

**SUPERIOR COURT**  
(COMMERCIAL DIVISION)

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

No: 500-11-059536-215

Date: May 26, 2021

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**BY THE HONOURABLE MICHEL A. PINSONNAULT, J.S.C.**

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In the matter of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 of:

**Atis Group Inc.**

**10422916 Canada Inc.**

**8528853 Canada Inc. (d.b.a. Portes et Fenêtres Altek Inc.)**

**9060642 Canada Inc.**

**9092455 Canada Inc. (d.b.a. Alweather Windows & Doors)**

**Distributeur Vitro Clair Inc.**

**Solarcan Architectural Holding Limited**

**Vitrierie Lévis Inc.**

**Vitrotec Portes & Fenêtres Inc.**

Debtors

and

**Atis LP**

Mise-en-cause

and

**Raymond Chabot Inc.**

Monitor

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**APPROVAL, VESTING AND ASSIGNMENT ORDER**

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**HAVING READ** the *Application for the Issuance of Approval and Vesting Orders* (the “**Application**”) of Atis Group Inc., 10422916 Canada Inc., 8528853 Canada Inc. (d.b.a. Altek Windows & Doors), 9060642 Canada Inc., 9092455 Canada Inc. (d.b.a. Alweather Windows & Doors) (“**909 Inc.**”), Distributeur Vitro Clair Inc., Solarcan Architectural Holding Limited, Vitrotec Portes & Fenêtres Inc. and Vitrierie Lévis Inc. (collectively, the “**Applicants**”) and Atis LP (together with the Applicants, the “**Debtors**”) pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36 (the “**CCAA**”), the exhibits and the affidavit filed in support thereof and the Third Report of the Monitor dated May 25, 2021;

**GIVEN** the notification of the Application;

**GIVEN** the Initial Order rendered on February 19, 2021 (as amended and restated on March 1, 2021, the “**Initial Order**”);

**GIVEN** the submissions of counsel and the testimony of the Monitor;

**GIVEN** the provisions of the CCAA;

**GIVEN** that on April 21, 2021, Polar Holding Ltd., for and on behalf of 12986647 Canada Ltd. and 12986591 Canada Ltd. (collectively, the “**Purchasers**”) submitted a binding offer in the sale or investor solicitation process authorized by this Court on March 1<sup>st</sup>, 2021 (the “**SISP Order**”), which offer were selected by the Debtors and the Monitor as the Successful Bid (as this term is defined in Schedule B of the SISP Order);

**GIVEN** that it is appropriate to issue an order approving the transaction (the “**Transaction**”) contemplated by the agreement entitled Asset Purchase Agreement (the “**Purchase Agreement**”), by and between Atis LP (the “**Vendor**”), acting through its general partner 10422916 Canada Inc., as vendor, and the Purchasers, as purchasers, with the intervention of 909 Inc., a copy of which was filed as Exhibit P-5 to the Application, and vesting in the Purchasers all of Atis LP’s rights, title and interest in and to all of the Purchased Assets (as defined in the Purchase Agreement) and listed in **Schedule “A”** hereto (the “**Purchased Assets**”).

#### **THE COURT:**

[1] **GRANTS** the Application.

[2] **DECLARES** that all capitalized terms used but not otherwise defined in the present Order (this “**Order**”) shall have the meanings ascribed to them in the Purchase Agreement.

#### **Notification**

- [3] **ORDERS** that any prior delay for the presentation of the Application is hereby abridged and validated so that the Application is properly returnable today and hereby dispenses with any further notification thereof.
- [4] **PERMITS** notification of this Order at any time and place and by any means whatsoever, including by email.
- [5] **DECLARES** that the parties to the Closing Assigned Agreements (as defined at paragraph [14] of this Order) have received adequate notice of the Application.

### **Sale Approval**

- [6] **ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement by the parties thereto is hereby authorized and approved, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to, but only with the consent of the Monitor.

### **Authorization**

- [7] **ORDERS AND DECLARES** that this Order shall constitute the only authorization required by the Monitor, the CRO (as defined hereinafter) and the Vendor to proceed with the Transaction and that no other approval or authorization, including any board, shareholder or regulatory approval, if applicable, shall be required in connection therewith.

### **Execution of Documentation**

- [8] **AUTHORIZES** the Monitor, for and on behalf of the Vendors, to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the Purchase Agreement and any other ancillary document which could be required or useful to give full and complete effect thereto.

### **Vesting of Purchased Assets**

- [9] **ORDERS AND DECLARES** that upon the issuance of a Monitor's certificate substantially in the form appended as **Schedule "B"** hereto (the "**Certificate**"), all of the Vendor's rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the Purchasers, free and clear of and from any and all rights, titles, benefits, priorities, claims (including claims provable in bankruptcy in the event that the Vendor should be adjudged bankrupt), liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, security interests (whether contractual, statutory or otherwise), liens, right of retention, charges, hypothecs, mortgages, pledges,

deemed trusts, assignments, judgments, executions, writs of seizure or execution, notices of sale, options, agreements, rights of distress, legal, equitable or contractual setoff, adverse claims, levies, taxes, disputes, debts, charges, options to purchase, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise (collectively, the “**Encumbrances**”), including without limiting the generality of the foregoing all Encumbrances created by order of this Court and all charges or security evidenced by registration, publication or filing pursuant to the Civil Code of Québec, the *Personal Property Security Act* of the Provinces of Ontario, New Brunswick, Nova Scotia and Prince Edward Island, or any other applicable legislation providing for a security interest in personal, movable or immovable property, excluding however, the permitted encumbrances listed in **Schedule “C”** hereto (the “**Permitted Encumbrances**”) and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Purchased Assets, other than the Permitted Encumbrances, be cancelled and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate.

- [10] **ORDERS** that, for greater certainty, the Administration Charge, the CRO Charge, the KERP Charge, the Directors’ Charge, the Monitor’s Charge and the Interim Lender Charge (as these terms are defined in the Initial Order), shall continue to charge all of the Property (as defined in the Initial Order), including the Purchase Price other than the Purchased Assets.

### **Monitor’s Certificate**

- [11] **ORDERS AND DIRECTS** the Monitor, upon receipt of (i) payment in full of the Purchase Price and confirmation that the Purchasers have paid or will pay at Closing any applicable Transfer Taxes and (ii) confirmation by the Purchasers that all applicable conditions under the Purchase Agreement have been satisfied and/or waived, to (a) issue forthwith the Certificate to the Vendor and the Purchasers and (b) file as soon as practicable a copy of the Certificate with the Court.
- [12] **DECLARES** that, upon issuance of the Certificate, the Purchasers shall have no recourse against the Vendor, the Monitor or the CRO in respect of the Purchase Agreement.

### **Assignment of Agreements**

- [13] **ORDERS AND DECLARES** that upon the issuance of the Certificate, the rights and obligations of the Vendor under the Assigned Leases listed in **Schedule “D”** hereto shall be automatically and irrevocably assigned to the Purchasers without any further consents or approval of this Court.

- [14] **DECLARES** that the Purchasers shall be entitled to notify the Monitor in writing, within 30 days of the date of the issuance of the Certificate, that it seeks the post-closing assignment of the rights, benefits, obligations and interests of the Vendor under one or more agreements to which the Vendor is a party to and which do not form part of the Assigned Leases (a “**Proposed Post-Closing Assignment**” and each such agreement a “**Proposed Post-Closing Assigned Agreement**”).
- [15] **ORDERS** the Monitor, within five days of the receipt from the Purchasers of a notice of a Proposed Post-Closing Assignment, to review such assignment, and:
- a) if the Monitor approves the Proposed Post-Closing Assignment, send one or more notices of the Proposed Post-Closing Assignment to the parties to the Proposed Post-Closing Assigned Agreements substantially in the form of the draft notice of assignment attached hereto as **Schedule “E”** hereto (the “**Notice of Assignment**”); or
  - b) if the Monitor does not approve the Proposed Post-Closing Assignment, inform the Purchasers in writing of its decision (the “**Monitor’s Notice**”).
- [16] **ORDERS** the Monitor, if no party to a Proposed Post-Closing Assigned Agreement has notified it of an opposition to the Proposed Post-Closing Assignment within 15 days of the receipt of the Notice of Assignment, to issue forthwith and file with the Court a certificate substantially in the form appended as **Schedule “F”** hereto (a “**Post-Closing Assignment Certificate**”).
- [17] **ORDERS AND DECLARES** that upon the issuance of a Post-Closing Assignment Certificate by the Monitor, the rights, benefits, obligations and interests of the Vendor under the agreements mentioned in such Post-Closing Assignment Certificate (the “**Post-Closing Assigned Agreements**”) shall be automatically and irrevocably assigned to the Purchasers without any further consents or approvals of this Court.
- [18] **ORDERS** that all monetary defaults, if any, of the Vendor in relation to the Closing Assigned Agreements and the Post-Closing Assigned Agreements (collectively, the “**Assigned Agreements**”) - other than those arising by reason only of the insolvency of the Vendor, the commencement of these proceedings or the failure to perform non-monetary obligations - shall be remedied on or before the date which is the latest between (i) 30 days following the date of this Order and (ii) 30 days following the date of the relevant Post-Closing Assignment Certificate, the whole unless otherwise agreed between the Purchasers and the relevant contracting party.

- [19] **DECLARES** that subject to the Purchasers' obligations relating to the monetary defaults set forth in paragraph [19], the counterparties to any Assigned Agreements have no right to claim or effect compensation between:
- a) on the one hand, the amounts that are currently owing or which may become owing by such counterparties to the Vendor or the Purchasers, as the case may be, in connection with goods supplied or to be supplied under the Assigned Agreements by the Debtors or the Purchasers, as the case may be, as and from May 19, 2021, being the date of the Purchase Agreement; and
  - b) on the other hand, any amounts owed, or allegedly owed, by the Debtors to such counterparties prior to May 19, 2021, whether related or not to the Assigned Agreements;
- [20] **ORDERS** that any anti-assignment or consent-to-assignment provisions in any Assigned Agreements shall not restrict, limit, impair, prohibit or otherwise affect the assignment of the Assigned Agreements provided by this Order.
- [21] **ORDERS** that the Assigned Agreements shall be valid and binding and in full force and effect and enforceable by the Purchasers in accordance with their terms for the benefit of the Purchasers.
- [22] **ORDERS AND DIRECTS** the Monitor to notify a copy of this Order to each of the counterparties to the Assigned Agreements in the same manner as such counterparty was notified of the Application.
- [23] **AUTHORIZES** the Purchasers and the Monitor to perform all acts, sign all documents and take any other action that could be required or useful to give full effect to the assignment of the Assigned Agreements to the Purchasers in accordance with this Order.

### **Cancellation of Security Registrations**

- [24] **ORDERS** that all documents pertaining to the reduction, amendment or discharge of the Interim Lender Charge (as defined in the Initial Order) and the Senior Security (as defined in the Initial Order) (the "**BNS Reduction Forms**") shall be prepared and filed by the Bank of Nova Scotia (the "**BNS**") in order to transfer to the Purchasers the Purchased Assets free and clear of such registrations (collectively, the "**BNS Charges**").
- [25] **ORDERS** that all documents pertaining to the reduction of the Encumbrances other than the BNS Charges and the Permitted Encumbrances (collectively, the "**Non BNS Encumbrances**"), shall be prepared and filed by the Purchasers (the "**Purchasers Reduction Forms**").

- [26] **ORDERS** the Quebec Personal and Movable Real Rights Registrar, upon presentation of the BNS Reduction Forms and the Purchasers Reduction Forms with a true copy of this Order and the Certificate, to proceed to a judicial reduction in respect of the Purchased Assets for the registrations listed in **Schedule "G"** hereto in order to allow the transfer to the Purchasers of the Purchased Assets free and clear of such registrations.
- [27] **ORDERS** that upon the issuance of the Certificate, the Purchasers shall be authorized to take all such steps they may deem necessary to effect the amendment or discharge of all Encumbrances registered against the Purchased Assets other than the Permitted Encumbrances and BNS Charges, as applicable, including filing such financing change statements in the Ontario Personal Property Registry ("**OPPR**") as may be necessary, from any registration filed against the Debtors in the OPPR, provided that the Purchasers shall not be authorized to effect any amendment or discharge that would have the effect of releasing any collateral other than the Purchased Assets, and the Purchasers shall be authorized to take any further steps by way of further application to this Court. The amendment or discharge of the Purchased Assets from the BNS Charges shall be prepared and filed by BNS.
- [28] **ORDERS** that upon the issuance of the Certificate, the Purchasers shall be authorized to take all such steps they may deem necessary to effect the amendment or discharge of all Encumbrances registered against the Purchased Assets other than the Permitted Encumbrances and BNS Charges, as applicable, including filing such financing change statements in the New Brunswick Personal Property Registry ("**NBPPR**") as may be necessary, from any registration filed against the Debtors in the NBPPR, provided that the Purchasers shall not be authorized to effect any amendment or discharge that would have the effect of releasing any collateral other than the Purchased Assets, and the Purchasers shall be authorized to take any further steps by way of further application to this Court. The amendment or discharge of the Purchased Assets from the BNS Charges shall be prepared and filed by BNS.
- [29] **ORDERS** that upon the issuance of the Certificate, the Purchasers shall be authorized to take all such steps they may deem necessary to effect the amendment or discharge of all Encumbrances registered against the Purchased Assets other than the Permitted Encumbrances and BNS Charges, as applicable, including filing such financing change statements in the Nova Scotia Personal Property Registry ("**NSPPR**") as may be necessary, from any registration filed against the Debtors in the NSPPR, provided that the Purchasers shall not be authorized to effect any amendment or discharge that would have the effect of releasing any collateral other than the Purchased Assets, and the Purchasers shall be authorized to take any further steps by way of further application to this Court. The amendment or discharge of the Purchased Assets from the BNS Charges shall be prepared and filed by BNS.



[30] **ORDERS** that upon the issuance of the Certificate, the Purchasers shall be authorized to take all such steps they may deem necessary to effect the amendment or discharge of all Encumbrances registered against the Purchased Assets other than the Permitted Encumbrances and BNS Charges, as applicable, including filing such financing change statements in the Prince Edward Island Personal Property Registry ("**PEIPPR**") as may be necessary, from any registration filed against the Debtors in the PEIPPR, provided that the Purchasers shall not be authorized to effect any amendment or discharge that would have the effect of releasing any collateral other than the Purchased Assets, and the Purchasers shall be authorized to take any further steps by way of further application to this Court. The amendment or discharge of the Purchased Assets from the BNS Charges shall be prepared and filed by BNS.

### **Purchase Price**

[31] **ORDERS** that the Purchase Price shall be remitted to the Monitor and shall be distributed in accordance with applicable legislation.

[32] **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the Purchase Price shall stand in the place and stead of the Purchased Assets, and the upon Payment of the Purchase Price by the Purchasers, all Encumbrances, except for the Permitted Encumbrances shall attach to the Purchase Price with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

### **Validity of the Transaction**

[33] **ORDERS** that notwithstanding:

- (i) the pendency of the proceedings;
- (ii) any assignment in bankruptcy or any petition for a bankruptcy order now or hereafter issued pursuant to the Bankruptcy and Insolvency Act (Canada) (the "**BIA**"), and any order issued pursuant to any such petition; or
- (iii) the provisions of any federal or provincial legislation;

the vesting of the Purchased Assets contemplated in this Order, as well as the execution of the Purchase Agreement pursuant to this Order, are to be binding



on any trustee in bankruptcy or receiver that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Debtors, the Monitor or the Purchasers, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

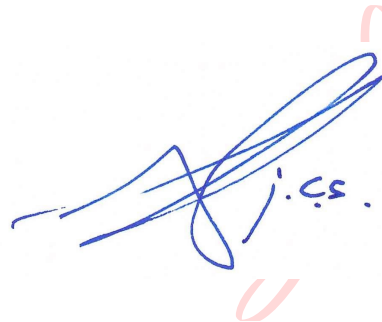
### **Protection of Personal Information**

- [34] **ORDERS** that, pursuant to sub-section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* or any similar provision of any applicable provincial legislation, the Monitor is authorized and permitted to disclose and transfer to the Purchasers all human resources and payroll information in the Debtor's records pertaining to the Vendor's past and current employees. The Purchasers shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtors.

### **General Provisions**

- [35] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.
- [36] **DECLARES** that the Monitor or the Purchasers shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the Monitor shall be the foreign representative of the Debtors. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.
- [37] **REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order.

- [38] **ORDERS** that Exhibit P-5 filed in support of the Application are confidential and are filed under seal until the Closing or further order from this Court.
- [39] **ORDERS** the provisional execution of this Order notwithstanding appeal, and without requirement to provide any security or provision for costs whatsoever.
- [40] **THE WHOLE** without costs.



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**MICHEL A. PINSONNAULT, J.S.C.**

Date of hearing : May 26, 2021