

**SUPERIOR COURT**  
**(Commercial Division)**

**CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL  
No. 500-11-057570-190  
DATE: February 19, 2020**

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**PRESIDING: THE HONOURABLE MARIE-ANNE PAQUETTE, J.S.C.**

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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C 36, AS AMENDED:**

**9348069 CANADA INC.  
-and-  
4295862 CANADA INC.  
-and-  
MOTOVAN CORPORATION**

**Petitioners**

-and-

**MONCY HOLDING COMPANY INC.  
-and-  
MONCY FINANCIAL SERVICES COMPANY INC.  
-and-  
NICHOLS MOTORCYCLE SUPPLY INC.  
-and-  
MONCY LLC  
-and-  
MOTORCYCLE TIRES & ACCESSORIES LLC;  
-and-  
THE REGISTRAR OF THE REGISTER OF PERSONAL AND MOVABLE REAL  
RIGHTS (Québec)**

**Mises en cause**

-and-

**MICROSOFT CANADA**

**Mise en cause**

-and-

**BANK OF MONTREAL**

-and-

**INVESTISSEMENT QUÉBEC**

-and-

**EXPORT DEVELOPMENT CANADA**

-and-

**BDC CAPITAL INC.**

**Secured Creditors**

-and-

**KPMG INC.**

**Monitor**

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**APPROVAL AND VESTING ORDER**

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- [1] **ON READING** the *Petitioners' Motion for an Order Approving the Sale of Motovan Corporation's Assets Outside the Ordinary Course of Business and for a Vesting Order* (the "**Motion**"), the affidavit and the exhibits in support thereof, as well as the Report of the Monitor dated February 13, 2020 (the "**Report**");
- [2] **SEEING** the service of the Motion;
- [3] **SEEING** the submissions of the Debtors, the Monitor and their respective attorneys;
- [4] **SEEING** that it is appropriate to issue an order approving the transactions (the "**Transaction**") contemplated by an agreement titled Offer to Purchase (the "**Purchase Agreement**") by and between Motovan Corporation and Motorcycle Tires & Accessories LLC (collectively the "**Vendor**"), as vendor, and Gestion Claude Bigras Inc. (or an entity to be designated by same) (the "**Purchaser**"), as purchaser, copy of which was filed under seal and is attached to the Report, and vesting in the Purchaser the assets described in the Purchase Agreement (the "**Purchased Assets**").

**WHEREFORE THE COURT:**

- [5] **GRANTS** the Motion;

## SERVICE

- [6] **ORDERS** that any prior delay for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
- [7] **PERMITS** service of this Order at any time and place and by any means whatsoever.

## SALE APPROVAL

- [8] **ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement by the Vendor 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.

## EXECUTION OF DOCUMENTATION

- [9] **AUTHORIZES** the Vendor and the Purchaser 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.

## AUTHORIZATION

- [10] **ORDERS** and **DECLARES** that this Order shall constitute the only authorization required by the Vendor to proceed with the Transaction and that no shareholder or regulatory approval, if applicable, shall be required in connection therewith.

## VESTING OF PURCHASED ASSETS

- [11] **ORDERS** and **DECLARES** that upon the issuance of a Monitor's certificate substantially in the form appended as **Schedule "A"** hereto (the "**Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, charges, hypothecs, deemed trusts, judgments, writs of seizure or execution, notices of sale, contractual rights relating to the Property, encumbrances, whether or not they have been 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* in movable / immovable property, and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Purchased Assets be

cancelled and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate.

- [11] - **ORDERS and DECLARES** that upon the issuance of the Certificate, the rights and obligations of the Vendor under the Agreements listed on **Schedule "B"** hereto (the "**Assigned Agreements**") are assigned to the Purchaser.
- [12] **ORDERS and DIRECTS** the Monitor to serve a copy of this Order to every party to the Assigned Agreements.
- [13] **ORDERS and DIRECTS** the Monitor to file with the Court a copy of the Certificate, forthwith after issuance thereof.

### **CANCELLATION OF SECURITY REGISTRATIONS**

- [14] **ORDERS** the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Certificate, to strike the registrations detailed hereunder in order to allow the transfer to the Purchaser of the Purchased Assets free and clear of such registrations.

<u>Registration</u>	<u>Holder</u>
a) 09-0786475-0001	Bank of Montreal
b) 09-0786475-0004	Bank of Montreal / Export and Development Canada
c) 09-0786475-0006	Bank of Montreal / Export and Development Canada
d) 15-0721260-0001	Bank of Montreal
e) 15-0761886-0001	Bank of Montreal
f) 15-1158615-0002	Bank of Nova-Scotia
g) 17-0794855-0001	BDC Capital Inc.
h) 17-0794855-0002	BDC Capital Inc.
i) 17-1277504-0001	Investissement Québec

### **PROCEEDS**

- [15] **ORDERS** that the proceeds from the sale of the Purchased Assets (the "**Proceeds**") shall be remitted to the Monitor and shall be distributed in accordance with applicable legislation.
- [16] **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the Proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that upon payment of the Purchase Price (as defined in the Purchase Agreement) by the Purchaser, all Encumbrances shall attach to the Proceeds 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**

[17] **ORDERS** that notwithstanding:

- (i) the pendency of these proceedings;
- (ii) any petition for a receiving order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ("**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 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 Vendor, the Purchaser or the Monitor.

### **LIMITATION OF LIABILITY**

[18] **DECLARES** that, subject to other orders of this Court, nothing herein contained shall require the Monitor to occupy or to take control, or to otherwise manage all or any part of the Purchased Assets. The Monitor shall not, as a result of this Order, be deemed to be in possession of any of the Purchased Assets within the meaning of environmental legislation, the whole pursuant to the terms of the *Companies' Creditors Arrangement Act*;

[19] **DECLARES** that no action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Monitor or belonging to the same group as the Monitor shall benefit from the protection arising under the present paragraph;

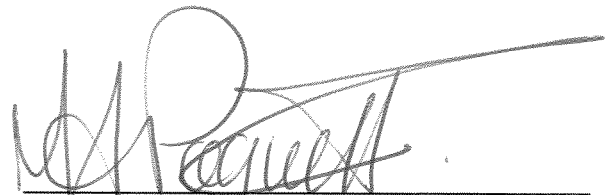
### **GENERAL**

[20] **ORDERS** that the Purchaser or the Monitor shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.

[21] **ORDERS** that the Purchase Agreement be kept confidential and under seal until the earlier of a) the closing of the Transaction; or b) further order of this Court.

- [22] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada;
- [23] **DECLARES** that the Vendor and the Monitor 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 Debtor. 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;
- [24] **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;
- [25] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever;

**THE WHOLE WITHOUT COSTS.**



**MARIE-ANNE PAQUETTE, J.S.C.**

**SCHEDULE "A"**  
**DRAFT CERTIFICATE OF THE MONITOR**

**CANADA**

**PROVINCE OF QUEBEC  
DISTRICT OF MONTRÉAL**

**SUPERIOR COURT**  
Commercial Division

**File: No: 500-11-057570-190**

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**MOTORCYCLE TIRES & ACCESSORIES  
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-and-

**EXPORT DEVELOPMENT CANADA**

-and-

**BDC CAPITAL INC.**

Secured Creditors

-and-

**KPMG INC.**

Monitor

## **CERTIFICATE OF THE MONITOR**

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### **RECITALS:**

**WHEREAS** on December 2, 2019, the Superior Court of Quebec (the "**Court**") issued an initial order (the "**Initial Order**") pursuant to the *Companies' Creditors*



*Arrangement Act* (the "**Act**") in respect of the Petitioners and the Mises en cause (the "**CCAA Parties**");

**WHEREAS** pursuant to the terms of the Initial Order, KPMG Inc. (the "**Monitor**") was named Monitor of the CCAA Parties; and

**WHEREAS** on February 19, 2020, the Court issued an Order (the "**Vesting Order**") thereby, *inter alia*, authorizing and approving the execution by the Petitioners of the transactions (the "**Transaction**") contemplated by an agreement titled Offer to Purchase (the "**Purchase Agreement**") by and between Motovan Corporation and Motorcycle Tires & Accessories LLC (collectively, the "**Vendor**") as vendor, and Gestion Claude Bigras Inc. (or an entity to be designated by same) as purchaser (the "**Purchaser**"), copy of which was filed in the Court record, and into all the transactions contemplated therein (the "**Transaction**") with such alterations, changes, amendments, deletions or additions thereto, as may be agreed to with the consent of the Monitor.

**WHEREAS** the Vesting Order contemplates the issuance of this Certificate of the Monitor once the (a) the Purchase Agreement has been executed and delivered; and (b) the Purchase Price (as defined in the Purchase Agreement) has been paid by the Purchaser; and (c) and all the conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

**THE MONITOR CERTIFIES THAT IT HAS BEEN ADVISED BY THE VENDOR AND THE PURCHASER AS TO THE FOLLOWING:**

- (a) the Purchase Agreement has been executed and delivered;
- (b) the Purchase Price (as defined in the Purchase Agreement) payable upon the closing of the Transaction and all applicable taxes have been paid; and
- (c) all conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

This Certificate was issued by the Monitor at Montréal (Québec) on February ●, 2020.

KPMG in its capacity as monitor, and not in its personal capacity.

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

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**SCHEDULE "B"**  
**ASSIGNED AGREEMENTS**

**Microsoft Windows Server 2019 and USER CAL License  
Contract V8845555**

**Microsoft Office Suite 2019 License  
Contract V2365754**

**Microsoft Exchange Server License  
License Open 64647931**

**Microsoft Exchange USER CAL License  
License Open 64779148**

**Microsoft Windows Server 2012  
Licence Open 64748754 and 65048676**

**Microsoft Windows 10Pro  
License Open 87093645 and 88011723**