This is the 2nd affidavit
of Wen-Shih Yang in this case
and was made on March 22, 2022

No. S1813807
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE PART XIII OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-6,
AS AMENDED

AND

IN THE MATTER OF MASAHIKO NISHIYAMA
BANKRUPT UNDER THE LAWS OF JAPAN

AFFIDAVIT

I, Wen-Shih Yang, Legal Administrative Assistant of 2800 Park Place, 666 Burrard Street, Vancouver, British Columbia, SWEAR THAT:

1. I am a legal administrative assistant employed by DLA Piper (Canada) LLP, solicitors for the Receiver and Trustee in this action, and therefore have personal knowledge of the matters herein after deposed, except where stated to be based on information and believe, and where so stated I do verily believe the same to be true.

2. Unless otherwise indicated, in this Affidavit I have used the same definitions as used in the Notice of Application of the Trustee and the Receiver, to be filed with this Affidavit.

3. Attached hereto and marked as **Exhibit "A"** is a true copy of the Canadian Bankruptcy Order, dated December 21, 2018, recognizing the Japanese Bankruptcy Proceedings as the foreign main proceedings, and Hiroshi Morimoto (the "**Trustee**") as the trustee over the bankruptcy estate of Masahiko Nishiyama ("**Nishiyama**") in Japan.

4. Attached hereto and marked as **Exhibit "B"** is a true copy of the order appointing the Receiver, dated February 14, 2019.

5. Attached hereto and marked as **Exhibit "C"** is a true copy of the Corporate Veil Order, dated July 19, 2019, ordering that the assets and property of Sun Moon Management Ltd. represent property of Nishiyama.

6. Attached hereto and marked as **Exhibit "D"** is a true copy of the Sale Order, approving the sale of the Condo, dated March 4, 2020.

7. Attached hereto and marked as **Exhibit "E"** is a true copy of the Mareva Injunction, dated March 11, 2016.

8. Attached hereto and marked as **Exhibit "F"** is a true copy of the Restricted Dealing Injunction, dated September 18, 2018.

9. Attached hereto and marked as **Exhibit "G"** is a true copy of email correspondence between legal counsel for the Province of British Columbia (the "**Province**") and Colin Brousson, as counsel for the Trustee and Receiver, dated October 20, 2020, February 17, 2021, and April 1, 2021.

10. I am advised by counsel for the Receiver, and verily belief, that counsel has held the Holdback in trust following the Condo Sale.

11. Attached hereto and marked as **Exhibit "H"** is a true copy of email correspondence between the Receiver and the City of Vancouver, dated August 16, 2021.

12. I am advised by counsel for the Receiver, and verily belief, that to-date, neither the Province nor the City have replied in substance to the correspondence sent by counsel for the Receiver or the Receiver.

SWORN BEFORE ME at Vancouver, British Columbia, on March 22, 2022.	)	
A Commissioner for taking Affidavits for British Columbia.	)	**WEN-SHIH YANG**

JEFFREY BRADSHAW
Barrister & Solicitor
DLA Piper (Canada) LLP
666 Burrard Street, Suite 2800
Vancouver, BC V6C 2Z7
604.643.2941

This is **Exhibit "A"** referred to in the Affidavit of Wen-Shih Yang sworn before me at Vancouver, British Columbia, on this the 22 day of March, 2022.

A Commissioner for taking Affidavits for British Columbia

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

DEC 2 1 2018

ENTERED

04

S1813807

No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE PART XIII OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-6,
AS AMENDED

AND

IN THE MATTER OF MASAHIKO NISHIYAMA,
BANKRUPT UNDER THE LAWS OF JAPAN

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE JUSTICE MAISONVILLE) FRIDAY, THE 21ST DAY OF DECEMBER, 2018

ON THE WITHOUT NOTICE APPLICATION of Hiroshi Morimoto (the "Trustee"), coming on for hearing before me at 800 Smithe Street, Vancouver, BC on December 21, 2018; AND ON HEARING Colin D. Brousson, counsel for the Trustee; AND UPON READING the Pleadings filed to date;

THIS COURT ORDERS AND DECLARES that:

Recognition of the Japan Proceeding

1. those certain proceedings pursuant the *Bankruptcy Act* of Japan, undertaken in the Kyoto District Court against Masahiko Nishiyama, under case number 2016 (*fu*) 104, filing date February 10, 2016 (the "**Foreign Proceedings**"), are hereby recognized by this Court as a foreign main proceeding pursuant to sections 269 and 270 the *Bankruptcy and Insolvency Act* ("BIA");

Application

2. Hiroshi Morimoto is hereby recognized by this Court as the foreign representative in respect of the Foreign Proceedings;

3. Hiroshi Morimoto is at liberty to commence legal proceedings in Canada on behalf of the estate of Mashiko Nishiyama;

Stay of Proceedings

4. Pursuant to *BIA* s. 271, no person shall commence or continue any action, execution, or other proceedings concerning the property, debts, liabilities or obligations of Masahiko Nishiyama, save and except:

(a) the Resolution and Collection Corporation in Supreme Court of British Columbia Action No. S162298, Vancouver Registry; and

(b) The Owners, Strata Plan BCS4016 in Supreme Court of British Columbia Action No. S1810083, Vancouver Registry;

Liberty to Apply

5. Hiroshi Morimoto is at liberty to apply for such further relief or assistance from the Court as may be required, including but not limited to relief under Part XIII of the *BIA*; and

Service

6. Service on the debtor Masahiko Nishiyama shall be deemed effective through compliance with BIA s. 276(b), containing the information set out in BIA Rule 138, and by mailing a copy of this Order to the attention of Masahiko Nishiyama at the address, of Ohaza-Zengi 1038-1, Shimoichi-cho, Yoshino-gun, Nara-ken.

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

Counsel for Hiroshi Morimoto, Trustee
Colin D. Brousson

BY THE COURT

REGISTRAR

No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE PART XIII OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985,
C. B-6, AS AMENDED

AND

IN THE MATTER OF MASAHIKO NISHIYAMA,
BANKRUPT UNDER THE LAWS OF JAPAN

ORDER

GOWLING WLG (Canada) LLP
Barristers & Solicitors
Suite 2300, 550 Burrard Street
Vancouver, BC V6C 2B5

Tel. No. 604.683.6498
Fax No. 604.683.3558

File No. V49403 JDB/msh

This is **Exhibit "B"** referred to in the Affidavit of Wen-Shih Yang sworn before me at Vancouver, British Columbia, on this the 22 day of March, 2022.

A Commissioner for taking Affidavits for British Columbia

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

FEB 14 2019

ENTERED

No. S1813807
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE PART XIII OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-6,
AS AMENDED

AND

IN THE MATTER OF MASAHIKO NISHIYAMA,
BANKRUPT UNDER THE LAWS OF JAPAN

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE	)	THURSDAY, THE 14TH DAY
	)	
MR. JUSTICE VOITH	)	OF FEBRUARY, 2019

ON THE APPLICATION of Hiroshi Morimoto, Foreign Representative in these proceedings (the "**Trustee**") for an Order pursuant to Section 272(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") appointing Alvarez & Marsal Canada Inc. as Receiver (in such capacity, the "**Receiver**") without security, of all or any of the assets, undertakings and property in Canada of Masahiko Nishiyama (the "**Debtor**"), coming on for hearing this day at Vancouver, British Columbia.

AND ON READING the Affidavits #1 and #2 of Hiroshi Morimoto sworn December 20, 2018 and February 6, 2019 respectively and the consent of Alvarez & Marsal Canada Inc. to act as the Receiver; AND ON HEARING Colin D. Brousson, Counsel for the Applicant and other counsel as listed on Schedule "A" hereto, and no one else appearing, although duly served.

THIS COURT ORDERS AND DECLARES that:

APPOINTMENT

1. Pursuant to Section 272(1) of the BIA Alvarez & Marsal Canada Inc. is appointed Receiver, without security, of all or any of the assets, undertakings and property legally or beneficially owned by the Debtor in Canada, including all proceeds (the "**Property**").

2. The term of this appointment shall continue until further order of this Court.

RECEIVER'S POWERS

3. The Receiver is empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, to do any of the following where the Receiver and the Trustee consider it necessary or desirable:

   (a) to take possession of and exercise control over the Property and any and all receipts and disbursements arising out of or from the Property, including, but not limited to the contents of the safety deposit box of the Debtor located at the Royal Bank of Canada, Transit 10, Royal Centre, 1025 West Georgia Street, Vancouver, BC, V6E 3N9 (the "**SDB**") notwithstanding an order made November 30, 2018 in connection with the SDB in an action commenced by The Resolution and Collection Corporation ("**RCC**") against the Debtor in the Vancouver Registry of this Court, Action No. S162298 (the "**RCC Action**");

   (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, changing locks and security codes, relocation of Property, engaging independent security personnel, taking physical inventories and placing insurance coverage;

   (c) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties (including but not limited to the engagement of independent legal counsel to review all Records (as defined below) for solicitor client privilege), including, without limitation, those conferred by this Order;

(d) to purchase or lease such any equipment, supplies, premises or other assets to receive, preserve and protect the Property, or any part or parts thereof;

(e) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting these amounts, including, without limitation, enforcement of any security held by the Debtor;

(f) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;

(g) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate;

(h) to sell, convey, transfer, lease or assign the Property or any part or parts thereof and in each such case notice under Section 59(10) of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 shall not be required;

(i) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances;

(j) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to confidentiality terms as the Receiver considers appropriate and as permitted by law;

(k) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

(l) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and

(m) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. Each of (i) the Debtor; (ii) all of the Debtor's current and former agents, accountants, legal counsel, and all other persons acting on its instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (collectively, "**Persons**" and each a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.

5. All Persons, other than governmental authorities, shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the Property or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (collectively, the "**Records**") in that Person's possession or control. The Records shall include all of the contents of the SDB. Upon request, governmental authorities shall advise the Receiver of the existence of any Records in that Person's possession or control.

6. Upon request, all Persons shall provide to the Receiver or permit the Receiver to make, retain and take away copies of the Records and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities, provided however that nothing in paragraphs 4, 5 or 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to solicitor client privilege or statutory provisions prohibiting such disclosure.

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

8. The Receiver shall take reasonable steps to protect any solicitor client privilege claimed or claimable by the Debtor with respect to any Records and, in particular, the contents of the SDB.

9. The Receiver is authorized to provide RCC with access to any Records and to the contents of the SDB that are requested by RCC, and any implied undertaking of confidentiality of the part of the Receiver is waived in respect of the Records and to the contents of the SDB, provided that the Receiver shall not provide any records or other documents that are or may be subject to solicitor client privilege without further order of the Court.

NO PROCEEDINGS AGAINST THE RECEIVER

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

RECEIVER TO HOLD FUNDS

11. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever including, without limitation, the SDB, the sale of all or any of the Property

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

PERSONAL INFORMATION

12. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

13. Nothing in this Order shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination (collectively "**Environmental**

Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation.

14. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Receiver is actually in possession.

15. Notwithstanding anything in federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arises or environmental damage that occurred:

    (a) before the Receiver's appointment; or,

    (b) after the Receiver's appointment, unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.

16. Notwithstanding anything in federal or provincial law, but subject to paragraph 13 of this Order, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, if the Receiver complies with the BIA section 14.06(4), the Receiver is not personally liable for the failure to comply with the order and is not personally liable for any costs that are or would be incurred by any Person in carrying out the terms of the order.

LIMITATION ON THE RECEIVER'S LIABILITY

17. The Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except:

    (a) any gross negligence or wilful misconduct on its part; or

    (b) amounts in respect of obligations imposed specifically on receivers by applicable legislation.

    Nothing in this Order shall derogate from the protections afforded the Receiver by Section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. The Receiver will be paid by the Trustee in respect of these proceedings based upon its standard rates for fees and disbursements, whether incurred before or after the making of this Order. The Receiver will be at liberty to apply for a charge as security for payment of its fees and disbursements as against the Property if it sees fit to do so in the future.

19. The Receiver may pass its accounts from time to time, and for this purpose the accounts of the Receiver are referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis, however the Receiver will not be obligated to pass their accounts if they have been approved by the Trustee.

20. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of any monies in its hands, against its fees and disbursements if these accounts are not already paid directly by the Trustee.

SERVICE AND NOTICE OF MATERIALS

21. An order that the time for service of this Notice of Application and the materials referred to herein pertaining to this Order and the service thereof is deemed to be good and sufficient.

22. Any Person who is served with a copy of this Order and that wishes to be served with any future application or other materials in these proceedings must provide to counsel for each of the Receiver and the Applicant a demand for notice in the form attached as Schedule B (the "**Demand for Notice**"). The Receiver and the Applicant need only provide further notice in respect of these proceedings to Persons that have delivered a properly completed Demand for Notice. The failure of any Person to provide a properly completed Demand for Notice releases the Receiver and the Applicant from any requirement to provide further notice in respect of these proceedings until such Person delivers a properly completed Demand for Notice.

23. The Receiver shall maintain a service list identifying all parties that have delivered a properly completed Demand for Notice (the "**Service List**").

24. Any interested party, including the Receiver, may serve any court materials in these proceedings by facsimile or by emailing a PDF or other electronic copy of such materials to the numbers or addresses, as applicable, set out on the Service List. Any interested party, including the Receiver, may serve any court materials in these proceedings by mail to any party on the Service List that has not provided a facsimile number or email address, and materials delivered by mail shall be deemed received five (5) days after mailing.

GENERAL

25. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days' notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.

26. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. This Court requests the aid, recognition and assistance of any court, tribunal, regulatory or administrative body having jurisdiction, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All such courts, tribunals and regulatory and administrative bodies are 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.

28. The requirements for the Receiver to file accounts pursuant to Supreme Court Rule 10-2(4) is hereby waived.

29. Nothing in this Order affects the ability of The Owners, Strata Plan BCS4016 to continue its proceedings in this Court, Vancouver Registry Action No.S1810083.

30. Nothing in this Order affects the ability of RCC to continue its proceedings in the RCC Action.

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

Counsel for Hiroshi Morimoto, Trustee
Colin D. Brousson

BY THE COURT

REGISTRAR

Schedule "A"

COUNSEL LIST

Name of Counsel	Representing:
Robert W. Richardson	Resolution and Collection Corporation Tokyo

Schedule "B"

Demand for Notice

TO: **Hiroshi Morimoto, Trustee and Foreign Representative**
c/o Gowling WLG (Canada) LLP
Attention: Colin D. Brousson
Email: colin.brousson@gowlingwlg.com

AND TO: **Alvarez & Marsal Canada Inc.**
c/o Alvarez & Marsal Canada Inc.
Attention: Anthony Tillman
Email: atillman@alvarezandmarsal.com

Re: **In the matter of the Receivership of Masahiko Nishiyama in Supreme Court of British Columbia Action No. S1813807, Vancouver Registry**

I hereby request that notice of all further proceedings in the above Receivership be sent to me in the following manner:

1. By email, at the following address (or addresses):

   _____

   OR

2. By facsimile, at the following facsimile number (or numbers):

   _____

   OR

3. By mail, at the following address:

   _____

Name of Creditor: _____

Name of Counsel (if any): _____

Creditor's Contact Address: _____

_____

Creditor's Contact Phone Number: _____

No. S1813807
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE PART XIII OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985,
C. B-6, AS AMENDED

AND

IN THE MATTER OF MASAHIKO NISHIYAMA,
BANKRUPT UNDER THE LAWS OF JAPAN

RECEIVERSHIP ORDER

GOWLING WLG (Canada) LLP
Barristers & Solicitors
Suite 2300, 550 Burrard Street
Vancouver, BC V6C 2B5

Tel. No. 604.683.6498
Fax No. 604.683.3558

File No. V49403

JDB/msh

This is **Exhibit "C"** referred to in the Affidavit of Wen-Shih Yang sworn before me at Vancouver, British Columbia, on this the 22 day of March, 2022.

A Commissioner for taking Affidavits for British Columbia

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

JUL 19 2019

ENTERED

No. S-1813807
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE PART XIII OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-6,
AS AMENDED

AND

IN THE MATTER OF MASAHIKO NISHIYAMA,
BANKRUPT UNDER THE LAWS OF JAPAN

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE	)	FRIDAY, THE 19TH DAY
	)	
MR. JUSTICE VOITH	)	OF JULY, 2019

ON THE APPLICATION of Hiroshi Morimoto (the "Trustee"), coming on for hearing before me this day, at 800 Smithe Street, Vancouver, BC; AND ON HEARING Colin D. Brousson, counsel for the Trustee; and those other counsel listed on Schedule "A" hereto; and no one else appearing although duly served; AND UPON READING the Pleadings filed to date;

THIS COURT DECLARES THAT:

1. All assets and property of Sun Moon Management Ltd. represent Property, as defined in the Order of this Court, made on December 21, 2018, in these proceedings (the "**Receivership Order**"), of Masahiko Nishiyama;

2. A Mercedes S550 vehicle, VIN WDDNG8GB0AA343089, registered to Hatsumi Nakajima (the "**Mercedes**") is the Property of Masahiko Nishiyama;

3. Under the terms of the Receivership Order, Alvarez & Marsal Canada Inc., in its capacity as the Court appointed receiver over all of the assets, undertakings and property owned or beneficially owned by Masahiko Nishiyama in Canada (the "**Receiver**") in empowered to:

(a) take possession of the Condo and the Mercedes and will become the custodian of the keys to the Condo and the Mercedes; and

(b) market and sell the Condo and the Mercedes under the terms of the Receivership Order;

4. The Receiver is a proper applicant for the purposes of s. 284 of the *Land Title Act*, R.S.B.C. 1996, c. 250.

AND THIS COURT ORDERS THAT:

5. The Land Title Office be directed to register this Order pursuant to s. 284 of the *Land Title Act*, R.S.B.C. 1996, c. 250, against title to the lands legally described as:

Parcel Identifier: 028-447-263
Strata Lot 254 District Lot 185 Group 1 New Westminster District
Strata Plan BCS4016
Together with an interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V.

located at civic address #4102 - 1028 Barclay Street, Vancouver, British Columbia (the "**Condo**");

6. Upon payment to the Strata of its pay-out amount, the Strata's lien registered against title to the Condo, bearing #CA6608683 will be discharged;

7. The Receiver, on notice to the Application Respondents, and by posting on the Receiver's website https://www.alvarezandmarsal.com/nishiyama within three (3) days of this Order being made, shall conduct a claim process for personal property located in the Condo or the Mercedes (the "**Personal Belongings**"), whereby:

(a) any person may file a proof of claim (property) with the Receiver concerning ownership of their Personal Belongings within 30 days of the making of this Order.

(b) subject to approval of the Receiver of such claims, these parties will have 30 days to recover these Personal Belongings;

(c) in the event of a dispute over ownership as between the claimants or the Receiver of any claimed Personal Belongings then that matter should be referred to Court; and

(d) in the event there are no claims made, or no collection of the Personal Belongings within the 30 days following a claim being accepted, then the

Receiver can sell, dispose, or donate, all remaining personal property located in the Condo without recourse.

Conflict Between Orders

8. To the extent there is conflict between the terms of this Order and any orders made previously in either the proceeding initiated by The Owners, Strata Plan BCS4016 (the "**Strata**") in Supreme Court of British Columbia, bearing Action No. S1810083, Vancouver Registry (the "**Strata Foreclosure Action**") or proceedings initiated by the Resolution and Collection Corporation ("**RCC**") in Supreme Court of British Columbia bearing Action No. S162298, Vancouver Registry; (the "**RCC Action**"), the terms of this Order shall govern, however, for clarity:

(a) where there is no such conflict, all orders made in the Strata Foreclosure Action or the RCC Action will remain in full force and effect;

(b) the order made in the RCC Action and dated September 18, 2018, and registered on title to the Condo on September 19, 2018, bearing #CA7073370 (the "**Injunction Order**"), will continue to be registered on title to the Condo until further order of this Court or RCC's consent to discharge the Injunction Order; and

(c) the Certificate of Pending Litigation, bearing #CA7071734 (the "**CPL**") will continue to be registered on title to the Condo until further order of this Court or such time as the Strata Foreclosure Action is discontinued by agreement of the Strata, RCC and the Receiver.

Service

9. Service of this Order on Masahiko Nishiyama shall be deemed effective by mailing a copy of this Order to the attention of Masahiko Nishiyama at the address, of 13-36 Showa-cho, Otsu city, Shiga; and 1038-1 Oaza Zengi, Shimoichi-cho, Yoshino-gun, Nara.

10. Endorsement of this Order by counsel appearing on this application is hereby dispensed with.

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

Counsel for Hiroshi Morimoto, Trustee
Colin D. Brousson

BY THE COURT

REGISTRAR

FORM CHECKED NR.

SCHEDULE "A"

NAME OF COUNSEL	REPRESENTING
Gordon Platt	RCC
Robert Richardson	RCC

No. S1813807
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE PART XIII OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985,
C. B-6, AS AMENDED

AND

IN THE MATTER OF MASAHIKO NISHIYAMA,
BANKRUPT UNDER THE LAWS OF JAPAN

ORDER

GOWLING WLG (Canada) LLP
Barristers & Solicitors
Suite 2300, 550 Burrard Street
Vancouver, BC V6C 2B5

Tel. No. 604.683.6498
Fax No. 604.683.3558

File No. V49403 JDB/msh

This is **Exhibit "D"** referred to in the Affidavit of Wen-Shih Yang sworn before me at Vancouver, British Columbia, on this the 22 day of March, 2022.

A Commissioner for taking Affidavits for British Columbia

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY
MAR 0 4 2020
ENTERED

No. S-1813807
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE PART XIII OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-6,
AS AMENDED

AND

IN THE MATTER OF MASAHIKO NISHIYAMA,
BANKRUPT UNDER THE LAWS OF JAPAN

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE	)	MONDAY, THE 24TH DAY
MR. JUSTICE VOITH	)	OF FEBRUARY, 2020

ON THE APPLICATION of Alvarez & Marsal Canada Inc., in its capacity as the Court-appointed Receiver over all of the assets, undertakings and property owned or beneficially owned by Masahiko Nishiyama in Canada (the "**Receiver**"), and Hiroshi Morimoto, Trustee over the bankruptcy estate of Masahiko Nishiyama (the "**Trustee**"), coming on for hearing before me this day, at 800 Smithe Street, Vancouver, British Columbia; AND ON HEARING Colin D. Brousson and Alexandra McCawley, Articled Student, counsel for the Receiver and Trustee, Todd Brayer, counsel for Hatsumi Kinoshita ("**Kinoshita**"), Cody Reedman, counsel for Masahiko Nishiyama, Robert Richardson and Gordon Plottel, counsel for The Resolution and Collection Corporation ("**RCC**"); AND UPON READING the Pleadings filed to date;

THIS COURT ORDERS that:

1. service of notice of this Application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this Application;

2. the actions, conduct and activities of the Receiver set out in the Receiver's First Report are approved and confirmed.

3. the execution and completion of the Contract of Purchase and Sale, dated December 19, 2019, between Alvarez & Marsal Canada Inc. and Yongling Duan (the "**Purchaser**"), attached as Appendix "**A**" hereto (the "**Condo Agreement**"), concerning the sale of:

   (a) certain personal property, including household furnishings, decorations, and appliances, and other as set out in the Condo Agreement, (the "**Included Personal Property**"); and

   (b) the lands and premises legally described as:

   Parcel Identifier: 028-447-263
   Strata Lot 254, District Lot 185
   Group 1, New Westminster District,
   Plan BCS4016

   (the "**Condo**")

   to the Purchaser is hereby approved;

4. upon

   (a) completion of the Condo Agreement,

   (b) presentation of a certified copy of this Order for registration in the New Westminster Land Title Office, and

   (c) delivery by the Receiver to the Purchaser of a bill of sale for the Included Personal Property,

   all of the right, title and interest of Nishiyama, Sun Moon Management Ltd. in and to the Included Personal Property and the Condo shall vest absolutely in Purchaser in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including,

without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of this Court; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (iii) those Claims listed on Appendix "**B**" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Appendix "**C**" hereto), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Included Personal Property and the Condo are hereby expunged and discharged as against the Included Personal Property and the Condo;

5. upon presentation for registration in the New Westminster Land Title Office of a certified copy of this Order, together with a letter from Gowling WLG (Canada) LLP the solicitors for the Trustee, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to:

   (a) enter the Purchaser as the owner of the Condo, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Condo; and

   (b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Condo all of the registered Encumbrances except for those listed in Appendix "C";

6. the proceeds of the Condo shall stand in place and stead of the Condo and, after the usual adjustments between seller and buyer, the proceeds shall be paid to the Receiver, in trust, and shall be paid out in accordance with the following priorities without further Order:

   (a) first, any arrears of taxes, fees and levies, utilities and services, interest and penalties thereon;

(b) second, the real estate commission due on this sale of 7% of the first $100,000.00 and 2 ½% on the remainder of the gross selling price, plus GST thereon, or such lesser amount as maybe agreed to between the Receiver and the listing realtor;

(c) third, to the Receiver for all disbursements related to the possession, preservation, maintenance, upkeep and sale of the Condo;

(d) fourth, to the Receiver, in trust, in the amount of $119,469.84 in respect of claims of the Province of British Columbia (the "**Province**"), under the *Speculation and Vacancy Tax* S.B.C 2018, Chapter 46, Section 114, until written agreement between the Province and the Receiver or by further order of this Court; and

(e) fifth, the balance then remaining of the proceeds of the sale of the Condo, and Included Personal Property (the "**Net Proceeds**") shall be held by the Receiver until March 12, 2020, pending Oral Reasons from this Honourable Court on whether the Net Proceeds will be distributed to the Trustee to the credit of the Japanese bankruptcy proceedings and to be held by the Trustee pending further order, authorization, or approval of the Japanese Court or agreement of the Trustee and Hatsumi Kinoshita, OR if the Net Proceeds will continue to be held by the Receiver pending further Court Order or agreement between the Receiver and Kinoshita in the proceedings herein.

7. an Order authorizing and directing the Receiver to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the conveyance to the Condo Purchaser.

8. vacant possession of the Included Personal Property and the Condo shall be delivered by the Receiver to the Purchaser at 11:00 a.m. on the Possession Date (as defined in the Condo Agreement), subject to the permitted encumbrances as set out in the Condo Agreement and listed on Appendix "C";

9. the Receiver, with the consent of the Purchaser, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court;

10. the execution and completion of the Bill of Sale (Absolute), attached as Appendix "D" hereto, relating to the sale of the Mercedes S550 vehicle, VIN WDDNG8GB0AA343089, to Maynards Industry Canada Ltd. is hereby approved; and

11. the Receiver shall be at liberty to liquidate or dispose of the remaining personal property from the Condo that is not Included Personal Property (the "**Residual Personal Property**").

12. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order; and

13. the Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

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

Counsel for Alvarez & Marsal Canada Inc.
Receiver, and Hiroshi Morimoto, Trustee
Colin D. Brousson

Counsel for Masahiko Nishiyama
Cody Reedman

Counsel for Hatsumi Kinoshita
Todd Brayer

Counsel for The Resolution and Collection Corporation
Robert Richardson

Counsel for The Resolution and Collection Corporation
Gordon Plottel

BY THE COURT
Duncan J. for Voith J.
REGISTRAR

V49403\VAN_LAW\ 3308768\6

ENDORSEMENTS ATTACHED

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BY THE COURT

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Robert Richardson

Counsel for The Resolution and Collection Corporation
Gordon Plottel

BY THE COURT

REGISTRAR

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APPENDIX "A"

DocuSign Envelope ID: 61519AAF-E91C-4C49-A943-8380A7930272

DocuSign Envelope ID: 1027EFB2-9054-4AEC-9C90-F2B6F59B77EB

CONTRACT OF PURCHASE AND SALE
INFORMATION ABOUT THIS CONTRACT

THIS INFORMATION IS INCLUDED FOR THE ASSISTANCE OF THE PARTIES ONLY. IT DOES NOT FORM PART OF THE CONTRACT AND SHOULD NOT AFFECT THE PROPER INTERPRETATION OF ANY OF ITS TERMS.

1. **CONTRACT:** This document, when signed by both parties, is a legally binding contract. READ IT CAREFULLY. The parties should ensure that everything that is agreed to is in writing.
2. **DEPOSIT(S):** Section 28 of the *Real Estate Services Act* requires that money held by a brokerage in respect of a real estate transaction for which there is an agreement between the parties for the acquisition and disposition of the real estate be held by the brokerage as a stakeholder. The money is held for the real estate transaction and not on behalf of one of the parties. If a party does not remove a subject clause, the brokerage requires the written agreement of both parties in order to release the deposit. If both parties do not sign the agreement to release the deposit, then the parties will have to apply to court for a determination of the deposit issue.
3. **COMPLETION:** (Section 4) Unless the parties are prepared to actually meet at the Land Title Office and exchange title documents for the Purchase Price, it is, in every case, advisable for the completion of the sale to take place in the following sequence:
   (a) The Buyer pays the Purchase Price or down payment in trust to the Buyer's Lawyer or Notary (who should advise the Buyer of the exact amount required) several days before the Completion Date and the Buyer signs the documents.
   (b) The Buyer's Lawyer or Notary prepares the documents and forwards them for signature to the Seller's Lawyer or Notary who returns the documents to the Buyer's Lawyer or Notary.
   (c) The Buyer's Lawyer or Notary then attends to the deposit of the signed title documents (and any mortgages) in the appropriate Land Title Office.
   (d) The Buyer's Lawyer or Notary releases the sale proceeds at the Buyer's Lawyer's or Notary's office.

   Since the Seller is entitled to the Seller's proceeds on the Completion Date, and since the sequence described above takes a day or more, it is strongly recommended that the Buyer deposits the money and the signed documents AT LEAST TWO DAYS before the Completion Date, or at the request of the Conveyancer, and that the Seller delivers the signed transfer documents no later than the morning of the day before the Completion Date.

   While it is possible to have a Saturday Completion Date using the Land Title Office's Electronic Filing System, parties are strongly encouraged NOT to schedule a Saturday Completion Date as it will restrict their access to fewer lawyers or notaries who operate on Saturdays; lenders will generally not fund new mortgages on Saturdays; lenders with existing mortgages may not accept payouts on Saturdays; and other offices necessary as part of the closing process may not be open.
4. **POSSESSION:** (Section 5) the Buyer should make arrangements through the real estate licensees for obtaining possession. The Seller will not generally let the Buyer move in before the Seller has actually received the sale proceeds. Where residential tenants are involved, Buyers and Sellers should consult the *Residential Tenancy Act*.
5. **TITLE:** (Section 9) It is up to the Buyer to satisfy the Buyer on matters of zoning or building or use restrictions, toxic or environmental hazards, encroachments on or by the Property and any encumbrances which are staying on title before becoming legally bound. It is up to the Seller to specify in the Contract if there are any encumbrances, other than those listed in Section 9, which are staying on title before becoming legally bound. If you as the Buyer are taking out a mortgage, make sure that title, zoning and building restrictions are all acceptable to your mortgage company. In certain circumstances, the mortgage company could refuse to advance funds. If you as the seller are allowing the Buyer to assume your mortgage, you may still be responsible for payment of the mortgage, unless arrangements are made with your mortgage company.
6. **CUSTOMARY COSTS:** (Section 15) In particular circumstances there may be additional costs, but the following costs are applicable in most circumstances:

Costs to be Borne by the Seller	Costs to be Borne by the Buyer	
Lawyer or Notary Fees and Expenses:	Lawyer or Notary Fees and Expenses:	- appraisal (if applicable)
- attending to execution documents;	- searching title,	- Land Title Registration fees.
Costs of clearing title, including:	- investigating title,	Fire Insurance Premium.
- discharge fees charged by encumbrance holders,	- drafting documents.	Sales Tax (if applicable).
- prepayment penalties.	Land Title Registration fees.	Property Transfer Tax.
Real Estate Commission (plus GST).	Survey Certificate (if required).	Goods and Services Tax (if applicable).
Goods and Services Tax (if applicable).	Costs of Mortgage, including:	
	- mortgage company's Lawyer/Notary.	

   In addition to the above costs there maybe financial adjustments between the Seller and the Buyer pursuant to Section 6 and additional taxes payable by one or more of the parties in respect of the Property or the transaction contemplated hereby (eg. empty home tax and speculation tax).
7. **CLOSING MATTERS:** The closing documents referred to in Sections 11, 11A and 11B of this Contract will, in most cases, be prepared by the Buyer's Lawyer or Notary and provided to the Seller's Lawyer or Notary for review and approval. Once settled, the lawyers/notaries will arrange for execution by the parties and delivery on or prior to the Completion Date. The matters addressed in the closing documents referred to in Sections 11A and 11B will assist the lawyers/notaries as they finalize and attend to various closing matters arising in connection with the purchase and sale contemplated by this Contract.
8. **RISK:** (Section 16) The Buyer should arrange for insurance to be effective as of 12:01 am the Completion Date.
9. **FORM OF CONTRACT:** This Contract of Purchase and Sale is designed primarily for the purchase and sale of freehold residences. If your transaction involves: a house or other building under construction, a lease, a business, an assignment, other special circumstances (including the acquisition of land situated on a First Nations reserve).

   Additional provisions, not contained in this form, may be needed, and professional advice should be obtained. A Property Disclosure Statement completed by the Seller may be available.
10. **REALTOR® Code, Article 11:** A REALTOR® shall not buy or sell, or attempt to buy or sell an interest in property either directly or indirectly for himself or herself, any member of his or her Immediate Family, or any entity in which the REALTOR® has a financial interest, without making the REALTOR®'s position known to the buyer or seller in writing. **Real Estate Council Rules 6-9:** If a licensee acquires, directly or indirectly, or disposes of real estate, or if the licensee assists an associate in acquiring, directly or indirectly, or disposing of real estate, the licensee must make a disclosure in writing to the opposite party before entering into any agreement for the acquisition or disposition of the real estate.
11. **RESIDENCY:** When completing their residency and citizenship status, the Buyer and the Seller should confirm their residency and citizenship status and the tax implications thereof with their Lawyer/Accountant.
12. **AGENCY DISCLOSURE:** (Section 21) all Designated Agents/Licensees with whom the Seller or the Buyer has an agency relationship should be listed. If additional space is required, list the additional Designated Agents/Licensees on an addendum to the Contract of Purchase and Sale.

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DocuSign Envelope ID: 61519AAF-E91C-4C49-A943-8380A7930272

DocuSign Envelope ID: 1027EFB2-9054-4AEC-9C90-F2B6F59B77EB

BCrea THE CANADIAN BAR ASSOCIATION British Columbia Branch

CONTRACT OF PURCHASE AND SALE

BROKERAGE: Oakwyn Realty Ltd. DATE: 12/19/2019
ADDRESS: 3195 Oak Street Vancouver PC: V6H2L2 PHONE: (604) 620-6788
PREPARED BY: Jason Shang MLS® NO: R2411678

SELLER: Alvarez & Marsal Canada Inc.	BUYER: YONGLING DUAN
SELLER:	BUYER:
ADDRESS: 4102 1028 BARCLAY	ADDRESS: C/O Agendy
Vancouver BC	
PC: V6E 0B1	PC: V6H2L2
PHONE:	PHONE:
	OCCUPATION:

PROPERTY:

4102 1028 BARCLAY STREET
UNIT NO. ADDRESS OF PROPERTY
Vancouver V6E 0B1
CITY/TOWN/MUNICIPALITY POSTAL CODE
028-447-263
PID OTHER PID(S)

STRATA LOT 254, PLAN BCS4016, DISTRICT LOT 185, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V

LEGAL DESCRIPTION

DS YD AT

The Buyer agrees to purchase the Property from the Seller on the following terms and subject to the following conditions:

1. **PURCHASE PRICE:** The purchase price of the Property will be 4,330,000.00 (Final Price)
Four Million Three Hundred Thirty Thousand ~~Dollars~~ DOLLARS $ ~~4,300,000.00~~ (Purchase Price)

2. **DEPOSIT:** A deposit of $ 250,000.00 which will form part of the Purchase Price, will be paid within 24 hours of acceptance unless agreed as follows:
within 24 hours upon subject removal in the form of a bank draft

All monies paid pursuant to this section (Deposit) will be paid in accordance with section 10 or by uncertified cheque except as otherwise set out in this section 2 and will be delivered in trust to Oakwyn Realty Ltd in Trust and held in trust in accordance with the provisions of the *Real Estate Services Act*. In the event the Buyer fails to pay the Deposit as required by this Contract, the Seller may, at the Seller's option, terminate this Contract. The party who receives the Deposit is authorized to pay all or any portion of the Deposit to the Buyer's or Seller's conveyancer (the "Conveyancer") without further written direction of the Buyer or Seller, provided that: (a) the Conveyancer is a Lawyer or Notary; (b) such money is to be held in trust by the Conveyancer as stakeholder pursuant to the provisions of the *Real Estate Services Act* pending the completion of the transaction and not on behalf of any of the principals to the transaction; and (c) if the sale does not complete, the money should be returned to such party as stakeholder or paid into Court.

DS YD AT
INITIALS

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DocuSign Envelope ID: 1027EFB2-9054-4AEC-9C90-F2B6F59B77EB

3. **TERMS AND CONDITIONS:** The purchase and sale of the Property includes the following terms and is subject to the following conditions:

DS UD

~~FINANCING~~
~~Subject to a new first mortgage being made available to the Buyer on or before ___SUBJECT REMOVAL DATE ____, in the amount of $____HOW MUCH THE CLIENT IS MORTGAGING___ at an interest rate not to exceed _____% per annum.~~

AT

INSPECTION
Subject to the Buyer, on or before _Jan 9, 2020__ at the Buyer's expense, obtaining and approving an inspection report against any defects whose cumulative cost of repairs exceeds $_500.00___ and which reasonably may adversely affect the Property's use or value. The Seller will allow access to the Property for this purpose on reasonable notice.

INSURANCE
This offer is subject to the Buyer obtaining approval for fire/property insurance, on terms and at rates, satisfactory to the Buyer, on or before _Jan 9, 2020__.

DOCUMENTS
Subject to the Buyer, on or before ___Jan 9, 2020__ receiving and being satisfied with the following documents with respect to information that reasonably may adversely affect the use or value of the Strata Lot, including any bylaw, item for repair or maintenance, special levy, judgment or other liability, whether actual or potential:
1. a Form "B" Information Certificate, issued within the last 30 days, attaching the Strata Corporation rules, current budget, the developer's Rental Disclosure Statement, and Depreciation Report if any;
2. a copy of the registered Strata Plan, any amendments to the Strata Plan, and any resolutions dealing with changes to common property;
3. the current bylaws, rules, financial statements of the Strata Corporation, and any section to which the Strata Lot belongs;
4. the minutes of any meeting held between the period from __ NOV 2017__ to __NOV 2019__ by the Strata Council, and by the members in annual, extraordinary or special general meetings, and by the members or the executive of any section to which the Strata Lot belongs;
5. all copies of any engineers', depreciation reports or other consultants' reports concerning the Strata Corporation;
6. a copy of the title search and with any charge or other feature, whether registered or not, that reasonably may affect the Property's use or value; and
7. a copy of the Property Disclosure Statement (PDS), issued within the last 30 days, dated _____ which is incorporated into and forms part of this Contract.

Immediately upon acceptance of this offer or counter-offer the Seller will authorize the Seller's Designated Agent/Licensee, to request, at the Seller's expense, complete copies of the documents listed above from the Strata Corporation or other sources and to immediately, upon receipt, or within _3__ days of the acceptance of this offer or counter-offer, deliver the documents to the Buyer's Designated Agent/Licensee. In the event the Seller provides the documentation listed above after the date specified, but before the subject removal date, then the original date for subject removal will be extended to 3 business days after receipt of the documents.

The above conditions are for the sole benefit of the Buyer. All subjects written above will be satisfied or waived on or before the dates indicated above and failing which this Contract will be terminated, the parties will have no further obligations toward each other, and the Deposit, if any, will be immediately returned to the Buyer.

DS UD

~~OTHER~~
~~The Buyer acknowledges and accepts that on the Completion Date, the Buyer will receive title containing, in addition to any encumbrance referred to in Clause 9 (TITLE) of this contract:~~
~~1. any non-financial charge, and~~
~~2. any financial charge payable by a utility on its right-of-way restrictive covenant, easement or other interest~~
~~set out in the copy of the title search results that is attached to and forms part of this contract.~~

AT

Each condition, if so indicated is for the sole benefit of the party indicated. Unless each condition is waived or declared fulfilled by written notice given by the benefiting party to the other party on or before the date specified for each condition, this Contract will be terminated thereupon and the Deposit returnable in accordance with the *Real Estate Services Act*.

DS UD | | | AT
INITIALS

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3. **TERMS AND CONDITIONS:** The purchase and sale of the Property includes the following terms and is subject to the following conditions:

SPECIAL LEVIES

If a special levy is approved before the Completion Date, the Seller will credit the Buyer ~~with 100% of~~ in the amount lesser of the actual amount levied or $50,000.00 of the special levy that the Buyer is obligated to pay under the Strata Property Act, regardless of whether the special levy is due or payable by lump sum or installments over time. The Seller hereby directs the Buyer to hold back such credit from the sale proceeds and to remit it to the Strata Corporation. If a special assessment has been proposed by way of Notice of Special General Meeting or by way of Notice of Annual General Meeting, but not passed by the Strata Corporation before the Completion Date, the Buyer may hold back the amount of the proposed assessment and either pay the amount to the Strata Corporation or, if the proposed special assessment is defeated, pay the amount to the Seller. as limited above

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AMENDMENT OF BYLAWS OR RULES

If prior to the Completion Date the Seller becomes aware of any notice of a resolution to amend the bylaws or rules of the Strata Corporation, or the bylaws or rules of a section to which the Strata Lot belongs, or any amendment to such bylaws or rules, that the Seller has not previously disclosed to the Buyer, the Seller will promptly deliver a copy of the relevant resolution or notice of resolution to the Buyer.

DS UD

~~ALTERATIONS AND MODIFICATIONS~~

The Seller represents and warrants that during the time the Seller has owned the Property, there have been no unauthorized alterations or modifications to the Property and to the best of the Seller's knowledge and belief, there have never previously been any unauthorized alterations or modifications to the Property.

DS UD AT

PROPERTY TRANSFER TAX

The Buyer acknowledges that at the time of this agreement Property Transfer Tax is applicable on the Purchase Price of the Property at a rate of 1% on the first $200,000 and 2% on the portion of the fair market value greater than $200,000 and up to and including $2,000,000 and 3% on the portion of the fair market value greater than $2,000,000, and if the property is residential, a further 2% on the portion of the fair market value greater than $3,000,000 as required by the Property Transfer Tax Act.

DS UD

~~GST~~

In the event GST is payable on the purchase of the Property, the GST is included in the Purchase Price. The Seller agrees to remit GST to the CRA. The Seller will indemnify and ~~and hold harmless the Buyer for the payment of GST.~~

AT

OTHER TAXES

The Buyer is aware that the Provincial and Federal Government may implement or change tax regulations from time to time. At the time of this agreement, the Buyer is made aware of the BC Speculation and Vacancy Tax and of the City of Vancouver Empty Home Tax. The Buyer has been advised to seek independent accounting advice on the application of these taxes.

~~ILLEGAL SUBSTANCES~~

The Seller represents and warrants that, during the time the Seller has owned the Strata lot, neither the strata lot nor any limited common property associated with the strata lot has been used for the illegal growth of any substances or for the growth or manufacture of any illegal substances. This warranty shall survive and not merge on the completion of this transaction. Further, the Seller represents that, to the best of the Seller's knowledge and belief, neither the strata lot nor any limited common property associated with the strata lot has ever been used for the illegal growth of any substances, or growth or manufacture of illegal substances.

DS UD AT

MEASUREMENTS

The Buyer is aware that the square footage as advertised is approximate and not guaranteed and the Buyer is satisfied with size of the Property as viewed.

Each condition, if so indicated is for the sole benefit of the party indicated. Unless each condition is waived or declared fulfilled by written notice given by the benefiting party to the other party on or before the date specified for each condition, this Contract will be terminated thereupon and the Deposit returnable in accordance with the *Real Estate Services Act*.

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3. **TERMS AND CONDITIONS:** The purchase and sale of the Property includes the following terms and is subject to the following conditions:

PARKING

The Purchase Price includes the exclusive use of parking stall # 50,51,52 (the "Parking Stall"). The Seller represents and warrants the Parking Stall is designated under the following arrangement (select one):

____as limited common property of the Strata Lot;
X as common property of the Strata Corporation ~~under a long term lease which expires on _____~~;
____as common property of the Strata Corporation under a short term exclusive use agreement or special privilege;
____as a separate Strata Lot; or
____as part of the Strata Lot.

DS UD AT

~~CLEAN CONDITION~~

The Seller will remove all personal possessions that are not included ~~in the sale~~ of the Property and leave the Property in a clean condition ~~free of~~ garbage or debris. The Seller will professionally clean ~~the Property including~~ the insides of all cabinets and appliances ~~and will steam~~ clean carpets (if any) in the Property. The Seller covenants and ~~agrees that all appliances will be in good working order on the Completion Date~~.

DS UD AT

KEYS

On the Possession Date the Seller will provide the Buyer with at least two sets of keys and/or fobs, for the unit including, but not limited to, the strata lot, the building, parking areas, ~~storage areas, storage locker, mailbox,~~ building amenities and if the building features a garage door, all remote controls for the garage door.

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STRATA FEES

The Seller ~~represents and warrants~~ confirms the monthly strata fees are currently $1072.80 and subject to change.

AT

~~RESTRICTIONS~~

~~The Seller represents and warrants the following restrictions apply:~~
~~____Pets Allowed w/Rest., Rentals Allwd w/Restrctns~~

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ACCESS

The Seller shall allow the Buyer to access the property on 2 occasions ~~after subject~~ removal (if any) and prior to the Completion Date. The Buyer shall provide to the Seller or Seller's representative at least 24 hours notice to access the Property. The Buyer agrees to indemnify and save harmless the Seller from any claims, actions, damages or costs that result from the Seller's access of the Property under this clause.

LEGAL & OTHER PROFESSIONAL ADVICE

The Buyer and Seller acknowledge that the Brokerage and Designated Agents do not provide legal or other expert advice in matters beyond the common standard of care in the Real Estate Industry. The parties have been advised to seek independent legal advice prior to executing this Contract of Purchase and Sale.

DS UD

~~CONFIDENTIALITY OF OFFER~~

The Buyer and Seller agree that the terms and ~~conditions of any offer~~ or counter-offer with respect to the ~~Property shall not be~~ disclosed to any other potential Buyer of the ~~property without the prior written consent of the Buyer~~.

AT

Each condition, if so indicated is for the sole benefit of the party indicated. Unless each condition is waived or declared fulfilled by written notice given by the benefiting party to the other party on or before the date specified for each condition, this Contract will be terminated thereupon and the Deposit returnable in accordance with the *Real Estate Services Act*.

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4. **COMPLETION:** The sale will be completed on March 9th, yr. 2020 (Completion Date) at the appropriate Land Title Office.

5. **POSSESSION:** The Buyer will have vacant possession of the Property at 11 a.m. on March 10, yr. 2020 (Possession Date) OR, subject to the following existing tenancies, if any:

6. **ADJUSTMENTS:** The Buyer will assume and pay all taxes, rates, local improvement assessments, fuel utilities and other charges from, and including, the date set for adjustments, and all adjustments both incoming and outgoing of whatsoever nature will be made as of March 10th, yr. 2020 (Adjustment Date).

7. **INCLUDED ITEMS:** The Purchase Price includes any buildings, improvements, fixtures, appurtenances and attachments thereto, and all blinds, awnings, screen doors and windows, curtain rods, tracks and valances, fixed mirrors, fixed carpeting, electric, plumbing, heating and air conditioning fixtures and all appurtenances and attachments thereto as viewed by the Buyer at the date of inspection. INCLUDING:
Air Conditioning, Clothes Washer/Dryer, Dishwasher, Drapes/Window Coverings, Microwave, Oven - Built In, Range Top, Refrigerator, Sprinkler - Fire, Wine Cooler,all light fixtures.
All indoor and outdoor furnitures, home decoration (pots, paintings, mirrors, clocks, etc.), rugs, lamps, TVs.
All items in the property.

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BUT EXCLUDING:
Textile, books, computer.; DS UD (AT)

8. **VIEWED:** The Property and all included items will be in substantially the same condition at the Possession Date as when viewed by the Buyer on December 18th yr. 2019

9. **TITLE:** Free and clear of all encumbrances except subsisting conditions, provisos, restrictions exceptions and reservations, including royalties, contained in the original grant or contained in any other grant or disposition from the Crown, registered or pending restrictive covenants and rights-of-way in favour of utilities and public authorities, existing tenancies set out in Section 5, if any, and except as otherwise set out herein.

10. **TENDER:** Tender or payment of monies by the Buyer to the Seller will be by certified cheque, bank draft, cash or Lawyer's/Notary's or real estate brokerage's trust cheque.

11. **DOCUMENTS:** All documents required to give effect to this Contract will be delivered in registrable form where necessary and will be lodged for registration in the appropriate Land Title Office by 4 pm on the Completion Date.

11A. **SELLER'S PARTICULARS AND RESIDENCY:** The Seller shall deliver to the Buyer on or before the Completion Date a statutory declaration of the Seller containing: (1) particulars regarding the Seller that are required to be included in the Buyer's Property Transfer Tax Return to be filed in connection with the completion of the transaction contemplated by this Contract (and the Seller hereby consents to the Buyer inserting such particulars on such return); (2) declarations regarding the Speculation and Vacancy Tax for residential properties located in jurisdictions where such tax is imposed and the Vancouver Vacancy By-Law for residential properties located in the City of Vancouver; and (3) if the Seller is not a non-resident of Canada as described in the non-residency provisions of the *Income Tax Act*, confirmation that the Seller is not then, and on the Completion Date will not be, a non-resident of Canada. If on the Completion Date the Seller is a non-resident of Canada as described in the residency provisions of the *Income Tax Act*, the Buyer shall be entitled to hold back from the Purchase Price the amount provided for under section 116 of the *Income Tax Act*.

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11B. GST CERTIFICATE: If the transaction contemplated by this Contract is exempt from the payment of Goods and Services Tax ("GST"), the Seller shall execute and deliver to the Buyer on or before the Completion Date, an appropriate GST exemption certificate to relieve the parties of their obligations to pay, collect and remit GST in respect of the transaction. If the transaction contemplated by this Contract is not exempt from the payment of GST, the Seller and the Buyer shall execute and deliver to the other party on or before the Completion Date an appropriate GST certificate in respect of the transaction.

12. **TIME:** Time will be of the essence hereof, and unless the balance of the cash payment is paid and such formal agreements to pay the balance as may be necessary is entered into on or before the Completion Date, the Seller may, at the Seller's option, terminate this Contract, and, in such event, the amount paid by the Buyer will be non-refundable and absolutely forfeited to the Seller, subject to the provisions of Section 28 of the *Real Estate Services Act*, on account of damages, without prejudice to the Seller's other remedies.

13. **BUYER FINANCING:** If the Buyer is relying upon a new mortgage to finance the Purchase Price, the Buyer, while still required to pay the Purchase Price on the Completion Date, may wait to pay the Purchase Price to the Seller until after the transfer and new mortgage documents have been lodged for registration in the appropriate Land Title Office, but only if, before such lodging, the Buyer has: (a) made available for tender to the Seller that portion of the Purchase Price not secured by the new mortgage, and (b) fulfilled all the new mortgagee's conditions for funding except lodging the mortgage for registration, and (c) made available to the Seller, a Lawyer's or Notary's undertaking to pay the Purchase Price upon the lodging of the transfer and new mortgage documents and the advance by the mortgagee of the mortgage proceeds pursuant to the Canadian Bar Association (BC Branch) (Real Property Section) standard undertakings (the "CBA Standard Undertakings").

14. **CLEARING TITLE:** If the Seller has existing financial charges to be cleared from title, the Seller, while still required to clear such charges, may wait to pay and discharge existing financial charges until immediately after receipt of the Purchase Price, but in this event, the Seller agrees that payment of the Purchase Price shall be made by the Buyer's Lawyer or Notary to the Seller's Lawyer or Notary, on the CBA Standard Undertakings to pay out and discharge the financial charges, and remit the balance, if any, to the Seller.

15. **COSTS:** The Buyer will bear all costs of the conveyance and, if applicable, any costs related to arranging a mortgage and the Seller will bear all costs of clearing title.

16. **RISK:** All buildings on the Property and all other items included in the purchase and sale will be, and remain, at the risk of the Seller until 12:01 am on the Completion Date. After that time, the Property and all included items will be at the risk of the Buyer.

17. **PLURAL:** In this Contract, any reference to a party includes that party's heirs, executors, administrators, successors and assigns; singular includes plural and masculine includes feminine.

18. **REPRESENTATIONS AND WARRANTIES:** There are no representations, warranties, guarantees, promises or agreements other than those set out in this Contract and the representations contained in the Property Disclosure Statement if incorporated into and forming part of this Contract, all of which will survive the completion of the sale.

19. **PERSONAL INFORMATION:** The Buyer and the Seller hereby consent to the collection, use and disclosure by the Brokerages and by the managing broker(s), associate broker(s) and representative(s) of those Brokerages (collectively the "Licensee(s)") described in Section 21, the real estate boards of which those Brokerages and Licensees are members and, if the Property is listed on a Multiple Listing Service®, the real estate board that operates the Multiple Listing Service®, of personal information about the Buyer and the Seller:

    A. for all purposes consistent with the transaction contemplated herein;

    B. if the Property is listed on a Multiple Listing Service®, for the purpose of the compilation, retention and publication by the real estate board that operates the Multiple Listing Service® and other real estate boards of any statistics including historical Multiple Listing Service® data for use by persons authorized to use the Multiple Listing Service® of that real estate board and other real estate boards;

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C. for enforcing codes of professional conduct and ethics for members of real estate boards; and

D. for the purposes (and to the recipients) described in the brochure published by the British Columbia Real Estate Association entitled *Privacy Notice and Consent.*

The personal information provided by the Buyer and Seller may be stored on databases outside Canada, in which case it would be subject to the laws of the jurisdiction in which it is located.

20. ASSIGNMENT OF REMUNERATION: The Buyer and the Seller agree that the Seller's authorization and instruction set out in section 25(c) below is a confirmation of the equitable assignment by the Seller in the Listing Contract and is notice of the equitable assignment to anyone acting on behalf of the Buyer or Seller.

20A. RESTRICTION ON ASSIGNMENT OF CONTRACT: The Buyer and the Seller agree that this Contract: (a) must not be assigned without the written consent of the Seller; and (b) the Seller is entitled to any profit resulting from an assignment of the Contract by the Buyer or any subsequent assignee.

21. AGENCY DISCLOSURE: The Seller and the Buyer acknowledge and confirm as follows (initial appropriate box(es) and complete details as applicable):

AT INITIALS

A. The Seller acknowledges having received, read and understood Real Estate Council of British Columbia (RECBC) form entitled *"Disclosure of Representation in Trading Services"* and hereby confirms that the Seller has an agency relationship with

Ken Leong PREC* (*Designated Agent(s)/Licensee(s)*)

who is/are licensed in relation to Oakwyn Realty Downtown Ltd. (*Brokerage*).

DS: UD INITIALS

B. The Buyer acknowledges having received, read and understood RECBC form entitled *"Disclosure of Representation in Trading Services"* and hereby confirms that the Buyer has an agency relationship with

Jason Shang (*Designated Agent(s)/Licensee(s)*)

who is/are licensed in relation to OAKNYN REALTY LTD (*Brokerage*).

INITIALS

C. The Seller and the Buyer each acknowledge having received, read and understood RECBC form entitled *"Disclosure of Risks Associated with Dual Agency"* and hereby confirm that they each consent to a dual agency relationship with

_____ (*Designated Agent(s)/Licensee(s)*)

who is/are licensed in relation to _____ (*Brokerage*),

having signed a dual agency agreement with such Designated Agent(s)/Licensee(s) dated _____.

INITIALS

D. If only (A) has been completed, the Buyer acknowledges having received, read and understood RECBC form *"Disclosure of Risks to Unrepresented Parties"* from the Seller's agent listed in (A) and hereby confirms that the Buyer has no agency relationship.

INITIALS

E. If only (B) has been completed, the Seller acknowledges having received, read and understood RECBC form *"Disclosure of Risks to Unrepresented Parties"* from the Buyer's agent listed in (B) and hereby confirms that the Seller has no agency relationship.

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PROPERTY ADDRESS

22. **ACCEPTANCE IRREVOCABLE** (Buyer and Seller): The Seller and the Buyer specifically confirm that this Contract of Purchase and Sale is executed under seal. It is agreed and understood that the Seller's acceptance is irrevocable, including without limitation, during the period prior to the date specified for the Buyer to either:
   A. fulfill or waive the terms and conditions herein contained; and/or
   B. exercise any option(s) herein contained.

DS UD

23. **THIS IS A LEGAL DOCUMENT. READ THIS ENTIRE DOCUMENT AND INFORMATION PAGE BEFORE YOU SIGN.** DS UD AT

24. **OFFER:** This offer, or counter-offer, will be open for acceptance until 8 o'clock p. m. on Jan 02, yr 2020 ~~December 31, 2019~~ yr. ~~2019~~ (unless withdrawn in writing with notification to the other party of such revocation prior to notification of its acceptance), and upon acceptance of the offer, or counter-offer, by accepting in writing and notifying the other party of such acceptance, there will be a binding Contract of Purchase and Sale on the terms and conditions set forth. AT AT

X WITNESS — DocuSigned by: Yongling Duan 8242F96C2248... BUYER — SEAL YONGLING DUAN PRINT NAME

X WITNESS — BUYER — SEAL PRINT NAME

If the Buyer is an individual, the Buyer declares that they are a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act*:

Yes DS UD INITIALS No INITIALS

25. **ACCEPTANCE:** The Seller (a) hereby accepts the above offer and agrees to complete the sale upon the terms and conditions set out above, (b) agrees to pay a commission as per the Listing Contract, and (c) authorizes and instructs the Buyer and anyone acting on behalf of the Buyer or Seller to pay the commission out of the proceeds of sale and forward copies of the Seller's Statement of Adjustments to the Cooperating/Listing Brokerage, as requested forthwith after completion.

Seller's acceptance is dated _____, yr. _____

The Seller declares their residency:

RESIDENT OF CANADA AT INITIALS NON-RESIDENT OF CANADA INITIALS as defined under the *Income Tax Act*.

X WITNESS — SELLER — SEAL Alvarez & Marsal Canada Inc. PRINT NAME

X WITNESS — SELLER — SEAL PRINT NAME

*PREC represents Personal Real Estate Corporation

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SCHEDULE "A" TO CONTRACT OF PURCHASE AND SALE FOR THE PROPERTY DESCRIBED IN THE ATTACHED CONTRACT OF PURCHASE AND SALE (THE "PROPERTY")

The following terms and conditions replace, modify, and where applicable override, the terms of the attached contract of purchase and sale, and any modifications, additions or addenda thereto (collectively, the **"Contract"**). Where any conflict arises between the terms of this Schedule "A" and the Contract, the terms of this Schedule "A" will apply.

The following terms and conditions shall not merge, but shall survive, the completion of any sale of the Property to the Buyer.

The references in Schedule "A" to specific clauses in the Contract are references to the clause numbers in the contract of purchase and sale used by the Real Estate Board of Greater Vancouver (the **"Real Estate Board Contract"**). If the Contract attached hereto has different clause numbers than the Real Estate Board Contract the terms of Schedule "A" will apply with the necessary changes and with equal effect to the equivalent clauses of the Contract, notwithstanding the different clause numbers.

All references to the "Seller" in the Contract and in this Schedule "A" will be read as references to Alvarez & Marsal Canada Inc., in its capacity as the Court appointed receiver over all of the assets, undertakings and property owned or beneficially owned by Masahiko Nishiyama in Canada, and not in its personal capacity (the **"Receiver"**).

1. Clause 22 of the Contract is deleted, and replaced by the following:

   The acceptance of this offer by the Seller is pursuant to a Court Order made in a receivership proceeding in the Supreme Court of British Columbia (the **"Court"**) in Action No. S-1813807 (Vancouver Registry) (the **"Proceedings"**) and not as seller or owner of the Property. The acceptance of this offer by the Seller is subject to the approval of the Supreme Court of British Columbia (the **"Court"**) and will become effective from the time an Order is made by the Court approving this offer. The Buyer acknowledges and agrees that the date of the application for that Order will be at the sole discretion of the Seller. The Buyer also acknowledges and agrees that the Seller's obligations in connection with this offer, until it is approved by the Court, are limited to putting this offer before the Court. Thereafter, the Seller is subject to the jurisdiction and discretion of the Court to entertain other offers and to any further Orders the Court may make regarding the Property. Given the Seller's position and the Seller's relationship to other parties in the Receivership, the Seller may be compelled to advocate that the Court consider other offers in order to obtain the highest price for the Property. Seller gives no undertaking to advocate the acceptance of this offer. In that regard, the Buyer must make its own arrangements to support this offer in Court.

   The Buyer acknowledges and agrees that the Seller can disclose the amount of this offer, once accepted, to any person.

   If the Court vacates, sets aside or varies an Order approving this offer for any reason whatsoever (except any willful misconduct of the Seller), then the Seller shall not be liable to the Buyer or any other person in any way whatsoever, in connection therewith.

2. Clause 9 of the Contract is deleted, and replaced by the following:

   " Free and clear of all encumbrances of the parties with notice of the Proceedings, in accordance with an Order of the Court (the **"Vesting Order"**) except: subsisting conditions, provisos, restrictions, exceptions and reservations, including royalties, contained in the original grant or contained in any other grant or disposition from the Crown, registered or pending restrictive covenants and rights-of-way in favour of utilities and public authorities, and except as otherwise set out herein."

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3. This offer (and any contract formed by its acceptance) may be terminated by the Seller at any time prior to the completion date in the Contract if any Order of the Court or other court of competent jurisdiction renders the completion impossible or inadvisable, and in that event the Seller will have no further obligations or liability to the Buyer.

4. If the Vesting Order is made, and if the Seller does not terminate this offer or any contract formed by its acceptance, then the Buyer must complete the sale on the completion date in the Contract (or such other date as might be in the Vesting Order), time being of the essence, regardless of any appeal or application for leave to appeal, vary or set aside the Vesting Order, by any person.

5. The Canadian Bar Association (BC Branch) (Real Property Section) standard undertakings (the **"CBA Standard Undertakings"**) are of no application whatsoever, to the Contract or a sale of the Property by the Seller.

6. Clause 10 of the Contract is deleted, and replaced by the following:

   "Tender or payment of monies by the Buyer to the Seller, and all deposits paid by the Buyer, will be by certified cheque, bank draft, or lawyer's or notary's trust cheque, only."

7. The Buyer acknowledges and agrees the Property includes real property only, and no personal, intangible or other property, unless otherwise addressed by further addendum.

8. Clauses 7 and 8 of the Contract are deleted, and replaced by the following:

   "The Buyer acknowledges and agrees that the Seller is selling the Property and the Buyer is buying the Property on a strictly "as is, where is" basis as of the time of actual possession. Without limiting the generality of the foregoing, the Buyer acknowledges and agrees that the Seller has not made and will not make any warranty or representation whatsoever with respect to the Property, and no such warranty or representation is expressed or can be implied including, without limitation, any warranty or representation as to environmental condition, size, dimensions, fitness, design or condition for any particular purposes, quality, or the existence of any defect, whether latent or patent. The Buyer acknowledges and agrees that it has conducted any inspections with respect to the condition of the Property, including in relation to environmental issues, that the Buyer deems appropriate, and has satisfied itself with regard to such matters.

   If the Seller has provided the Buyer with any reports or information regarding the Property (the **"Information"**), the Buyer acknowledges and agrees that the Seller has not made and will not make any warranty or representation whatsoever regarding the Information, including the accuracy or completeness of the Information, and any use that the Buyer or others may make of the Information is strictly at the Buyer's own risk".

10. Clause 12 of the Contract is deleted, and replaced by the following:

    "Time will be of the essence hereof, and unless the balance of the cash payment is paid on or before the Completion Date, the Seller may at the Seller's option, either terminate or reaffirm the Contract, and the deposit will be non-refundable and absolutely forfeited to the Seller, without prejudice to the Seller's other rights and remedies. These terms and conditions are for the sole benefit of the Seller".

11. No property condition disclosure statement concerning the Property forms part of the Contract, whether or not such a statement is attached to the Contract.

12. Clause 18 of the Contract is deleted and replaced by the following:

    "There are no representations, warranties, guarantees, promises or agreements other than those set out in this Contract."

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13. The Seller will not be responsible for removing any personal property left on or about the Property, by any occupant of the Property or otherwise.

14. Clause 5 of the Contract is modified, by adding the following:

    a) Possession will be by operation of and pursuant to the terms of the Order.

    b) No adjustments, including but not limited to adjustments for rents or security deposits, will be made to the purchase price on account of any tenancies.

    c) If any occupant of the Property does not vacate the Property by the possession date, then the Seller will apply for a Writ of Possession and instruct a Court Bailiff to deliver possession to the Buyer. This is the Seller's only obligation as regards possession. The Seller will not be liable to the Buyer or any other person in any way whatsoever (apart from the Seller's obligation to apply for a Writ of Possession and instruct a Court Bailiff), if possession cannot be delivered to the Buyer on the possession date. The Buyer acknowledges that considerable time is often required, to obtain Writs of Possession. The Seller will not be responsible for removing any personal property left on or about the Property, by any occupant of the Property or otherwise.

15. The Vesting Order will describe the Buyer exactly as the Buyer appears at the upper right on the first page of the Contract, so the Buyer as described at the upper right on the first page of the Contract will appear as the owner of the Property after completion of a sale of the Property. Seller will not be bound by any term in the Contract describing the Buyer otherwise, or allowing the Buyer to complete the sale with a different name.

16. The Buyer is responsible, immediately on completion of the sale of the Property to the Buyer, for paying any and all taxes arising from or in connection with the sale (including Property Transfer Tax and GST). The Seller can, at its option, require the Buyer to pay it any such GST immediately on completion of the sale (and in that event the Seller will then remit such tax to Canada Revenue Agency).

17. The Buyer authorizes the Seller and its agents and insurers to disclose to third parties any personal and/or other information arising from or in any way connected with the Property, or the sale of the Property to the Buyer.

BUYER(S)

DocuSigned by:
Yongling Duan
539A2FB58C22481

Date: Dec 19, 2019

SELLER

Alvarez & Marsal Canada Inc., in its capacity as the Court appointed receiver over all of the assets, undertakings and property owned or beneficially owned by Masahiko Nishiyama in Canada, and not in its personal capacity

Date: Dec. 23, 2019

APPENDIX "B"

CLAIMS TO BE DISCHARGED FROM TITLE TO THE CONDO

Party	Nature of Charge	Registration No.
	Injunction	CA7073370
	Injunction	CA7640699
	Crown Lien	WX2141048
	Crown Lien	WX2142122

APPENDIX "C"

PERMITTED ENCUMBRANCES, EASEMENTS, AND RESTRICTIVE COVENANTS

1. The reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown.

2. The following:

Party	Nature of Charge	Registration No.
City of Vancouver	Easement and Indemnity Agreement	BB655983
	Equitable Charge	BB655985
	Covenant	BB762515
	Covenant	BB762542
Shaw Cablesystems Limited	Statutory Right of Way	BB89948
Appurtenant to Parcel A Plan BCP20086 Except: Air Space Plan BCP40279	Easement	BB762491
	Easement	BB762492
	Easement	BB762493
	Easement	BB762494
	Easement	BB762496
	Easement	BB762497
	Easement	BB762498
	Easement	BB762499
	Easement	BB762500
Telus Communications Inc.	Statutory Right of Way	BB1077958

APPENDIX "D"

BILL OF SALE (ABSOLUTE)

THIS BILL OF SALE made effective the ____ day of _____, 2020.

BETWEEN:

ALVAREZ & MARSAL CANADA INC., in its capacity as the Court-appointed Receiver over all of the assets, undertakings and property owned or beneficially owned by Masahiko Nishiyama in Canada, and having an office located at 1680 – 400 Burrard Street, Vancouver, British Columbia, V6C 3A6

(the "**Vendor**")

AND:

MAYNARDS INDUSTRIES CANADA LTD., a company duly incorporated under the laws of the Province of British Columbia and having its registered and records offices located at _____.

(the "**Purchaser**")

WHEREAS:

A. The Vendor is authorized by court orders made February 14, 2019, and July 19, 2019, in proceedings in the Supreme Court of British Columbia action number S-1813807 (Vancouver Registry) to market and sell any and all of the assets, undertakings and property owned or beneficially owned by Masahiko Nishiyama in Canada; and

B. The Vendor has agreed with the Purchaser for the absolute sale to the Purchaser of the Assets described in the attached Schedule "A" (the "**Purchased Assets**").

NOW IN CONSIDERATION of the sum of $16,000.00 (the "**Purchase Price**") and other good and valuable consideration now paid by the Vendor to the Purchaser, the receipt and sufficiency of which is acknowledged, the parties covenant and agree as follows:

1. Transfer. The Vendor does hereby sell, assign, transfer and set over to the Purchaser the Purchased Assets and the appurtenances thereto free and clear of all liens, charges and encumbrances of every nature and kind whatsoever, all of which are in possession of the Vendor, and all right, title, interest, property claim and demand of the Vendor therein, to and for the Purchaser's sole and only use forever.

2. As is, with no warranty. Purchaser agrees to accept the Purchased Assets on a strictly "as is where is" basis as they exist on the date of this Bill of Sale. The Purchaser agrees that the Vendor has not made and is not making any representations and/or warranties express or implied to the Purchaser as to description, value, fitness for any purpose (including intended purpose), merchantability, quantity, quality, state, condition, location, or any other matter concerning the Purchased Assets, or any part of them, or the completeness, accuracy or currency of any

material or documentation provided by or on behalf of the Vendor in relation to the Purchased Assets. The Purchaser agrees that no representation or warranty of any kind can be implied at law or in equity, by statute or otherwise, with respect to the Purchased Assets. The Purchaser acknowledges that it has inspected the Purchased Assets and has relied entirely on its own inspections and investigations. The description of the Purchased Assets contained in all schedules to this bill of sale is for the purpose of identification only and no representation or warranty is being given by the Seller concerning the accuracy of those descriptions. The Seller will not be liable, nor will the Purchaser have a remedy for recovery of any damages, including but not limited to economic loss of any kind, arising out of any claim that the Purchased Assets infringe the rights of any other person.

3. Responsibility for taxes. The Vendor and the Purchaser agree that the Purchaser will be liable for and will pay all taxes, including all retail sales and commodity taxes, properly payable by the Purchaser in connection with the sale and transfer of the Purchased Assets, unless a certificate of exemption is provided to the Vendor prior to, or upon, the Purchaser taking possession of the Purchased Assets.

4. Entire Agreement. This Bill of Sale constitutes the entire agreement between the Vendor and Purchaser pertaining to the purchase and sale of the Purchased Assets and supersedes all prior agreements, undertakings, negotiations and discussions, whether written or oral, of the Vendor and the Purchaser, and there are no warranties, representations, covenants, obligations or agreements between the Vendor and the Purchaser except as set forth in this Bill of Sale.

5. Enurement. It is expressly agreed between the parties hereto that all grants, covenants, provisos and agreements, rights, powers, privileges, conditions and liabilities contained in this Bill of Sale shall be read and held as made by and with, and granted to and imposed upon the respective parties hereto, and their respective successors and assigns, the same as if the words successors and assigns had been inscribed in all proper and necessary places.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

DRAFT

6. Counterparts. This Bill of Sale may be signed by the parties in as many counterparts as may be necessary, each of which so signed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and, notwithstanding the date of execution, shall be deemed to bear the effective date as set out below.

IN WITNESS WHEREOF the parties hereto have executed this Bill of Sale as of the date first written above.

ALVAREZ & MARSAL CANADA INC.
in its capacity as court-appointed Receiver of
Masahiko Nishiyama and not in its personal capacity

Per: _____
Anthony Tillman
Senior Vice President

MAYNARDS INDUSTRIES LTD.

Per: _____
Authorized Signatory

DRAFT

Schedule A

Assets

1. Mercedes S550 vehicle, VIN WDDNG8GB0AA343089

DRAFT

No. S1813807
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE PART XIII OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985,
C. B-6, AS AMENDED

AND

IN THE MATTER OF MASAHIKO NISHIYAMA,
BANKRUPT UNDER THE LAWS OF JAPAN

ORDER

---

① Enter

RUSH! ② Certify PUSH!

Dye & Durham

GOWLING WLG (Canada) LLP
Barristers & Solicitors
Suite 2300, 550 Burrard Street
Vancouver, BC V6C 2B5

Dye & Durham

Tel. No. 604.683.6498
Fax No. 604.683.3558

File No. V49403

8821814-4
Mar 04/20
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JDB/azk

RL

V49403\VAN_LAW\ 3308768\6

This is **Exhibit "E"** referred to in the Affidavit of Wen-Shih Yang sworn before me at Vancouver, British Columbia, on this the 22 day of March, 2022.

A Commissioner for taking Affidavits for British Columbia

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

MAR 11 2016

ENTERED

ACTION NO. S162298
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THE RESOLUTION AND COLLECTION CORPORATION
(formerly known as Housing Loan Administration Corporation)

PLAINTIFF

AND:

MASAHIKO NISHIYAMA

DEFENDANT

ORDER MADE AFTER APPLICATION

BEFORE	THE HONOURABLE Mr. Justice Voith	Friday, 11 of March, 2016

ON THE APPLICATION of the plaintiff made without notice, coming on for hearing at Vancouver, BC on March 11, 2016, and on hearing Robert W. Richardson and Wyatt Pickett, counsel for the plaintiff, no other party having been served, and on reading:

Submissions of the Plaintiff dated March 11, 2016.

Affidavit #1 of Noriaki Takahashi sworn on March 9, 2016.

Affidavit #2 of Noriaki Takahashi sworn on March 9, 2016.

Affidavit #1 of Tetsuju Kawamura sworn on March 9, 2016.

Affidavit #1 of Eiko Kusui sworn on March 9, 2016.

AND ON the plaintiff having undertaken to comply with the terms of the undertaking set out in Schedule "A" to this Order, which among other things requires service of the notice set out in Schedule "B" to this Order;

THIS COURT ORDERS AND DIRECTS THAT:

FREEZING ORDER

In this Order, "Restrained Amount" means $477,071,714.63 less any payments made by the Defendant to the Plaintiff or duly secured in other proceedings.

1. Except as permitted by this Order, the Defendant must not:

   a) remove from British Columbia or in any way dispose of or deal with or diminish the value of any of his assets that are in British Columbia whether in his own name or not and whether solely or jointly owned, unless assets having a fair market value of at least the Restrained Amount net of all secured interests remain in British Columbia and are not dealt with, disposed of, or diminished in value;

   b) in any way dispose of or deal with or diminish the value of any of his assets whether they are in or outside British Columbia whether in his own name or not and whether solely or jointly owned unless assets having a fair market value of at least the Restrained Amount net of all secured interests in Canadian funds remain in all jurisdictions combined and are not dealt with, disposed of, or diminished in value.

   c) This prohibition applies to all of the Defendant's assets, and includes the following assets in particular:

      i) the accounts, assets and investments held under Account Number 80415330 possibly but not necessarily in the name of Rainbow One Investments, or R-1, at RBC Dominion Securities Inc. or Royal Bank of Canada;

      ii) the accounts, assets and investments held under Merge Number 36078377-000-M possibly but not necessarily in the name of Sun Moon, at RBC Dominion Securities Inc. or Royal Bank of Canada.

2. Paragraph 1 of this order applies to all of the Defendant's assets, whether or not they are in his own name and whether they are solely or jointly owned and whether or not the Defendant asserts a beneficial interest in them. To the extent Paragraph 1 orders the Defendant not to do something, he must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement. For the purposes of

this Order, the Defendant's assets include any asset which he has the power, directly or indirectly, to dispose of, or deal with as if it were his own. The Defendant is to be regarded as having such power if a third party holds or controls the assets in accordance with direct or indirect instructions.

3. If the total value of the Defendant's assets in British Columbia, net of all secured interests, exceeds the Restrained Amount, the defendant may remove any of those assets from British Columbia or may dispose of or deal with them so long as the total net value of his assets still in British Columbia remains above the Restrained Amount.

4. If the total net value of the Defendant's assets in British Columbia does not exceed the Restrained Amount, the defendant must not remove any of those assets from British Columbia and must not dispose of or deal with any of them, but if he has other assets outside British Columbia the defendant may dispose of or deal with those assets so long as the total net value of all his assets whether in or outside British Columbia remains above the Restrained Amount.

EXCEPTIONS TO THIS ORDER

5. This Order does not prohibit the defendant from spending up to $5,000.00 a month on ordinary living expenses, and in addition, reasonable amounts on legal advice and representation. Before spending any money on living or legal expenses, the defendant must advise the plaintiff's solicitors in writing of the intended source of the funds.

6. This Order does not prohibit the defendant from dealing with or disposing of any of his assets in the ordinary and proper course of business.

7. The defendant may agree with the plaintiff that the above spending limits should be increased or that this Order should be relaxed in any other respect but any such agreement will be effective only if confirmed in writing and signed by all parties.

DURATION OF THIS ORDER

8. This Order will remain in force up to and including April 1, 2016, (the "Return Date") unless before then it is varied or discharged by a further Order of this Court. The application in which this Order is made shall come back to the Court for further hearing on the Return Date.

9. Unless this Order is varied or discharged or extended by order of the Court, this Order shall remain in force until the expiry of 30 days following the pronouncement of final judgment in this matter by this Court, including any necessary assessment of damages but not the assessment of costs or completion of all execution proceedings.

10. This Order will cease to have effect if the defendant provides security by paying the Restrained Amount into Court or makes provision for security in that sum by some other method agreed in writing with the plaintiff.

VARIATION OR DISCHARGE OF THIS ORDER

11. Anyone affected by this Order may apply to the Court at any time to vary or discharge it, or to request that the plaintiff be required to post security for the undertaking, or vary the amount of security, on giving no less than 72 hours' notice to the plaintiff's solicitor of his or her intention to do so, but this Order will remain in force until further Order even if such an application is pending.

12. All applications to vary or discharge this Order, or arising out of the issuance or enforcement of this Order, shall be heard by the Judge who issued this Order with the exception of:

    a) urgent matters for which the Judge is not available; or

    b) as otherwise directed by the Judge.

THIRD PARTIES

13. Except as permitted by this Order, no person or other legal entity with notice of this Order may deal with any bank or other accounts of the defendant (including money market, retirement savings plan accounts, investment certificates, treasury bills, and deposits) or with other assets of the defendant in his possession or control.

14. No person or other legal entity with notice of this Order shall breach or permit a breach of this Order.

15. To the extent that any person or other legal entity holds assets of the defendant in excess of the Restrained Amount, that person or other legal entity is not restrained from dealing with that part of the assets held by that person or other legal entity which is in excess of the Restrained Amount.

16. The terms of this Order do not affect any person or legal entity outside the jurisdiction of this Court unless and until this Order is declared enforceable or is enforced by a Court in the relevant jurisdiction, except that this Order is enforceable as against a person or other legal entity who or which:

    a) is the defendant or an officer or an agent of the defendant; or

    b) is subject to the jurisdiction of this Court and has been given written notice of this Order.

17. This Order does not prevent any bank, financial institution or secured party from exercising any rights to claim interest, to levy service charges, to claim set off, to enforce security, or to enforce any other contractual right, arising from contracts made before being notified of this Order.

18. No bank or financial institution needs to enquire as to the application or proposed application of any money withdrawn by the defendant if the withdrawal appears to be permitted by this Order.

19. This Order binds every defendant and every other person who is subject to this Order and obtains notice of the Order, as of the time such defendant or person first receives notice of the Order, and whether or not such defendant or person has been served with a copy of the Order.

SERVICE OF THIS ORDER AND COLLATERAL DOCUMENTS

20. Personal service of the Application Documents will be deemed to be good and effective if delivered to all of the following law offices or before 5:00 p.m. on Monday, March 14, ~~2015~~, Japan Standard Time:
    2016 PGW J.

    (i) Nakamichi Takeyoshi
    Nakamichi Takeyoshi Law Office
    11-20 Nishitenma1-chome
    Kita-ku, Osaka-shi
    Osaka, Japan

    (ii) Yohei Toda
    Kyoto Sogo Law Firm
    Kawaramachi Nijyo Building 5F
    Kawaramachi Nijyo Seinan-kado, Nakagyo-ku
    Kyoto, Japan

(iii) Yoshinobu Miyamoto
Komorebi Law Firm
Arai Building 1-1
Gokoumachi-dori Takeya-cho Agaru, Nakagyo-ku
Kyoto, Japan

(iv) Teruo Naka
Shiina Law Firm
Kyoto Adachi Building 2F
Shogoin Kawahara-cho 1-6, Sakyo-ku
Kyoto, Japan

COSTS

21. Costs of this application be reserved.

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

Signature of ROBERT W. RICHARDSON
[ ] Party (Plaintiff)
[X] Lawyer for Plaintiff

BY THE COURT:

Registrar

CHECKED MS

SCHEDULE "A"

I, Noriaki Takahashi, declare as follows:

1. I have read the attached draft Order (the "Order").

2. I am authorized by the corporate plaintiff in this matter, The Resolution and Collection Corporation, to give its undertaking and it does hereby undertake to do the following:

   a. to take reasonable steps to ensure service on the defendant of a copy of the Notice of Civil Claim, the Order and every affidavit referred to in the Order, and a separate copy of the Notice to Defendant which is Schedule "B" to the Order;

   b. to provide a copy of the Order to any person who the plaintiff intends will be bound to honour the terms of the Order;

   c. to abide by any Order the British Columbia Supreme Court may make as to damages in the event that this Court is of the opinion that the defendant or any other person served with this Order has sustained damages by reason of this Order which the plaintiff ought to pay;

   d. to pay the reasonable costs of complying with the Order which are incurred by anyone, other than the defendant, to whom or to which the Plaintiff provides a copy of this Order, including the reasonable costs of ascertaining whether that person or entity holds any of the defendant's assets; and

   e. to take all reasonable steps to notify, in writing, any person or entity which the plaintiff serves with a copy of the Order of any changes to the Order that might affect that person, including any occurrence which results in the Order ceasing to have effect.

3. I understand that if I breach this undertaking or the Order, I may be imprisoned or fined.

Dated March 11, 2016

N. Takahashi

Noriaki Takahashi

Witness *[Name of Witness]*

SCHEDULE "B"

IMPORTANT - NOTICE TO THE DEFENDANT

1. The Order of Mr. Justice Voith ("Order") prohibits you from dealing with your assets up to the Restrained Amount. "Restrained Amount" is defined in the Order. The Order is subject to the exceptions stated in the Order. You should read it all carefully.

2. You are entitled to seek legal advice from your own lawyer regarding this Order and the rights you may have. You are advised to consult a lawyer as soon as possible. You have a right to ask the Court to vary or discharge this Order.

3. If you disobey this Order you may be found guilty of contempt of court and you may be sent to prison or fined or your assets may be seized.

4. This Order will be brought back before the Court on April 1, 2016. You will, at that time, have the opportunity to make submissions as to whether this Order should cease, be continued, or be modified. At that time, as well, the plaintiff(s) will be asking the Court to make an order requiring you to disclose the assets that you hold as at the date that this Order was made. If you wish to submit evidence for that hearing, you must follow the British Columbia Rules of Court in doing so. If you wish to be heard at that hearing, you must attend in Court at that time.

Dated March 11, 2016

I acknowledge receipt of a copy of this notice.

Acknowledged and delivered in the presence of:	)	
	)	
_____	)	_____
Witness Signature	)	**Recipient:**
Name:	)	**Name:**
Address:	)	**Address:**

This is **Exhibit "F"** referred to in the Affidavit of Wen-Shih Yang sworn before me at Vancouver, British Columbia, on this the 22 day of March, 2022.

A Commissioner for taking Affidavits for British Columbia

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

SEP 18 2018

ENTERED

ACTION NO. S162298
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THE RESOLUTION AND COLLECTION CORPORATION
(formerly known as Housing Loan Administration Corporation)

PLAINTIFF

AND:

MASAHIKO NISHIYAMA

DEFENDANT

ORDER MADE AFTER APPLICATION

BEFORE	THE HONOURABLE MR. JUSTICE VOITH	SEPTEMBER 18, 2018

ON THE WITHOUT NOTICE APPLICATION of the Plaintiff coming on for hearing at Vancouver, British Columbia on the 18th day of September, 2018, and on hearing Robert W. Richardson and Gordon Plottel, counsel for the Plaintiff, and no other party having been served;

AND ON the Plaintiff's agreement that the undertaking as to damages made by the Plaintiff on March 11, 2016, shall apply to this Order;

THIS COURT ORDERS THAT:

1. The following lands shall not be dealt with by any person pending further order of this Court:

   that residential strata property located in the New Westminster land district, legally described as Strata Lot 254, Plan BCS4016, District Lot 185, Group 1, New Westminster Land District, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOW ON FORM V, parcel identified 028-447-263, and having a civic address of #4102 1028 Barclay Street, Vancouver, British Columbia,

and for this purpose the Plaintiff is declared to be an applicant under Section 284(2) of the Land Title Act, RSBC 1996, chapter 250 (the "Act");

2. This order shall be lodged with the Registrar of Land Titles pursuant to Section 284(4) of the Act.

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

Signature of ROBERT W. RICHARDSON
[ ] Party (Plaintiff)
[X] Lawyer for Plaintiff

BY THE COURT:

Registrar

CHECKED

34056997.2

This is **Exhibit "G"** referred to in the Affidavit of Wen-Shih Yang sworn before me at Vancouver, British Columbia, on this the 22 day of March, 2022.

A Commissioner for taking Affidavits for British Columbia

Yang, Dannis

From: Brousson, Colin <colin.brousson@ca.dlapiper.com>
Sent: Tuesday, October 20, 2020 4:59 PM
To: Yang, Dannis; Bradshaw, Jeffrey
Subject: FW: Bankruptcy of Nishiyama - Speculation Tax

FYI

Colin Brousson
Partner

T +1 604.643.6400
F 604.605.4875
E colin.brousson@dlapiper.com

From: Brousson, Colin
Sent: Tuesday, October 20, 2020 4:58 PM
To: Mauro, Lee AG:EX <Lee.Mauro@gov.bc.ca>
Subject: Bankruptcy of Nishiyama - Speculation Tax

Lee,

You will recall that we act for Hiroshi Morimoto, in his capacity as Trustee (the "**Trustee**") in Bankruptcy of Masahiko Nishiyama ("**Nishiyama**") and the Receiver (defined below). We write in connection with the sale of the condominium unit located at 4102 – 1028 Barclay Street, Vancouver, British Columbia (the "**Condo**") to a third-party purchaser (the "**Purchaser**") which occurred on March 9, 2020.

Congratulations on your new role. I am hoping you can kindly let us know who we should deal with at your offices on this matter.

To assist in the transition to a new person on your end, I am setting out below a short summary of the facts. Based upon these facts the resolution of this matter seems fairly simple to us. The Condo should be exempt from the *BC Speculation Tax* under the exemption for bankrupts (the "**Bankruptcy Exemption**") set out in section 22(2) of the *Speculation Tax Act* as an interest in residential property vested in a trustee in bankruptcy, but as you know because of the urgency of the court order needed to approve the sale to the Purchaser and then complete it, we simply agreed to the Holdback (defined below). And then Covid 19 hit and things have not moved forward much since then. We need to get this resolved quickly now.

Facts

These are the relevant facts, which we don't think are disputed:

1. On March 29, 2012, Sun Moon, a corporation registered under the laws of BVI and wholly owned by Nishiyama, purchased the Condo;

2. After the purchase, Nishiyama lived in the Condo with his girlfriend Hatsumi Nakajima;

3. On October 29, 2013, Resolution Capital Corporation ("**RCC**") obtained judgment in Japan against Nishiyama for dissipating and concealing assets using foreign sham or alter-ego corporations;

4. On October 26, 2015, Nishiyama was arrested in Japan when he travelled from Canada to Japan for a visit;

5. On March 15, 2016, Nishiyama was adjudged bankrupt and he remains a bankrupt at this time owing his creditors hundreds of millions of dollars despite efforts by the Trustee to collect as much money as possible for the bankruptcy estate;

6. In or about March 2016, the BCSC granted a Mareva injunction in respect of the Nishiyama's property (the "**Mareva Injunction**"), and the Condo was explicitly included in the Mareva Injunction in August of 2016;

7. On June 17, 2016, Nishiyama was found criminally guilty of obstructing justice for purposely concealing assets and conspiring to remove assets out of Japan and was sentenced to prison;

8. On July 26, 2018, Nishiyama was granted parole;

9. After his parole, Nishiyama applied to the courts in Japan for permission to return to Canada to live in the Condo, but the Japanese Court rejected Nishiyama's application, which rejection was affirmed twice on appeal;

10. Nishiyama made a second application to return to Canada and the Condo, which was again rejected; he again appealed and was again denied;

11. On December 21, 2018, under Part XIII of the *Bankruptcy and Insolvency Act*, the BCSC recognized the Japanese bankruptcy proceedings in Canada and recognized the Trustee as the foreign representative in the Canadian bankruptcy proceedings;

12. On February 14, 2019, Alvarez & Marsal Canada Inc. (the "**Receiver**") was appointed in the Canadian bankruptcy proceedings as receiver over all the assets, undertakings, and property of the bankrupt, Nishiyama in order to realize on the assets in Canada on behalf of the Trustee;

13. On July 19, 2019, the BCSC ordered that all assets of Sun Moon properly represent property of Nishiyama that is subject to the Receiver's authority to sell them, including the Condo;

14. On February 24, 2020, the BCSC approved the court-ordered sale (the "**Sale Order**") of the Condo (the "**Sale**") from the Receiver on behalf of the Trustee to the Purchaser for $4,330,000 (the "**Purchase Price**");

15. As part of the Sale Order, at the request of the AG's office, the Receiver was asked to holdback $119,469.84 of the proceeds of the Sale in respect of claims of the Province of British Columbia under the *Speculation and Vacancy Tax* until written agreement or further order of this Court (the "**Holdback**");

16. The Sale closed on March 9, 2020 and most of the net proceeds have been provided to the Trustee to be disbursed the creditors in the bankruptcy but the Receiver retains the Holdback;

17. Nishiyama acquired and held the Condo as his residence in Canada with no intention of flipping or re-selling the Condo;

18. Nishiyama lived in Vancouver, British Columbia, Canada in the Condo from its purchase in 2012-2015 when he was arrested in Japan and not allowed to return;

19. During 2012 -2015, Nishiyama obtained status as a Permanent Resident of Canada which card was valid until April 2021 and Nishiyama held a BC driver's license (and indeed the Receiver sold his Mercedes Benz which remained parked at the Condo for a number years) together with the Condo sale under the Sale Order;

20. Nishiyama has deposed that: (i) he would still be living primarily in Vancouver had he not been arrested in Japan in October 2015; and (ii) after his parole in 2018, he would have returned to Vancouver, but for being prevented by Japanese courts from travelling or moving back to Vancouver; and

21. Since his parole, Nishiyama has never applied for permission to leave Japan for any other country except Canada.

Based upon the above facts, but most importantly that Nishiyama has been bankrupt since March 2016 and remains so today, the Condo should legally be exempt from the *BC Speculation Tax* under the Bankruptcy Exemption. However, even if that premise was somehow incorrect, the facts also support that Nishiyama was not speculating in any way on the Condo. He was living in the Condo and intended to remain there. Once he was arrested he was unable to live there or legally deal with the Condo in any way because he was in jail in Japan and because the Condo was subject to the Mareva Injunction. In other words, there is also no legal or policy reason the *Speculation Tax* should apply to the Condo.

Can we just agree that the Speculation Tax does not apply and release the Holdback to the Trustee by agreement now? We would need a written email from the Province to do so. Failing receipt of same on or before October 31, 2020, we expect to receive instructions to apply to Court to seek the release of the Holdback to the Trustee and seek costs against the Province for having to do so.

Yours truly,

Colin Brousson
Partner

T +1 604.643.6400
F 604.605.4875
E colin.brousson@dlapiper.com

DLA Piper (Canada) LLP
Suite 2800, Park Place
666 Burrard St
Vancouver, BC V6C 2Z7
www.dlapiper.com

Yang, Dannis

From: Brousson, Colin <colin.brousson@ca.dlapiper.com>
Sent: Wednesday, February 17, 2021 9:07 AM
To: Welch, Aaron AG:EX
Cc: Gowda, Isabel AG:EX; Yang, Dannis; Bradshaw, Jeffrey
Subject: RE: Bankruptcy of Nishiyama - Speculation Tax

Aaron,

Sorry but this email slipped past me with other pressing matters. This is now pressing as well.

Would we be able to schedule a call to discuss this file this week?

Thanks,

Colin Brousson
Partner

T +1 604.643.6400
F 604.605.4875
E colin.brousson@dlapiper.com

From: Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>
Sent: Monday, January 18, 2021 5:06 PM
To: Brousson, Colin <colin.brousson@ca.dlapiper.com>
Cc: Gowda, Isabel AG:EX <Isabel.Gowda@gov.bc.ca>; Yang, Dannis <dannis.yang@ca.dlapiper.com>; Bradshaw, Jeffrey <jeffrey.bradshaw@ca.dlapiper.com>
Subject: [EXTERNAL] RE: Bankruptcy of Nishiyama - Speculation Tax

Hello Colin:

I've been giving this some thought and I was wondering if you could find out from the Japanese bankruptcy trustee where taxes to a foreign entity (such as the Province of BC) stand in priority to other creditors under Japanese bankruptcy law. In addition, I would be specifically interested in knowing where taxes owed to a foreign entity stand as against the Resolution and Collection Corporation's debt.

Thank you.

Aaron

Aaron Welch, Legal Counsel
Justice, Health and Revenue Group
Legal Services Branch, Ministry of Attorney General
Ph: 250-356-8589
Pronouns: he/his

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From: Welch, Aaron AG:EX
Sent: Monday, January 11, 2021 5:07 PM
To: 'Brousson, Colin' <colin.brousson@dlapiper.com>
Cc: Gowda, Isabel AG:EX <Isabel.Gowda@gov.bc.ca>; Yang, Dannis <dannis.yang@dlapiper.com>; Bradshaw, Jeffrey <jeffrey.bradshaw@dlapiper.com>
Subject: RE: Bankruptcy of Nishiyama - Speculation Tax

Hello Colin:

Sorry about the delay in responding. Let me contact my client and get instructions.

Thank you.

Aaron

Aaron Welch, Legal Counsel
Justice, Health and Revenue Group
Legal Services Branch, Ministry of Attorney General
Ph: 250-356-8589
Pronouns: he/his

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Sent: Monday, January 11, 2021 10:46 AM
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Cc: Gowda, Isabel AG:EX ; Yang, Dannis ; Bradshaw, Jeffrey
Subject: RE: Bankruptcy of Nishiyama - Speculation Tax

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Yours truly,

Colin Brousson
Partner

T +1 604.643.6400
F 604.605.4875
E colin.brousson@dlapiper.com

From: Brousson, Colin
Sent: Thursday, October 22, 2020 10:34 AM
To: Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>
Cc: Gowda, Isabel AG:EX <Isabel.Gowda@gov.bc.ca>
Subject: RE: Bankruptcy of Nishiyama - Speculation Tax

Great. Thanks

Colin Brousson
Partner

T +1 604.643.6400
F 604.605.4875
E colin.brousson@dlapiper.com

From: Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>
Sent: Thursday, October 22, 2020 10:31 AM
To: Brousson, Colin <colin.brousson@ca.dlapiper.com>
Cc: Gowda, Isabel AG:EX <Isabel.Gowda@gov.bc.ca>
Subject: [EXTERNAL] RE: Bankruptcy of Nishiyama - Speculation Tax

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Sent: Tuesday, October 20, 2020 5:03 PM
To: 'Brousson, Colin' <colin.brousson@dlapiper.com>
Cc: Gowda, Isabel AG:EX <Isabel.Gowda@gov.bc.ca>
Subject: RE: Bankruptcy of Nishiyama - Speculation Tax

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Lee Mauro
Legal Counsel | Litigation Group
Legal Services Branch | Ministry of Attorney General
Phone: 236-478-2419 | Fax: 250-356-8653
(he/him)

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Sent: Tuesday, October 20, 2020 4:58 PM
To: Mauro, Lee AG:EX <Lee.Mauro@gov.bc.ca>
Subject: Bankruptcy of Nishiyama - Speculation Tax

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You will recall that we act for Hiroshi Morimoto, in his capacity as Trustee (the "**Trustee**") in Bankruptcy of Masahiko Nishiyama ("**Nishiyama**") and the Receiver (defined below). We write in connection with the sale of the condominium unit located at 4102 – 1028 Barclay Street, Vancouver, British Columbia (the "**Condo**") to a third-party purchaser (the "**Purchaser**") which occurred on March 9, 2020.

Congratulations on your new role. I am hoping you can kindly let us know who we should deal with at your offices on this matter.

To assist in the transition to a new person on your end, I am setting out below a short summary of the facts. Based upon these facts the resolution of this matter seems fairly simple to us. The Condo should be exempt from the *BC Speculation Tax* under the exemption for bankrupts (the "**Bankruptcy Exemption**") set out in section 22(2) of the *Speculation Tax Act* as an interest in residential property vested in a trustee in bankruptcy, but as you know because of the urgency of the court order needed to approve the sale to the Purchaser and then complete it, we simply agreed to the Holdback (defined below). And then Covid 19 hit and things have not moved forward much since then. We need to get this resolved quickly now.

Facts

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12. On February 14, 2019, Alvarez & Marsal Canada Inc. (the "**Receiver**") was appointed in the Canadian bankruptcy proceedings as receiver over all the assets, undertakings, and property of the bankrupt, Nishiyama in order to realize on the assets in Canada on behalf of the Trustee;

13. On July 19, 2019, the BCSC ordered that all assets of Sun Moon properly represent property of Nishiyama that is subject to the Receiver's authority to sell them, including the Condo;

14. On February 24, 2020, the BCSC approved the court-ordered sale (the "**Sale Order**") of the Condo (the "**Sale**") from the Receiver on behalf of the Trustee to the Purchaser for $4,330,000 (the "**Purchase Price**");

15. As part of the Sale Order, at the request of the AG's office, the Receiver was asked to holdback $119,469.84 of the proceeds of the Sale in respect of claims of the Province of British Columbia under the *Speculation and Vacancy Tax* until written agreement or further order of this Court (the "**Holdback**");

16. The Sale closed on March 9, 2020 and most of the net proceeds have been provided to the Trustee to be disbursed the creditors in the bankruptcy but the Receiver retains the Holdback;

17. Nishiyama acquired and held the Condo as his residence in Canada with no intention of flipping or re-selling the Condo;

18. Nishiyama lived in Vancouver, British Columbia, Canada in the Condo from its purchase in 2012-2015 when he was arrested in Japan and not allowed to return;

19. During 2012 -2015, Nishiyama obtained status as a Permanent Resident of Canada which card was valid until April 2021 and Nishiyama held a BC driver's license (and indeed the Receiver sold his Mercedes Benz which remained parked at the Condo for a number years) together with the Condo sale under the Sale Order;

20. Nishiyama has deposed that: (i) he would still be living primarily in Vancouver had he not been arrested in Japan in October 2015; and (ii) after his parole in 2018, he would have returned to Vancouver, but for being prevented by Japanese courts from travelling or moving back to Vancouver; and

21. Since his parole, Nishiyama has never applied for permission to leave Japan for any other country except Canada.

Based upon the above facts, but most importantly that Nishiyama has been bankrupt since March 2016 and remains so today, the Condo should legally be exempt from the *BC Speculation Tax* under the Bankruptcy Exemption. However, even if that premise was somehow incorrect, the facts also support that Nishiyama was not speculating in any way on the Condo. He was living in the Condo and intended to remain there. Once he was arrested he was unable to live there or legally deal with the Condo in any way because he was in jail in Japan and because the Condo was subject to the Mareva Injunction. In other words, there is also no legal or policy reason the *Speculation Tax* should apply to the Condo.

Can we just agree that the Speculation Tax does not apply and release the Holdback to the Trustee by agreement now? We would need a written email from the Province to do so. Failing receipt of same on or before October 31, 2020, we expect to receive instructions to apply to Court to seek the release of the Holdback to the Trustee and seek costs against the Province for having to do so.

Yours truly,

Colin Brousson
Partner

T +1 604.643.6400
F 604.605.4875
E colin.brousson@dlapiper.com

DLA Piper (Canada) LLP
Suite 2800, Park Place
666 Burrard St
Vancouver, BC V6C 2Z7
www.dlapiper.com

Yang, Dannis

From: Gowda, Isabel AG:EX <Isabel.Gowda@gov.bc.ca>
Sent: Thursday, April 01, 2021 10:13 AM
To: Brousson, Colin
Cc: Yang, Dannis; Bradshaw, Jeffrey; Welch, Aaron AG:EX
Subject: [EXTERNAL] RE: Bankruptcy of Nishiyama - Speculation Tax

DLA Piper (Canada) LLP ALERT: This is an external email. Do not click links or open attachments unless you recognize the sender's email address and know the content is safe.

Hi Colin,

Aaron is away from the office at the moment. I'm reviewing the file and I'll get back to you.

Thank you,

Isabel J. Gowda
Legal Counsel | Justice, Health and Revenue Group
Legal Services Branch | Ministry of Attorney General
Telephone: 250-356-8425
Pronouns: she/her/hers

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From: Brousson, Colin <colin.brousson@dlapiper.com>
Sent: Monday, March 29, 2021 10:57 AM
To: Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>
Cc: Gowda, Isabel AG:EX <Isabel.Gowda@gov.bc.ca>; Yang, Dannis <dannis.yang@dlapiper.com>; Bradshaw, Jeffrey <jeffrey.bradshaw@dlapiper.com>
Subject: RE: Bankruptcy of Nishiyama - Speculation Tax

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Aaron and Isabel,

How about this week for a call on this matter? I am getting more pressure to set it down ASAP and was still hoping that it would not be necessary.

Yours truly,

Colin Brousson
Partner

T +1 604.643.6400
F 604.605.4875

From: Brousson, Colin
Sent: Wednesday, February 17, 2021 9:07 AM
To: Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>
Cc: Gowda, Isabel AG:EX <Isabel.Gowda@gov.bc.ca>; Yang, Dannis <dannis.yang@ca.dlapiper.com>; Bradshaw, Jeffrey <jeffrey.bradshaw@ca.dlapiper.com>
Subject: RE: Bankruptcy of Nishiyama - Speculation Tax

Aaron,

Sorry but this email slipped past me with other pressing matters. This is now pressing as well.

Would we be able to schedule a call to discuss this file this week?

Thanks,

Colin Brousson
Partner

T +1 604.643.6400
F 604.605.4875
E colin.brousson@dlapiper.com

From: Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>
Sent: Monday, January 18, 2021 5:06 PM
To: Brousson, Colin <colin.brousson@ca.dlapiper.com>
Cc: Gowda, Isabel AG:EX <Isabel.Gowda@gov.bc.ca>; Yang, Dannis <dannis.yang@ca.dlapiper.com>; Bradshaw, Jeffrey <jeffrey.bradshaw@ca.dlapiper.com>
Subject: [EXTERNAL] RE: Bankruptcy of Nishiyama - Speculation Tax

Hello Colin:

I've been giving this some thought and I was wondering if you could find out from the Japanese bankruptcy trustee where taxes to a foreign entity (such as the Province of BC) stand in priority to other creditors under Japanese bankruptcy law. In addition, I would be specifically interested in knowing where taxes owed to a foreign entity stand as against the Resolution and Collection Corporation's debt.

Thank you.

Aaron

Aaron Welch, Legal Counsel
Justice, Health and Revenue Group
Legal Services Branch, Ministry of Attorney General
Ph: 250-356-8589
Pronouns: he/his

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F 604.605.4875
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Yours truly,

Colin Brousson
Partner

T +1 604.643.6400
F 604.605.4875
E colin.brousson@dlapiper.com

DLA Piper (Canada) LLP
Suite 2800, Park Place
666 Burrard St
Vancouver, BC V6C 2Z7
www.dlapiper.com

This is **Exhibit "H"** referred to in the Affidavit of Wen-Shih Yang sworn before me at Vancouver, British Columbia, on this the 22 day of March, 2022.

A Commissioner for taking Affidavits for British Columbia

Yang, Dannis

From: Chan, Vicki <vchan@alvarezandmarsal.com>
Sent: Monday, August 16, 2021 1:33 PM
To: vacancytax@vancouver.ca
Subject: Folio #605 119 84 0254
Attachments: A - Order Appointing Receiver (February 14, 2019).pdf; B - Order re Sun Moon Management Ltd. Assets (July 19, 2019).PDF; C - Property Tax Notice 2021.pdf; D - Sale Approval and Vesting Order (February 24, 2020).PDF; E - LTA Injunction Order (Sept 18, 2018).pdf

To the City of Vancouver, Revenue Services, Vacancy Tax
Reference: Folio #605 119 84 0254
Access: 032910

To whom it may concern:

Alvarez & Marsal Canada Inc. (the "**Receiver**") was appointed by the Court as the Receiver of Masahiko Nishiyama and Sun Moon Management Ltd., including an apartment located at 4102-1028 Barclay Street, Vancouver, BC V6E 0B1 (the "**Property**"). Please refer to Attachments A and B for a copies of the relevant court orders.

The Receiver sold the Property to the current owner (Yongling Duan) in March 2020 free and clear of any security interests, levies, charges, etc. pursuant to a Sale and Vesting Order dated February 24, 2020 (refer to Attachment C).

We understand that the current owner received a property tax assessment pertaining to the 2019 vacancy tax in the amount of $50,207.78 (refer to Attachment D). However, in 2018, a court-ordered injunction was placed on the Property restricting any person from dealing with the Property. The injunction was registered at the New Westminster Land Title Office as a charge on title to the Property under document number CA7073370. As such, the Property was required to remain empty. A copy of the Injunction Court Order is included as Attachment E.

Based on the foregoing, the Receiver is respectfully requesting an exemption for the 2019 vacancy taxes.

If you have any questions or would like to discuss the matter above, please contact the undersigned.

Attachments:
A – Court Order Appointment Receiver (February 14, 2019)
B – Court Order re: Sun Moon Management Ltd. Assets (July 19, 2019)
C – Sale Approval and Vesting Order (February 24, 2020)
D – Property Tax Notice 2021
E – LTA Injunction Order (September 18, 2018)

Thank you,

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Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE PART XIII OF THE

BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-6,

AS AMENDED

AND

IN THE MATTER OF THE MASAHIKO NISHIYAMA

BANKRUPT UNDER THE LAWS OF JAPAN

AFFIDAVIT

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File No.: 105288-00001 AGM/day