whole, shall be with a specified Person and, in such event, such Creditor, such transferee or assignee of the Claim and the whole of such Claim shall be bound by any notices given or steps taken in respect of such Claim by or with respect to such Person in accordance with this Order. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with the Claims Procedure prior to receipt and acknowledgement by the Receiver of satisfactory evidence of such transfer or assignment, and a direction to the Receiver that subsequent dealings in respect of such Claim, but only as a whole, shall be with a specified Person. A transferee or assignee of a Claim takes the Claim subject to any rights of set-off to which the Debtors may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such person to any of the Debtors. Reference to a transfer in this Order includes a transfer or assignment whether absolute or intended as security.

I. Stay of proceedings against Trisura

33. Subject to further Order of the Court, no proceedings or enforcement process in any Court or tribunal may be commenced or continued against Trisura relating to any Claims on Trisura Bonded Projects until further order of the Court. For greater certainty, no proceedings shall be commenced or continued against Trisura or in respect of the Trisura Bonds in respect of any Released Claims.

34. Any payment made by the Receiver with respect to Allowed Claims of Creditors relating to Trisura Bonded Projects (which, for greater certainty, shall be made only on further order of the Court) shall be deemed to be made from funds derived from the Trisura Bonded Project and shall reduce the penal sum of the applicable Trisura Bond on the Trisura Bonded Project.

J. Warranty Claims

35. Every owner/obligee of a Trisura Bonded Project ("**Owner**") shall provide notice to the Receiver and to Trisura whether it intends to assert any Claims against the warranty on the Trisura Bonded Projects and shall provide the Receiver and Trisura with the particulars of all known warranty claims it is aware of as of the date hereof, such that the foregoing information is received prior to the Claims Bar Date.

K. Service and Notices

36. Any notice or communication required to be delivered by the Receiver pursuant to this Order may be delivered via the FTI Claims Site or may be delivered by facsimile, email or electronic transmission, personal delivery, courier or prepaid mail to the address or number contained in the books and records of the Debtors or as included in the information submitted by a Claimant in respect of its Claim. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within Canada, and on the seventh Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered via FTI's Claims Site, other electronic transmission or facsimile by 5:00 p.m. on a Business Day, on such Business Day, and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

37. Any notice or communication required to be provided or delivered to the Receiver by a Creditor or Claimant under this Claims Procedure Order shall be delivered via the FTI Claims Site unless otherwise provided for in this Order. Any paper copy of any document, notice or communication to be delivered to the Receiver pursuant to this Order will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email addressed to:

FTI Consulting Canada Inc.
TD Waterhouse Tower
79 Wellington Street West, Suite 2010
P. O. Box 104
Toronto, ON M5K 1G8

Attn: Jeff Rosenberg
Fax: (416) 649-8181

Email: tercon@fticonsulting.com

Any such notice or communication delivered by a Creditor shall be deemed to be received upon actual receipt thereof by the Receiver before 5:00 p.m. (Vancouver time) on a Business Day or, if delivered after 5:00 p.m. (Vancouver time), on the next Business Day.

38. If, during any period which notice or other communications are being given pursuant to this Order, a postal strike or postal work stoppage of general application should occur, such notice or other communications sent by ordinary mail and then not received shall not, absent further Order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Order.

39. In the event this Order is later amended by further Order of the Court, the Receiver shall post such further Order on the Receiver's Website and serve such further Order on the Service

List, and such posting and service shall constitute adequate notice to all Persons of such amended Claims Procedure.

L. Protection of Claims against Funds received by Receiver

40. Subject to further Order of the Court, any funds paid to the Receiver that relate to Trisura Bonded Projects (the “**Bonded Project Funds**”) shall be deemed to be segregated funds and;

- (a) be impressed with all trust rights arising pursuant to applicable legislation applicable to construction projects in the location of the Trisura Bonded Project;
- (b) be held by the Receiver as if the funds were in the possession of the owner/obligee on the Trisura Bonded Projects;
- (c) remain subject to any rights of set-off that could be asserted in the Claims Procedure by the owner/obligee of the Trisura Bonded Projects.

41. For greater certainty, rights of set-off applicable to the Bonded Project Funds shall not be restricted to a project-by-project accounting or determination.

42. Subject to further order of the Court, the Bonded Project Funds shall be held by the Receiver pending the occurrence of the earlier of: (i) the surrender to Trisura of the Performance Bonds by the MOT; (ii) a release of all claims against the Performance Bonds by the MOT; or (iii) the expiration of the period for claims against the Performance Bonds, with no claims having been asserted against the Performance Bonds during such period. Notwithstanding the foregoing, the Receiver is authorized to pay the reasonable legal fees and disbursements of Trisura in connection with the Receivership Proceedings from any Bonded Project Funds in the Receiver’s possession.

M. Submission of Information and Supporting Documentation by Paper Copy

43. Any Claimant, Creditor, or any subsequent holder of a Claim who has been acknowledged by the Receiver as the holder of the Claim, that is unwilling or unable to submit information via the FTI Claims Site, may instead submit such information by paper copy to the Receiver using the Information Submission Form.

44. Any Claimant, Creditor, or any subsequent holder of a Claim who has been acknowledged by the Receiver as the holder of the Claim, that is unwilling or unable to submit supporting documentation for a Claim via the FTI Claims Site may instead submit such supporting documentation by paper copy to the Receiver using the Supporting Documentation Submission Form.

45. The Receiver is authorized to input to the FTI Claims Site:

- (a) the information submitted using the Information Submission Form;
- (b) the supporting documentation submitted using the Supporting Documentation Submission Form; and

- (c) the Claim Support Documents submitted by any Potential Property Interest Claimant;

and the Receiver shall have no liability for the information or documentation input, other than as a result of gross negligence or wilful misconduct.

N. General

46. Notwithstanding any other provisions of this Order, the solicitation of Claims by the Receiver, and the filing by any Claimant of any Claim shall not, for that reason only, grant any Person standing in the Receivership Proceedings.

47. The Receiver, in carrying out the terms of this Order: (i) shall have all of the protections given to it by the *Personal Property Security Act* (British Columbia), the *Bankruptcy and Insolvency Act*, the Receivership Order and as an officer of this Court, including the stay of proceedings in its favour; (ii) shall incur no liability or obligation as a result of the carrying out of its obligations under this Order; (iii) shall be entitled to rely on the books and records of the Debtors, and any information provided by the Debtors, all without independent investigations, and (iv) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

48. 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 Claims Procedure and the form of the schedules to this Order, or for such further Order or Orders as the Receiver may consider necessary or desirable to amend, supplement or replace this Order, including any schedule to this Order.

49. This Order shall have full force and effect in all Provinces and Territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

50. 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.

51. The Receiver shall be at liberty, and is hereby authorized and empowered, to make such further applications, motions or proceedings to or before such other courts and judicial, regulatory and administrative bodies, and take such other steps, in Canada or the United States of America, as may be necessary or advisable to give effect to this Order.

52. 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.

THE APPROVAL OF COUNSEL SET OUT IN SCHEDULE "A" OF THIS ORDER, OTHER THAN COUNSEL FOR FTI CONSULTING CANADA INC., IS HEREBY DISPENSED WITH:

Signature of Magnus Verbrugge

Party Lawyer for

FTI Consulting Canada Inc., in its capacity as receiver of the assets, undertakings and properties of Tercon Investments Ltd., Tercon A.C. Ltd., Tercon Equipment Ltd., Tercon Construction Ltd., Tercon Mining Ltd., Tercon Enterprises Ltd., Tercon MRC Limited, FNP Ventures Inc., Tercon Mining PV Ltd., Tercon Equipment Alaska Partnership and Tercon Alaska Ltd.

BY THE COURT

REGISTRAR

SCHEDULE "A"
LIST OF COUNSEL

SCHEDULE "B"**NOTICE TO CREDITORS**

**IN THE MATTER OF THE RECEIVERSHIP OF
TERCON INVESTMENTS LTD., TERCON A.C. LTD., TERCON EQUIPMENT LTD.,
TERCON CONSTRUCTION LTD., TERCON MINING LTD., TERCON ENTERPRISES
LTD., TERCON MRC LIMITED, FNP VENTURES INC., TERCON MINING PV LTD.,
TERCON EQUIPMENT ALASKA PARTNERSHIP AND TERCON ALASKA LTD.**

(COLLECTIVELY THE "DEBTORS")

TAKE NOTICE that on December 14, 2012 the Debtors were placed into receivership (the "**Receivership Proceedings**") by Order of the Supreme Court of British Columbia (the "**Court**"). As part of the Receivership Proceedings, on •, 2013 the Court issued an Order approving a procedure (the "**Claims Procedure**") to determine the claims of creditors as against the Debtors. A copy of the Claims Procedure Order may be obtained from the Receiver's website located at <http://cfcanada.fticonsulting.com/tercon>

The purpose of the Claims Procedure is to, *inter alia*:

- Provide creditors that have claims against the Debtors with an opportunity to file proof of their claims and related evidence to support a claim on or before the Claims Bar Date; and
- Resolve or adjudicate any disputes with respect to the amounts and/or nature of claims submitted.

Any person who believes that they have a claim against the Debtors must file proof of such Claim by the Claims Bar Date in accordance with the provisions of the Claims Procedure Order. The Claims Procedure Order outlines the process for submitting a Claim electronically or by paper copy.

The Claims Bar Date is: 5:00 PM (Vancouver Time) on • 2013.

ALL CLAIMS MUST BE FILED BY THE DEADLINE STATED ABOVE. ANY CLAIM NOT FILED BY THE DEADLINE STATED ABOVE WILL BE FOREVER BARRED AND EXTINGUISHED AND NO FURTHER CLAIM, RIGHT OR ENTITLEMENT AGAINST THE DEBTORS OR THEIR ASSETS, INCLUDING ANY BONDS ISSUED BY TRISURA GUARANTEE INSURANCE COMPANY ON CERTAIN BONDED PROJECTS OF THE DEBTORS MAY BE ADVANCED.

Any person that may have questions regarding the submission of claims in the Claims Procedure should view the Receiver's website or contact the Receiver at the following address:

FTI Consulting Canada Inc.
TD Waterhouse Tower
79 Wellington Street West, Suite 2010
P. O. Box 104
Toronto, ON M5K 1G8

Attn: Jeff Rosenberg
Fax: (416) 649-8181

Email: tercon@fticonsulting.com

SCHEDULE "C"

IN THE MATTER OF THE RECEIVERSHIP OF
 TERCON INVESTMENTS LTD., TERCON A.C. LTD., TERCON EQUIPMENT LTD.,
 TERCON CONSTRUCTION LTD., TERCON MINING LTD., TERCON ENTERPRISES
 LTD., TERCON MRC LIMITED, FNP VENTURES INC., TERCON MINING PV LTD.,
 TERCON EQUIPMENT ALASKA PARTNERSHIP AND TERCON ALASKA LTD.

INFORMATION SUBMISSION FORM

Add Contact

Name _____
 Attention _____
 Address 1 _____
 Address 2 _____
 City _____
 State/Province _____
 ZIP/Postal Code _____
 Country _____
 Phone _____
 Fax _____
 Email _____
 Type Claimant Assignee Lawyer CC only
 None Notice only Primary contact

Add Contact

Name _____
 Attention _____
 Address 1 _____
 Address 2 _____
 City _____
 State/Province _____
 ZIP/Postal Code _____
 Country _____
 Phone _____
 Fax _____
 Email _____
 Type Claimant Assignee Lawyer CC only
 None Notice only Primary contact

Add Claim

Claim Amount _____
 Currency _____
 Debtor Name _____
 Claim Type Pre-Filing Subsequent
 Classification Secured Unsecured
 Unsecured Category Employee Former Employee Guarantee
 Deficiency Trade Landlord

Security Claimed Security Agreement Statutory Lien Statutory Trust

Comments - Please add any comments that may assist us in reviewing your claim.

Add Claim

Claim Amount _____

Currency _____

Debtor Name _____

Classification Secured Unsecured

Unsecured Category Employee Former Employee Guarantee

Deficiency Trade Landlord

Security Claimed Security Agreement Statutory Lien Statutory Trust

Comments - Please add any comments that may assist us in reviewing your claim.

Future correspondence

All future correspondence will be directed to the email designated in the contact details unless you specifically request that hardcopies be provided.

Hardcopy of correspondence required

Acknowledgment

Signature _____

Date _____

Notice of Dispute

Original Claim Amount _____

Revised Claim per Receiver _____

Revised Claim per Claimant _____

Currency _____

Debtor Name _____

Classification Secured Unsecured

Unsecured Category Employee Former Employee Guarantee

Deficiency Trade Landlord

Security Claimed Security Agreement Statutory Lien Statutory Trust

Reason for Dispute - Please add any comments that may assist us in reviewing your claim.

Notice of Dispute

Original Claim Amount _____

Revised Claim per Receiver _____

Revised Claim per Claimant _____

Currency _____

Debtor Company Name _____

Classification Secured Unsecured

Unsecured Category Employee Former Employee Guarantee

Deficiency Trade Landlord

Security Claimed Security Agreement Statutory Lien Statutory Trust

Reason for Dispute - Please add any comments that may assist us in reviewing your claim.

Acknowledgment

Signature _____

Date _____

SCHEDULE "D"

**IN THE MATTER OF THE RECEIVERSHIP OF
 TERCON INVESTMENTS LTD., TERCON A.C. LTD., TERCON EQUIPMENT LTD.,
 TERCON CONSTRUCTION LTD., TERCON MINING LTD., TERCON ENTERPRISES
 LTD., TERCON MRC LIMITED, FNP VENTURES INC., TERCON MINING PV LTD.,
 TERCON EQUIPMENT ALASKA PARTNERSHIP AND TERCON ALASKA LTD.**

SUPPORTING DOCUMENTATION SUBMISSION FORM**Contact Details**

Name _____
 Attention _____
 Address 1 _____
 Address 2 _____
 City _____
 State/Province _____
 ZIP/Postal Code _____
 Country _____
 Phone _____
 Fax _____
 Email _____

Supporting Documentation

Please attach hard copies of your supporting documentation to this form.

Comments

Future correspondence

All future correspondence will be directed to the email designated in the contact details unless you specifically request that hardcopies be provided.

Hardcopy of correspondence required

Acknowledgment

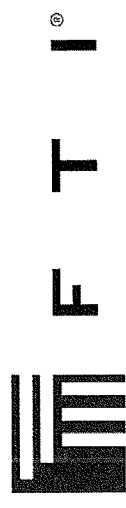
Signature _____
 Date _____

Appendix B

Overview of FTI Claims Site

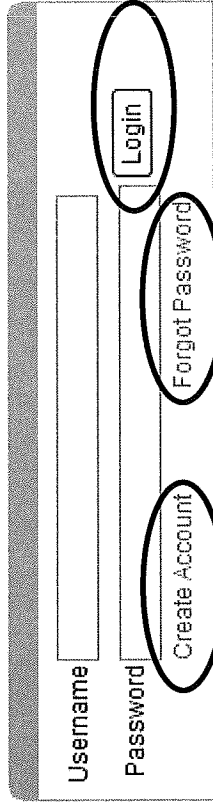


FTI Claims Site Application Overview



FTI Claims Site : Login Page

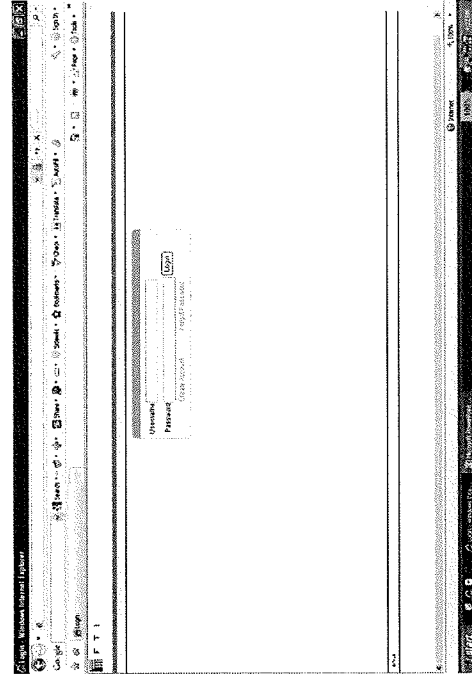
2: Home Page



The diagram shows a login form with three input fields: 'Username', 'Password', and 'Create Account'. Below the 'Create Account' field is a 'Forgot Password' link. At the bottom of the form is a 'Login' button. Arrows point from the 'Create Account' and 'Forgot Password' elements to the text '1A: Create New Account' and '1B: Recover Password' respectively. An arrow points from the 'Login' button to the text '2: Home Page'.

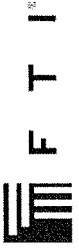
1B: Recover Password

1A: Create New Account





Login requires both a user name and password verification. The overall System utilize Secured Sockets Layer (SSL) technology to secure the communication channel.

FTI Claims Site : Create a New Account



Please enter claimant's contact information

Name	<input type="text"/>
Attn	<input type="text"/>
Address 1	<input type="text"/>
Address 2	<input type="text"/>
City	<input type="text"/>
State/Province	<input type="text"/>
Zip	<input type="text"/>
Country	<input type="text"/>
Phone	<input type="text"/>
Fax	<input type="text"/>
Email	<input type="text"/>
Enter Email Again	<input type="text"/>
Choose a Username	<input type="text"/>

stop spam.
reCAPTCHA

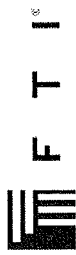
1C: Confirmation 1: Login Page

FTI CLAIMS

The system provides for any potential claimant to share their information. To begin that process they need to create a new account by filling in the appropriate information.

This page uses special technology to ensure that a person is entering the information and provides an additional layer of information security.

FTI Claims Site : Recover Password Screen



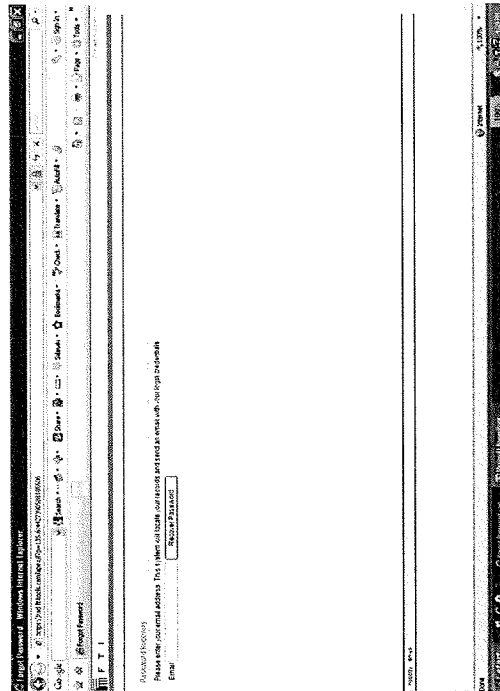
Password Recovery

Please enter your email address. This system will locate your records and send an email with your login credentials.

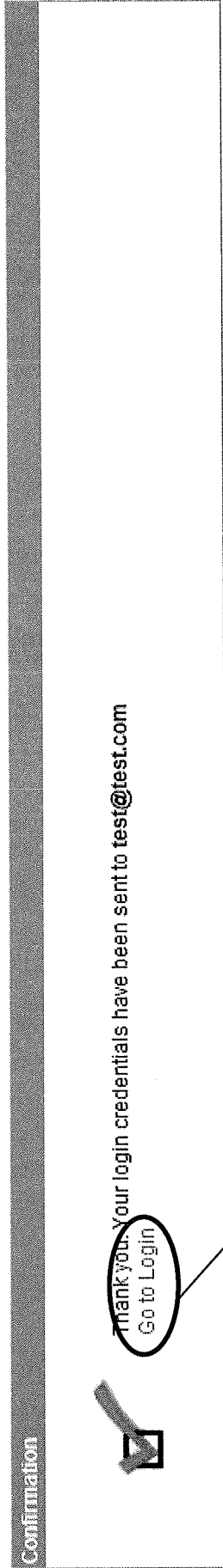
Email:

1C: Confirmation

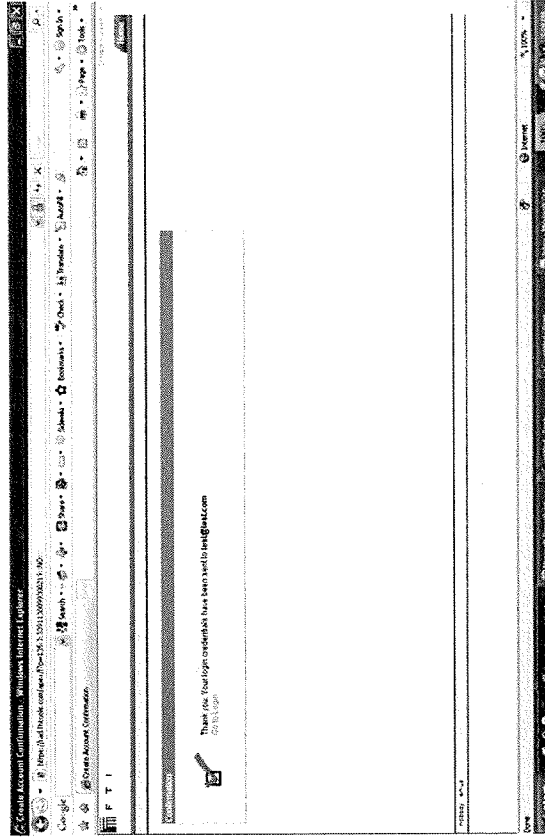
In the event that a claimant forgets their password, they can enter the appropriate email and the system will send the login credentials to the email on file.



FTI Claims Site : Confirmation

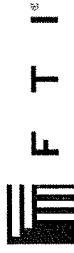


1: Login Page



After they have entered the appropriate information. This screen acknowledges that they should receive login details at the provided email.

FTI Claims Site : Home Screen



The screenshot shows the FTI Claims Site Home Screen. The browser window title is "Your Account - Windows Internet Explorer". The address bar shows "http://www.fticonsultants.com". The page content includes a "Welcome" message, a "Contact Information" section with a "Home" button, and a "Liability Per Company/Policy/Supplier by Decler" table. The table lists claim details such as Claim Number, Claim Type, Class, Security Type, Amount, Currency, CAU, and Category.

Welcome

We are pleased to see you are using the FTI Claims Site. In order to use the site, you must be logged in. If you are not logged in, you will be redirected to the login page. If you are logged in, you will be redirected to the home page. If you are not logged in, you will be redirected to the login page. If you are logged in, you will be redirected to the home page.

Contact Information

Home

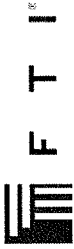
Liability Per Company/Policy/Supplier by Decler

Claim Number	Claim Type	Class	Security Type	Amount	Currency	CAU	Supplier	Category
2100000	450	450	General	12500	USD	11/15/11	11/15/11	Treasury

The Home screen is the main page for the claimants to review the information in the system regarding their potential claims. It has two main sections:

1. Contact Information
2. Liability Claim Information

FTI Claims Site : Contact Information



2A: Confirm/Edit Address

Contact Information

Address Unconfirmed. Please confirm your contact information by clicking here [Confirm Address](#)

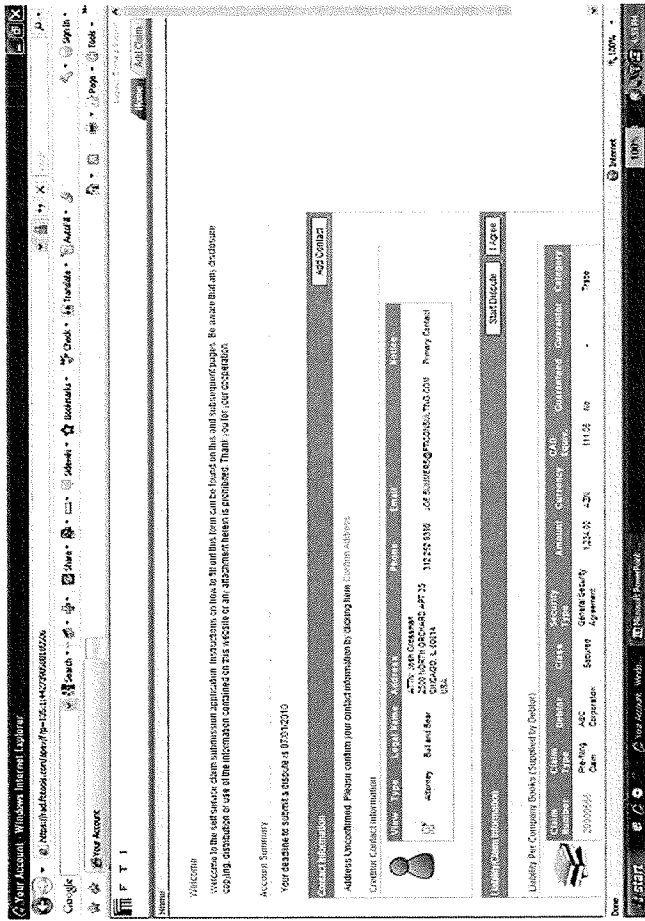
Creditor Contact Information

View	Type	Legal Name	Address	Phone	Email	Notice
	Attorney	Eull and Bear	ATTN: Jost Grossman 2500 HORTON ORCHARD APT 3S CHICAGO, IL 60614 USA	312 252 9330	JOE.SUMMERS@FTICONULTI.MG.COM	Primary Contact


2B: Add Contact

[Add Contact](#)

The Contact Information Section provides the claimant a view of the contacts and addresses currently associated with the claimant. From here they can confirm/modify any of the contact information as well as add any additional contacts for the claim.







Apply Changes and Confirm

Name Bull and Bear

Attn Josh Grossman

Add1 2500 NORTH ORCHARD

Add2 APT 3S

City CHICAGO

State IL

Zip 60614

Country USA

Phone 312 252 9390

Fax 487 487 3987

Email JOE.SUMMERS@FTICONULTING

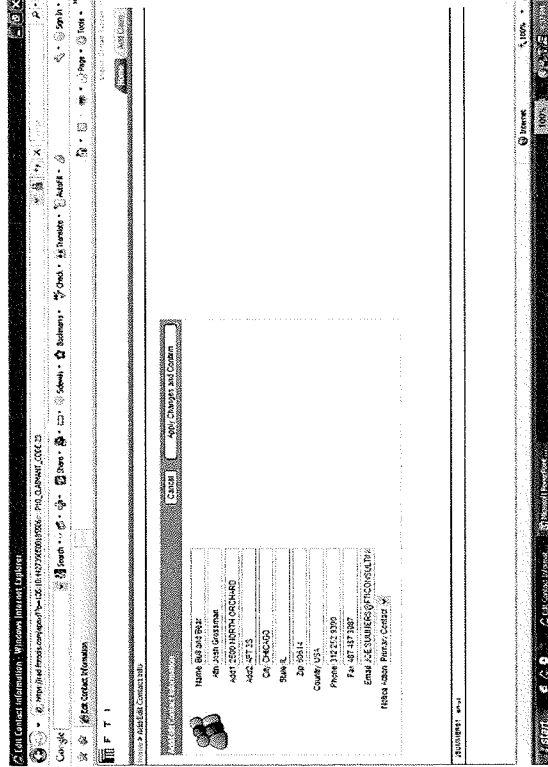
2: Home Page (No Changes)

2: Home Page (Saves Changes)

Cancel

Apply Changes and Confirm

Notice Action: Primary Contact




From this screen the claimant can choose to change any of the address information already on file, or can simply confirm that the information is correct.

FTI Claims Site : Add Contact Information

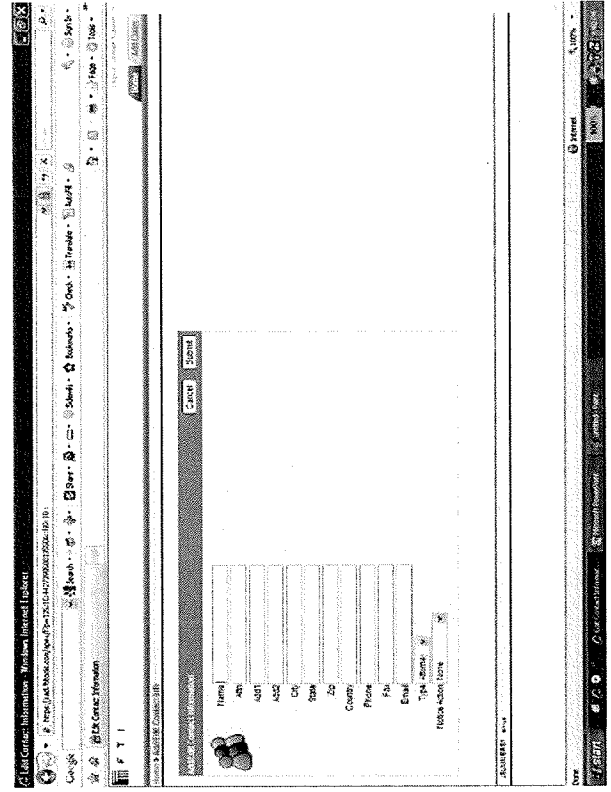


ADD/EDIT CONTACT INFORMATION



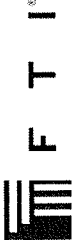
Name
 Attn
 Add1
 Add2
 City
 State
 Zip
 Country
 Phone
 Fax
 Email
 Type Attorney
 Notice Action None

2: Home Page (No Changes)
 2: Home Page (Saves Record)



From this screen the claimant can add another contact to their claim as well as indicate whether the contact should receive notice.

FTI Claims Site : Claim/Dispute Step 1



Step 1 - Claim Information

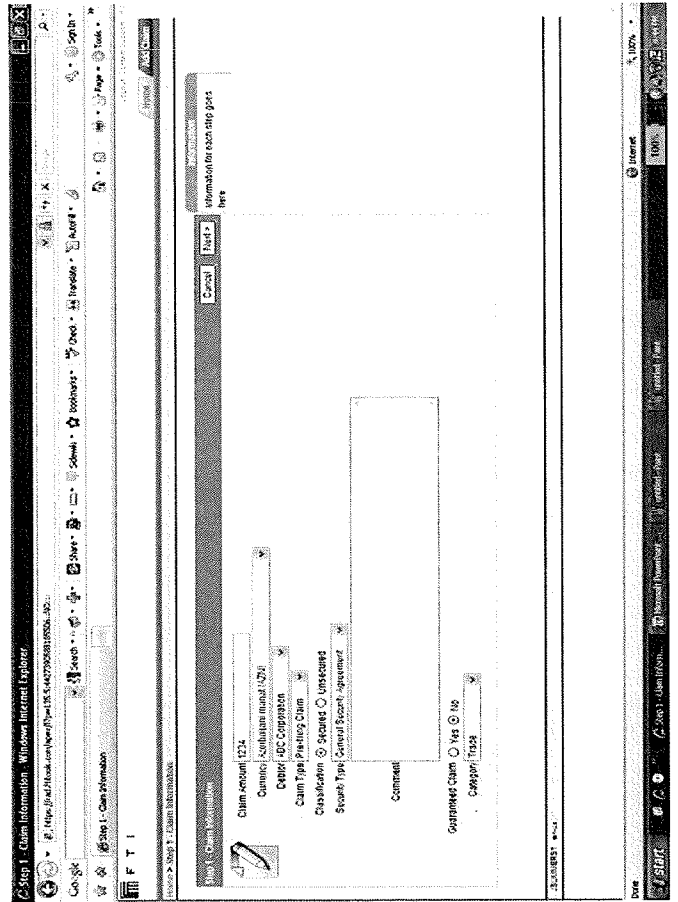
Claim Amount: 5000
Currency: Canadian dollar (CAD)
Debtor: ABC Corporation
Claim Type: Pre-filing Claim
Classification: Secured Unsecured

Comment

Guaranteed Claim: Yes No
Category: Trade

Buttons: Cancel, Next >

Annotations:
- Arrow pointing to 'Cancel' button: 2: Home Page (No Changes)
- Arrow pointing to 'Next >' button: 3B: Dispute! Claim Step 2



The Creditor provides the relevant details about the claim.

FTI Claims Site : Claim/Dispute Step 2



Step 2 - Add Supporting Documentation

File Name (C:\Documents and Settings\jvalis\Browse)

Description

Claim/Dispute

Claim Number	Claim Type	Debtor	Class	Security Type	Amount	Currency	Guaranteed	Guarantor	Category	Comments
20000723	Pre-filing Claim	ABC Corporation	Unsecured	-	5000	CAD	No	-	Trade	-

Attached Documentation

Type	File Name	Description	Created On
	VBA_EXCEL Group.txt	-	Thursday, 11 March, 2010
	VBA EXCEL Group.txt	-	Thursday, 11 March, 2010

2: Home Page (No Changes)

3A: Dispute/Claim Step 1

3C: Dispute/Claim Step 3

Cancel Previous Next

Add Document

The screenshot shows the 'Step 2 - Add Supporting Documentation' page. At the top, there is a 'File Name' field with a 'Browse' button. Below it is a 'Description' field. The main area contains a 'Claim/Dispute' table with columns for Claim Number, Claim Type, Debtor, Class, Security Type, Amount, Currency, Guaranteed, Guarantor, Category, and Comments. Below the table is an 'Attached Documentation' section with a table listing files like 'VBA_EXCEL Group.txt'. At the bottom, there are navigation buttons: 'Cancel', 'Previous', and 'Next'. A red circle highlights the 'Add Document' button.

The second step in the claim process allows the claimant to upload any electronic files that support their claim.

FTI Claims Site : Claim/Dispute Step 3

Step 3 - Review and Finish

2: Home Page (No Changes)

Cancel < Previous Finish

Dispute/Claim

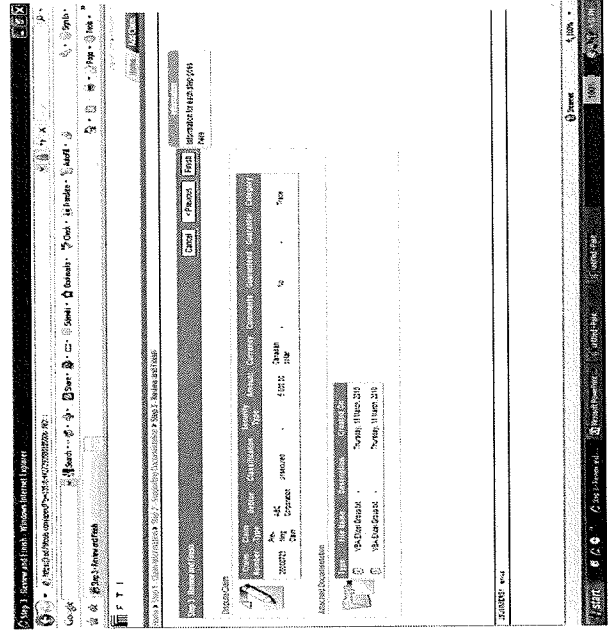
Claim Number	Claim Type	Debtor	Classification	Security Type	Amount	Currency	Comments	Guaranteed	Guarantor	Category
20100723	Pre-filing Claim	ABC Corporation	Unsecured	-	5,000.00	Canadian dollar	-	No	-	Trade

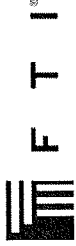
Attached Documentation

Type	File Name	Description	Created On
	VSA_EXcel Group.txt	-	Thursday, 11 March, 2010
	VSA_EXcel Group.txt	-	Thursday, 11 March, 2010

3B: Dispute/Claim Step 2

The creditor is then able to review all of the information they have entered as well as the documents they have uploaded to support the claim. From here they can hit previous to correct any information or can confirm by pressing "Finish".





FTI Claims Site : Home Page Additional Claim/Dispute Information

Liberty/Claim Information

Add Additional Claims

3A: Dispute\Claim Step 1

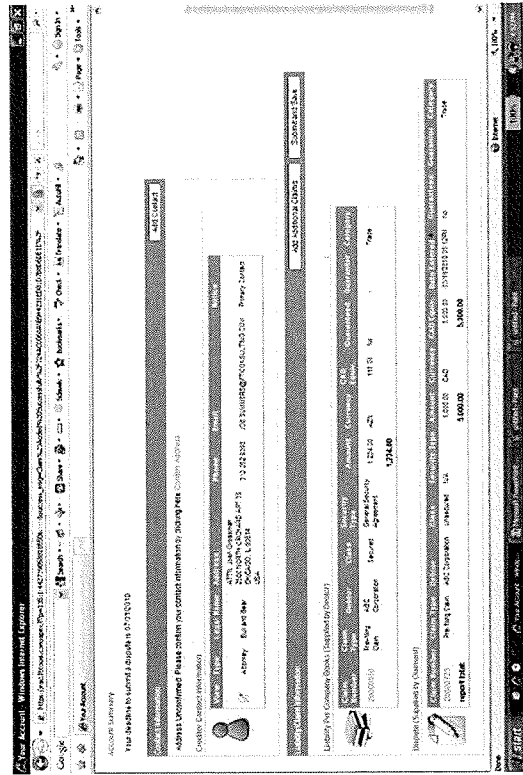
Liability Per Company Books (Supplied by Debtor)

Claim Number	Claim Type	Debtor	Class	Security Type	Amount	Currency	CAD Equiv.	Guaranteed	Guarantor	Category
20JC0556	Pre-filing Claim	ABC Corporation	Secured	General Security Agreement	1,234.00	AZN	111.06	No	-	Trade
					1,234.00					

2: Home Page (Locks Claim)

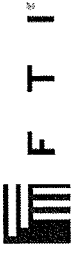
Dispute (Supplied by Claimant)

Claim Number	Claim Type	Debtor	Class	Security Type	Amount	Currency	CAD Equiv.	Guaranteed	Guarantor	Category
20JC0723	Pre-filing Claim	AEC Corporation	Unsecured	N/A	5,000.00	CAD	5,000.00	03/11/2010	JS-S2-N	No
					5,000.00					Trade
report total:					5,000.00					5,000.00



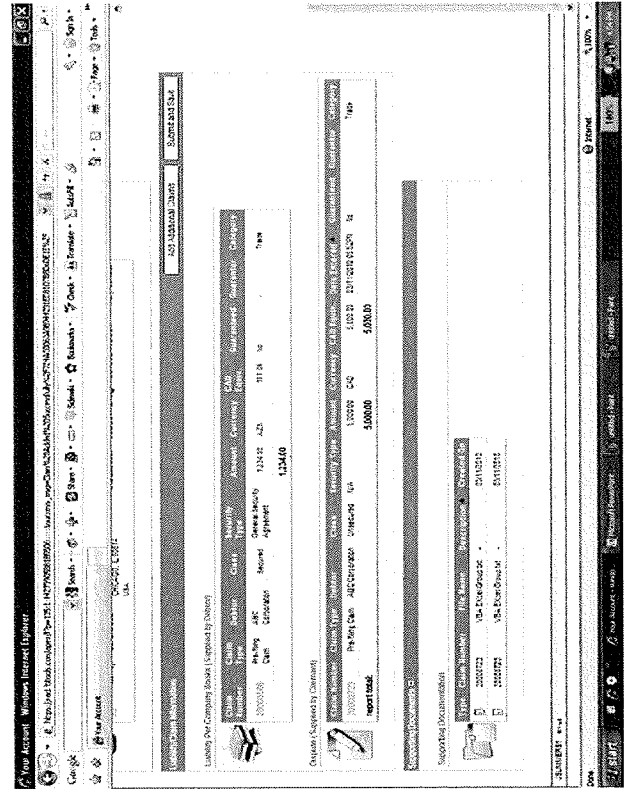
From the home page the claimant can continue to add additional claims. Once they have entered all of their claims they can submit and save them. The creditor will no longer be able to amend their claim the information submitted but the claim details can still be viewed.

FTI Claims Site : Supporting Documents Section



Supporting Documents				
Supporting Documentation				
Type	Claim Number	File Name	Description	Created On
	2000723	VBA EXCEL 0-0 JP.XC	-	05/11/2010
	2000723	VBA EXCEL 0-0 JP.XC	-	05/11/2010

If the claimant has disputed the claim and/or added additional claims to which they uploaded document, they can also be viewed from the home screen.



FTI Claims Site : Notice of Revision or Disallowance

Liability/Claim Information

Add Date of Revision

Submit to Adjudication

Liability Per Company Books (Supplied by Debtor)

Claim Number	Claim Type	Debtor	Class	Security Type	Amount	Currency	CAD Equiv.	Guaranteed	Guarantor	Category
2000* E43	D&O Claim	ABC Holding Corporation	Secured	N/A	4,950.89	XCD	2,227.90	Yes	ABC Corporation	Trade
							2,227.90			

Claim/Dispute (Supplied by Claimant)



Claim Number	Claim Type	Debtor	Class	Security Type	Amount	Currency	CAD Equiv.	Guaranteed	Guarantor	Category
2000* E18	D&O Claim	ABC Holding Corporation	Secured	General Security Agreement	2.00	XCD	0.90	Yes	ABC Corporation	Trade
report total:							2.00			

Revision (Supplied by Debtor)



Claim Number	Claim Type	Debtor	Class	Security Type	Amount	Currency	CAD Equiv.	Guaranteed	Guarantor	Category
2000* E20	D&O Claim	ABC Holding Corporation	Secured	N/A	2.00	XCD	0.90	Yes	ABC Corporation	Trade
2000* E30	D&O Claim	ABC Holding Corporation	Secured	N/A	2.00	XCD	0.90	Yes	ABC Corporation	Trade
report total:							4.00			

Please refer to the next page for description of this screen shot.



FTI Claims Site : Notice of Revision or Disallowance

When a Notice of Revision or Disallowance is issued, the Creditor is sent an email notification that their claim has been review and revised and can view the revision by logging into their account.

The Creditor is able to dispute or agree to the Notice of Revision.

If the Creditor disputes the Notice of Revision the Debtor Company or the Monitor can refer the claim to a Claims Officer or the Court for adjudication.

A claim can also be referred to a Claims Officer or the Court for adjudication at any point during the claims process.

Appendix C

The Receiver-Trisura Protocol

**PROTOCOL BETWEEN THE RECEIVER AND TRISURA RELATING TO THE
TRISURA BONDED PROJECTS¹**

The Receiver and Trisura agree to participate in a process for the receipt, review and the adjudication of Claims on Trisura Bonded Projects (the “**Bonded Project Claims**”) pursuant to the Claims Procedure, in accordance with the following protocol:

1. Each of Trisura and the Receiver will provide to the other copies of all documents submitted by Claimants in connection with, or in support of, any Claim submitted in the Claims Procedure that the Claimant indicates is a Claim on one or more of the Trisura Bonds (the “**Bond Claims**”). Either party may request of the other any document relevant to the Bond Claims in the possession of the Receiver and Trisura in connection with the review and adjudication of Bond Claims. Either party may make reasonable requests for the assembly and production of Tercon documents relating to any Bond Claims and the parties agree to cooperate in the production of all such documents to the other.
2. The Receiver shall review all Bond Claims received pursuant to the Claims Procedure. The Receiver will meet with Trisura as requested and report weekly regarding the status of its review of the Bond Claims, or such other period as may be agreed with Trisura. The Receiver shall, within 30 days of receipt of any Bond Claim, provide Trisura with its assessment of the amount, validity and status (regarding lien, trust or other rights associated with the Bond Claim) of the Bond Claim to Trisura.
3. In the event that Trisura, acting reasonably, considers it necessary for a further review of any Bond Claim after the aforesaid review by the Receiver, the Receiver and Trisura shall engage the services of a claims adjuster experienced in construction matters of the type associated with the Trisura Bonded Projects to conduct the initial review of all Bond Claims (the “**Claims Adjuster**”) on mutually acceptable terms. The fees of the Claims Adjuster shall be borne equally by the Receiver and Trisura.

¹ All capitalized terms not defined herein shall have the meaning ascribed to them in the Claims Procedure Order issued by the Supreme Court of British Columbia dated •, 2013.

4. The Claims Adjuster will meet with Trisura and the Receiver as requested and report weekly regarding the status of the review of the Bond Claims. The Claims Adjuster will, within 15 days of receipt of any Bond Claim, provide a report on the Bond Claim.
5. The Claims Adjuster will be authorized by Trisura and the Receiver to request any additional documents necessary from any Claimant asserting a Bond Claim and, if considered necessary, meet with Claimants to review and investigate the Bond Claim. The Claims Adjuster will not have any power to settle or compromise any Bond Claim without the prior written approval of both Trisura and the Receiver.
6. Trisura and the Receiver will work in good faith to reach an agreement on whether a Bond Claim should, in whole or in part, be accepted as an Allowed Claim. In connection therewith, the Receiver and Trisura each acknowledge the independence, responsibilities and obligations of the other as a Court-appointed officer and a surety, respectively.
7. If the amount and classification of any Bond Claim cannot be agreed upon by both the Receiver and Trisura, the Receiver shall issue a revision or disallowance of the Claim in accordance with the Claims Procedure in the lesser amount and/or classification of the Claim that can be agreed upon by both the Receiver and Trisura, if any.
8. Any consensual resolution of the classification or amount of any Bond Claim that is a Disputed Claim shall require the consent of both the Receiver and Trisura.
9. No payment will be made from Bonded Project Funds in respect of any Allowed Claim that is a Bond Claim until all Bond Claims on a Trisura Bonded Project have been resolved, unless such payment is: (i) approved by each of Trisura and the Receiver; and (ii) an Order of the Court is made approving such payment.
10. Any payment from Bonded Project Funds in respect of an Allowed Claim that is a Bond Claim shall be subject to the following conditions precedent:
 - (i) the payment must be made pursuant to an Order of the Court approving such payment (the “**Approval Order**”);
 - (ii) the Approval Order must specifically provide that the payment in respect of the Allowed Claim shall be deemed to be a reduction of the penal sum of the Trisura Bond on the Trisura Bonded Project;

11. In the event that the conditions set out in paragraphs 9 and 10 are not met, but the Receiver and Trisura have accepted an Allowed Claim that is a Bond Claim, Trisura shall be entitled to pay the Allowed Claim that is a bond Claim from its own resources provided that:
 - a. Trisura obtains a complete assignment of the Allowed Claim that is a Bond Claim in consideration of such payment pursuant to a Deed of Indemnity, Covenant not to Sue, Undertaking and Grant substantially in the form attached hereto as Appendix "A";
 - b. The Allowed Claim that is a Bond Claim and Trisura shall be treated in accordance with paragraph [32] of the Claims Procedure Order.
12. The Receiver and Trisura will not accept, settle, compromise or pay any Bond Claim except in accordance with the above-noted terms of this Protocol and the Claims Procedure Order.
13. Any Claims Officer appointed by the Receiver to adjudicate Bond Claims must be acceptable to Trisura, acting reasonably.
14. In the event that there are any proceedings in the Court or before a Claims Officer with respect to a Bond Claim that becomes a Disputed Claim, each of the Receiver and Trisura shall be entitled to full rights of participation and standing in connection with such proceedings and the Receiver and Trisura agree to cooperate to the extent practical with respect to scheduling and the conduct of the hearing on such Disputed Claim.
15. The Receiver and Trisura are entitled to advise any Bond Claimant that the Bond Claim is being dealt with by the Receiver and Trisura pursuant to this Protocol.
16. For greater certainty, the terms of this Protocol only apply to Bond Claims.
17. The terms of this Protocol are subject to the approval of the Court.

DEED OF ASSIGNMENT, COVENANT NOT TO SUE, UNDERTAKING & GRANT

THIS DOCUMENT IS A LEGALLY BINDING AGREEMENT. READ CAREFULLY
BEFORE SIGNING.

WHEREAS ♦ of the ♦, in the Province of British Columbia (hereinafter called the "Claimant") represents to Trisura Guarantee Insurance Company having an office in the City of Vancouver in the Province of British Columbia (hereinafter called the "Surety") and covenants with the Surety that ♦ (hereinafter called the "Contractor") is indebted to the Claimant in the amount of \$♦ for labour or materials or rentals provided by the Claimant to the Contractor and used on the contract between the Contractor and the ♦ (the "♦") dated the ♦ day of ♦, ♦ (hereinafter called the "prime contract") for \$♦ (inclusive of applicable taxes).

AND WHEREAS the Surety has issued a Labour and Material Payment Bond No. ♦ (the "L&M Bond") in connection with the prime contract;

AND WHEREAS the Contractor is in default under the prime contract;

AND WHEREAS the Claimant represents and covenants with the Surety that it has made a claim against the Surety under the L&M Bond and that the Claimant has complied with the terms and conditions of the L&M Bond.

NOW THEREFORE THIS AGREEMENT WITNESSETH that the recitals to this Deed as stated above form a part of this Agreement and in consideration of the promise of the payment by the Surety to the Claimant of \$♦ the amount of the L&M Bond claim, the Claimant:

1. hereby covenants not to sue the Surety, its officers, directors, employees, servants, agents, executors, administrators, successors, assigns and re-insurers in respect of any manner of actions, causes of action, suits, debts, contracts, claims, demands and damages of any nature or kind whatsoever which against the Surety, its officers, directors, employees, servants, agents, executors, administrators, successors or assigns now have or at any time hereafter can, shall or may have for or by reason of or arising out of or in any way connected with labour and/or materials supplied by the Claimant to the Contractor at any time up to the date of the execution of these presents and in particular, but without restricting the generality of the foregoing for or by reason of or arising out of or in any way connected with labour and/or materials supplied by the Claimant to the Contractor in connection with ♦ (the "Project") and/or any claims or possible claims under or in respect of the L&M Bond in connection with the Project; and
2. hereby subrogates, assigns and transfers to the Surety all claims, causes of action and rights to recovery, which the Claimant may have against any person, firm or corporation in connection with the indebtedness of \$♦ above referred to and authorizes the Surety to sue, compromise or settle in the Claimant's name or otherwise all such claims, causes of action and rights to recovery and without in any way limiting the generality of the foregoing, hereby subrogates, assigns and transfers to the Surety any and all claims which

the Claimant has or may have by reason of any statute of the Province of British Columbia; and

3. hereby covenants, agrees and undertakes forthwith to execute and deliver such further and other documents and to perform such further and other acts as may reasonably be required by the Surety in order that the Surety may realize upon the rights referred to herein and the rights hereby subrogated, assigned and transferred to it; and
4. further expressly agrees and understands that this is a compromise settlement of a disputed claim and that the payment of the consideration for this Assignment, Covenant Not to Sue, Undertaking and Grant shall not be deemed to be an admission of liability on the part of the Surety to the Claimant; and
5. further expressly agrees and understands and the Claimant acknowledges that the facts in respect of which this Assignment, Covenant Not to Sue, Undertaking and Grant is made may prove to be other than or different from the facts in that connection now known by any of the parties or any one or more of them or believed by any one of them to be true. The Claimant expressly accepts and assumes the risk of the facts being different and agrees that all of the terms of this Assignment, Covenant Not to Sue, Undertaking and Grant shall be in all respects effective and not subject to termination or rescission by any discovery of any difference in the facts; and
6. further expressly agrees and understands that for the consideration expressed herein the Claimant agrees not to make any claim or take any proceedings against any other person or corporation who might claim contribution or indemnity from the Surety; and
7. further expressly agrees and understands that the Claimant does hereby represent and declare that it alone is entitled to receive the monies payable herein and that the Claimant has not assigned the monies or its right of action to any person, firm or corporation who might claim against the Surety and, further, that there are no liens, charges or mortgages concerning the monies payable herein; and
8. further expressly agrees and understands and the Claimant does hereby represent and declare that its duly authorized representative(s) have read this Assignment, Covenant Not to Sue, Undertaking and Grant and have been advised by their solicitor before entering into the agreement herein contained and hereby confirms that this Assignment, Covenant Not to Sue, Undertaking and Grant contains the entire agreement between the parties and that the terms of the Assignment, Covenant Not to Sue, Undertaking and Grant are contractual and not merely a recital.

IN WITNESS WHEREOF the Claimant has executed this agreement by its proper signing officers under seal this ____ day of _____, 2012 at _____, BC.

SIGNED in the presence of:)

)

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Name)

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Address)

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Occupation)

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◆
by its authorized signatory:

Authorized Signatory (*Signature*)

Authorized Signatory (*Name - Printed*)

(18782/cct)