

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3,  
as amended**

**B E T W E E N:**

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

Applicant

- and -

**LANWEST MFG. TECHNOLOGIES INC.**

Respondent

**MOTION RECORD  
(Returnable June 14, 2017)  
(CRA Settlement, Interim Distribution, Destruction of Records, Fee Approval)**

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3,  
as amended**

**B E T W E E N:**

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

Applicant

- and -

**LANWEST MFG. TECHNOLOGIES INC.**

Respondent

**MOTION RECORD  
(Returnable June 14, 2017)  
(CRA Settlement, Interim Distribution, Destruction of Records, Fee Approval)**

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**TAB 1**



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3,  
as amended**

**B E T W E E N:**

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

Applicant

- and -

**LANWEST MFG. TECHNOLOGIES INC.**

Respondent

**NOTICE OF MOTION  
(Returnable June 14, 2017)  
(CRA Settlement, Interim Distribution, Destruction of Records, Fee Approval)**

BDO Canada Limited (“**BDO**”), in its capacity as receiver and manager (the “**Receiver**”) of the respondent, Lanwest Mfg. Technologies Inc. (“**Lanwest**”) will make a motion to the Court at 10:00 a.m. on June 14, 2017 on the Commercial List, or as soon after that time as the parties can be heard, at 330 University Avenue, 8<sup>th</sup> Floor, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR** an Order, substantially in the form as attached hereto as Schedule “A”:

- (a) if necessary, abridging and validating the time for service of the Notice of Motion, the Third Report to the Court of the Receiver dated May 17, 2017 (the

“**Third Report**”) and the Motion Record so that this motion is properly returnable today and hereby dispenses with further service thereof;

- (b) approving the settlement between CRA and the Receiver as described in the Third Report (the “CRA Settlement”) on the terms of the Minutes of Settlement and Mutual Release attached as Appendix “F” to the Third Report;
- (c) authorizing the Receiver to execute the Minutes of Settlement and Mutual Release and such other documents and to take such additional steps as may be necessary or desirable to complete, implement and give effect to the CRA Settlement;
- (d) authorizing and directing the Receiver, upon completion of the CRA Settlement, to make an interim distribution to GRE in the total amount of \$3.4 million;
- (e) authorizing and directing the Receiver to pay the net proceeds from the sale of the property located at 107 Greens Road, Caledonia, Ontario (the “**Caledonia Property**”) in the amount of \$536,547.92 to GRE;
- (f) authorizing and directing the Receiver to assign to and distribute, in kind, the promissory note provided by Mr. John Landry in the amount of \$11,000 and the applicable security and registration pursuant to the *Personal Property Security Act* in respect of a motor vehicle sold to Mr. Landry by KPMG Inc., in its capacity as privately appointed receiver of Lanwest (the “Outstanding Vehicle Balance”);
- (g) authorizing the Receiver to execute such documents and take such additional steps as may be necessary or desirable to complete and give effect to the transfer and distribution, in kind, of the Outstanding Vehicle Balance to GRE;
- (h) authorizing and directing the Receiver to destroy Lanwest’s HST filing records, Federal tobacco tax records and Ontario tobacco tax records that are in the possession of the Receiver as described in the Third Report;
- (i) approving the Third Report, and the activities of the Receiver as described therein;

- (j) approving the fees and disbursements of the Receiver and its counsel, as described in the Third Report and the fee affidavits attached as Appendices “H” and “I” thereto; and
- (k) such further and other relief as the Receiver may request and this Court shall deem just.

2. **THE GROUNDS FOR THE MOTION ARE:**

- (a) the Receiver was appointed pursuant to the Appointment Order;
- (b) the Receiver, with the assistance of counsel, has engaged in discussions with the Department of Justice Canada, as counsel for CRA, in an attempt to settle all issues with CRA with respect to the 2014 HST Assessment, the 2016 HST Assessment and the HST Appeal Proceedings all as defined in the Third Report;
- (c) as previously reported, CRA required a total of \$2,000,000 in security from Lanwest in respect of potential taxes owing by Lanwest under the *Excise Tax Act* (Canada). The security consisted of \$1,400,000 in cash security (the “**Cash Security**”) and a bond from GCNA with a value of \$600,000 (the “**CRA Bond**”). Pursuant to the December 2016 Order (as defined in the Third Report), the CRA Bond was cancelled and the funds in support of the CRA Bond have been paid to the Receiver. As further set out in the December 2106 Order, CRA also agreed to pay the Cash Security to the Receiver pending resolution of the claims of the Receiver and CRA against the Cash Security. CRA paid the Cash Security to the Receiver in or about early January 2017;
- (d) a final settlement with CRA has been negotiated with respect to the 2014 HST Assessment, the 2016 HST Assessment and the HST Appeal Proceedings. The material terms of the settlement are as follows:
  - (i) CRA will pay \$2,000,000 of the approximately \$3,366,000 which it seized from Lanwest in July 2014 to the Receiver plus any applicable interest thereon;

- (ii) CRA will vacate the 2016 HST Assessment;
  - (iii) The Receiver will retain, for distribution, the Cash Security;
  - (iv) CRA will withdraw its claim in the Proposal of Lanwest;
  - (v) CRA will not assert a claim against any of the proceeds from the sale of the Caledonia Property;
  - (vi) CRA will not assert any claims in respect of the funds that were held in Lanwest's RBC account #0132 1004662, totaling \$303,315.09;
  - (vii) The HST Appeals will be discontinued without costs;
  - (viii) Mr. Landry will provide an undertaking to CRA not to sell tobacco products to Status Indians without charging and collecting HST; and
  - (ix) GRE and CRA will provide a mutual covenant not to sue in respect of the Minutes of Settlement.
- (e) terms of the settlement as between CRA and the Receiver have been agreed as set out in Minutes of Settlement and a Mutual Release (the "**CRA Settlement**"). A copy of the CRA Settlement documentation is attached as Appendix "F" to the Third Report.
- (f) a considerable amount of records are being maintained by the Receiver with respect to Lanwest's various tax filings for HST, Federal tobacco taxes, Ontario tobacco taxes and Quebec tobacco taxes and the estate continues to pay for the storage of these records;
- (g) as previously reported, the Receiver settled any potential outstanding tobacco tax accounts with The Queen in Right of the Province of Ontario As Represented by the Minister of Finance (the "**Minister**"). Mutual releases were provided by the parties to that settlement. Accordingly, Lanwest's records relating to its Ontario

tobacco tax filings are no longer required to be maintained and stored as all claims by the Ministry have been finally resolved and released;

- (h) if this Court grants the requested order approving the CRA Settlement, there will no longer be a requirement for the Receiver to maintain and store Lanwest's records relating to the Company's HST filings as all claims of CRA with respect to HST will have been finally resolved and released;
- (i) the Minister and CRA have been provided with notice of this motion and the Receiver's request for an order approving the destruction of these books and records of Lanwest;
- (j) following the completion of the CRA Settlement, if approved by this Honourable Court, the Receiver proposes to make a distribution to GRE in the total amount of \$3.4 million, being:
  - (i) \$1.4 million, representing the Cash Security; and
  - (ii) \$2 million representing the funds to be paid by the CRA to the Receiver in respect of the funds seized for the 2014 HST Assessment.
- (k) CRA and the Receiver have settled all claims with respect to the 2014 HST Assessment and the 2016 HST Assessment. As part of the CRA Settlement, CRA has agreed to release any claims it may assert in respect of the lien it registered against the Caledonia Property;
- (l) the Court approved the sale of the Caledonia Property by Order dated February 9, 2016. The Receiver completed the sale of the Caledonia Property on February 15, 2017 and received the net proceeds of \$526,547.92 (the "Net Proceeds"), after the payment of the usual closing adjustments for property taxes, legal fees and commissions. The Receiver has also paid all utilities for the Caledonia Property up to the date of closing of the sale and has cancelled the insurance coverage for the Caledonia Property. Accordingly, there do not appear to be any further costs to be paid with respect to the Caledonia Property. Therefore, the Receiver

proposes to pay the Net Proceeds from the sale of the Caledonia Property to GRE pursuant to its security;

- (m) KPMG, in its capacity as privately appointed receiver of Lanwest, sold a vehicle to Mr. John Landry based on appraised values and with the approval of GRE as secured creditor. The sale price was to be paid by Mr. Landry over time and Mr. Landry provided a promissory note to the receiver for the outstanding balance, which was registered pursuant to the Personal Property Security Act against the vehicle. There is \$11,000 remaining to be paid by Mr. Landry in respect of the sale (the “**Outstanding Vehicle Balance**”). The Receiver proposes to distribute the Outstanding Vehicle Balance to GRE in kind as an \$11,000 permanent reduction in GRE’s outstanding indebtedness;
- (n) the Receiver has reviewed the fees and disbursements of the Receiver’s counsel for the period February 1, 2017 to May 5, 2017 totalling \$9,049.64 including taxes with GRE and GRE has no objection to the payment of the fees.
- (o) the CRA Settlement is reasonable and appropriate in the circumstances;
- (p) the fees and disbursements of the Receiver and its counsel are reasonable in the circumstances and should be approved;
- (q) the facts and recommendations set out in the Third Report;
- (r) Rules 2.03 and 37 of the Ontario Rules of Civil Procedure, R.R.O. 1990, Reg. 194, as amended; and
- (s) such further and other grounds as counsel may advise and this Honourable Court may permit.

3. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the application:

- (a) the Third Report; and
- (b) such further and other material as counsel may advise and this Honourable Court may permit.

DATE: June 7, 2017

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**TAB A**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

THE HONOURABLE ) WEDNESDAY , THE 14TH  
JUSTICE )  
 ) DAY OF JUNE, 2017

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

Applicant

- and -

**LANWEST MFG. TECHNOLOGIES INC.**

Respondent

**ORDER**  
**(CRA Settlement, Interim Distribution, Destruction of Records, Fee Approval)**

**THIS MOTION** made by BDO Canada Limited (“BDO”) in its capacity as receiver and manager (the "Receiver") of the Respondent Lanwest Mfg. Technologies Inc. (“Lanwest”) pursuant to the Order of the Honourable Madam Justice Conway dated October 14, 2016 (the “Appointment Order”) was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Third Report of the Receiver dated May 17, 2017 and the Appendices attached thereto (the “Third Report”) and on hearing the submissions of counsel for the Receiver, the Applicant, Grand River Enterprises Six Nations Limited (“GRE”), and other parties listed on the counsel slip, and on being advised by GRE’s counsel that the Canada Revenue Agency (the “CRA”) consents to the relief requested, no one else appearing although all parties on the service list were duly served as appears from the affidavits of service filed with this Court,

1. THIS COURT ORDERS that the time for service of the Notice of Motion, the Third Report and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that the settlement between CRA and the Receiver as described in the Third Report (the "CRA Settlement") on the terms of the Minutes of Settlement and Mutual Release attached as Appendix "F" to the Third Report is hereby approved.
3. THIS COURT ORDERS that the Receiver is authorized to execute the Minutes of Settlement and Mutual Release and such other documents and to take such additional steps as may be necessary or desirable to complete and implement and give effect to the CRA Settlement.
4. THIS COURT ORDERS that upon completion of the CRA Settlement, the Receiver is authorized and directed to make an interim distribution to GRE in the total amount of \$3.4 million.
5. THIS COURT ORDERS that the Receiver is authorized and directed to pay the net proceeds from the sale of the property located at 107 Greens Road, Caledonia, Ontario in the amount of \$536,547.92 to GRE.
6. THIS COURT ORDERS that the Receiver is authorized and directed to assign to and distribute, in kind, the promissory note provided by Mr. John Landry in favour of the Receiver in the amount of \$11,000 and the applicable security and registration pursuant to the *Personal Property Security Act* in respect of a motor vehicle sold to Mr. Landry by KPMG Inc., in its capacity as privately appointed receiver of Lanwest (the "Outstanding Vehicle Balance").
7. THIS COURT ORDERS that the Receiver is authorized to execute such documents and take such additional steps as may be necessary or desirable to complete and give effect to the transfer and distribution in kind of the Outstanding Vehicle Balance to GRE.
8. THIS COURT ORDERS that the Receiver is authorized and directed to destroy Lanwest's HST filing records, Federal Tobacco tax records and Ontario Tobacco tax records that are in the possession of the Receiver.

9. THIS COURT ORDERS that the Third Report, and the activities of the Receiver as described therein, be and are hereby approved.

10. THIS COURT ORDERS that the fees and disbursements of the Receiver and its counsel, as described in the Third Report and the fee affidavits attached as Appendices "H" and "I" thereto, be and are hereby approved.

---

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

- and -

**LANWEST MFG. TECHNOLOGIES INC.**

Applicant

Respondent

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

Proceeding commenced at Toronto

**ORDER**

**(CRA Settlement, Interim Distribution, Destruction of  
Records, Fee Approval)**

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Applicant

Respondent

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

Proceeding commenced at Toronto

**NOTICE OF MOTION  
(CRA SETTLEMENT, INTERIM DISTRIBUTION,  
DESTRUCTION OF RECORDS, FEE APPROVAL)  
(RETURNABLE JUNE 14, 2017)**

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**TAB 2**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**BETWEEN:**

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

Applicant

- and -

**LANWEST MFG. TECHNOLOGIES INC.**

Respondent

**IN THE MATTER OF AN APPLICATION UNDER  
SUBSECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985 c. B-3 AND  
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. 43**

**THIRD REPORT TO THE COURT  
SUBMITTED BY BDO CANADA LIMITED,  
IN ITS CAPACITY AS RECEIVER AND MANAGER OF**

**LANWEST MFG. TECHNOLOGIES INC.**

**MAY 17, 2017**

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## 1.0 INTRODUCTION AND PURPOSE OF REPORT

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### 1.1 Introduction

- 1.1.1 This is the Third Report to Court (the “Third Report”) of BDO Canada Limited (“BDO”) in its capacity as the receiver and manager (the “Receiver”) of Lanwest Mfg. Technologies Inc. (“Lanwest” or the “Company”) pursuant to the Order of the Honourable Madam Justice Conway dated October 14, 2016 (the “Appointment Order”) a copy of which is attached as Appendix “A”. Further background regarding Lanwest is set out in the affidavit of Bryan Porter sworn October 7, 2016 (the “Porter Affidavit”) and in the Receiver’s First Report to the Court dated December 8, 2016 (the “First Report”). Copies of the Porter Affidavit (without Exhibits) and the First Report (without Appendices) are attached as Appendix “B” and Appendix “C” respectively. The Court approved the First Report and granted the relief sought therein in its order dated December 16, 2016 (the “December 2016 Order”). A copy of the December 2016 Order is attached as Appendix “D”.
- 1.1.2 The Receiver’s Second Report to the Court was filed on February 6, 2017 along with the confidential supplement to the Second Report (collectively the “Second Report”). The Second Report dealt primarily with the sale of Lanwest’s owned property located at 107 Greens Road, Caledonia, Ontario (the “Caledonia Property”). The Court approved the Second Report and granted an order dated February 9, 2017 (the “February 2017 Order”) approving the sale of the Caledonia Property and vesting the Caledonia Property in the purchaser. A copy of the February Order is attached as Appendix “E”.
- 1.1.3 Lanwest had historically sold certain of its products to Status Indians, as defined by the *Indian Act* (Canada), residing on the Ohsweken Reserve near Caledonia and did not charge HST/GST on those sales as provided for under the *Indian Act*. In the fall of 2013, the Canada Revenue Agency (“CRA”) commenced an audit of Lanwest’s HST returns for the period January 1, 2010 to September 30, 2013. As a result of this audit, CRA claimed that the sales by Lanwest to Status Indians on the Ohsweken Reserve should not be exempt from the charging of HST pursuant to the *Indian Act*. This resulted in CRA issuing certain Notices of Assessment in the spring of 2014 for unremitted HST on sales to Status Indians on the Ohsweken Reserve in the total amount of approximately \$33 million (the “2014 HST Assessment”).
- 1.1.4 In May 2014, Lanwest filed a Notice of Objection to the 2014 HST Assessment and requested that CRA allow the dispute to proceed directly to the Tax Court of Canada (the “Tax Court”) by way of appeal. On July 2, 2014, CRA consented to the dispute proceeding directly to the Tax Court. On July 22, 2014, Millar Kreklewetz LLP, Lanwest’s tax litigation counsel, filed an appeal of the assessment with the Tax Court (the “HST Appeal Proceedings”). The HST Appeal Proceedings are ongoing pending the resolution of the settlement discussed in greater detail in Section 4.
- 1.1.5 On June 30, 2014, CRA issued a requirement to pay to the Royal Bank of Canada (“RBC”) in the amount of approximately \$33 million (the “Requirement to Pay”). This resulted in the freezing of Lanwest’s operating bank account and the payment to CRA of approximately \$3.36 million on deposit in the accounts. Consequently, Lanwest had no funds with which to operate. Accordingly, in order to stabilize its operations and allow it to continue operating, on July 28, 2014, Lanwest filed a Notice of Intention to Make

a Proposal (“NOI”) pursuant to the *Bankruptcy and Insolvency Act* (Canada) (“BIA”). KPMG Inc. (“KPMG”) was appointed as trustee (in such capacity the “Proposal Trustee”) in respect of the proposal proceedings (the “Proposal Proceedings”).

- 1.1.6 On or about July 22, 2014, CRA registered a lien in the amount of \$347,814.02 in respect of the 2014 HST Assessment against Lanwest’s owned property at 107 Greens Road, Caledonia, Ontario (the “Caledonia Property”).
- 1.1.7 On October 10, 2014, Lanwest filed its proposal (the “Proposal”) in the Proposal Proceedings. The Proposal was unanimously approved by Lanwest’s creditors at the meeting of creditors on October 30, 2014. The Proposal was approved by the Court pursuant to an Order of the Honourable Mr. Justice Newbould dated December 4, 2014. Lanwest funded the proposal and received a certificate of full performance on December 19, 2014. Payments to creditors with claims of \$5,000 or less were paid from the proposal funds. The claims of the remaining creditors under the Proposal are awaiting the resolution of the HST Appeal Proceedings before they can be paid as the dividend to be paid to those creditors is dependent on the potential quantum, if any, of CRA’s claim in respect of HST.
- 1.1.8 By the summer of 2015 it became apparent that Lanwest’s sales and operations were deteriorating and on July 22, 2015 Lanwest’s primary secured creditor, the Applicant, Grand River Enterprises Six Nations Limited (“GRE”), issued a demand and notice pursuant to section 244 of the BIA. Lanwest was unable to repay its indebtedness to GRE and, consequently, on September 18, 2015, GRE appointed KPMG as private receiver (the “Private Receiver”). At that time, all of Lanwest’s operations were shut down.
- 1.1.9 CRA also performed an audit of Lanwest’s HST for the period starting from the date of the last assessment, October 1, 2013, to September 21, 2015. An assessment for this period was issued on July 18, 2016 (the “2016 HST Assessment”). The 2016 HST Assessment alleged that Lanwest owed HST in the amount of \$1,409,119.44 for the period.
- 1.1.10 On July 21, 2016 Lanwest filed an assignment in bankruptcy and BDO was appointed as trustee (the “Bankruptcy Trustee”). The Bankruptcy Trustee filed a notice of objection to the 2016 HST Assessment on October 7, 2016 (the “Notice of Objection”), a copy of which was attached to the Porter Affidavit filed with the Court.
- 1.1.11 Lanwest also has ongoing appeals of three pre-proposal assessments by Revenu Quebec in respect of tobacco taxes assessed by Revenu Quebec for tobacco sales in Quebec for the period July, 2003 to September, 2006 (the “Quebec Assessments”). Lanwest appealed the Quebec Assessments in January 2007 (the “Quebec Appeal”). Revenu Quebec had letters of credit totaling \$550,000 in support of any claims for tobacco taxes. Also, Revenu Quebec filed a proof of claim in the Proposal Proceedings in respect of this outstanding assessment. The Proposal Trustee is awaiting the result of the Quebec Appeal and therefore, has not allowed nor disallowed the Revenu Quebec claim. By September 15, 2016, Revenu Quebec had demanded on the two letters of credit and received the related funds from RBC. RBC in turn liquidated their security in the form of Lanwest’s GIC’s and realized on that security.
- 1.1.12 As a result of the numerous insolvency proceedings, the various claims by government tax authorities against Lanwest’s assets putting approximately \$8,000,000 posted by

Lanwest as security at issue and the general complexity of the estate, GRE commenced the application for the court appointment of the Receiver and determined that it would terminate the private receivership.

## **1.2 Purpose of this Report**

**1.2.1** This Third Report is filed by the Receiver in support of the relief sought by the Receiver on this motion, as set out below in paragraph 6.1, and to:

- Report on the completion of the sale of the Caledonia Property;
- Report on the settlement reached with CRA regarding the 2014 HST Assessment and the 2016 HST Assessment;
- Report on the status of the Company's books and records;
- Report on the Receiver's Statement of Receipts and Disbursements as at April 25, 2017 (the "R&D");
- Request the Court's approval of the Receiver's proposed distribution to GRE; and,
- Report on the fees and disbursements of the Receiver and its Counsel as outlined in this Third Report.

## 2.0 SETTLEMENT WITH CANADA REVENUE AGENCY

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- 2.1 The Receiver, with the assistance of counsel, has engaged in discussions with the Department of Justice Canada, as counsel for CRA, in an attempt to settle all issues with CRA with respect to the 2014 HST Assessment, the 2016 HST Assessment and the HST Appeal Proceedings.
- 2.2 As described in the First Report, CRA required a total of \$2,000,000 in security from Lanwest in respect of potential taxes owing by Lanwest under the *Excise Tax Act* (Canada). The security consisted of \$1,400,000 in cash security (the “Cash Security”) and a bond from GCNA with a value of \$600,000 (the “CRA Bond”). Pursuant to the December 2016 Order, the CRA Bond was cancelled and the funds in support of the CRA Bond have been paid to the Receiver. As further set out in the December 2106 Order, CRA also agreed to pay the Cash Security to the Receiver pending resolution of the claims of the Receiver and CRA against the Cash Security. CRA paid the Cash Security to the Receiver in or about early January 2017.
- 2.3 After a motion was scheduled with respect to CRA’s claims of set off against the Cash Security for the amounts allegedly owing by Lanwest in respect of the 2016 HST Assessment, the Receiver and the Department of Justice Canada engaged in discussions with a view to resolving these claims. At the request of CRA, the Receiver provided various documentation and information in response to the 2016 HST Assessment which, in the Receiver’s view, demonstrated that substantially all of the amount assessed was not owing. CRA reviewed the Receiver’s evidence and confirmed that the maximum possible amount owing under the 2016 HST Assessment is approximately \$12,000. As part of the overall settlement of the matters with CRA, it was agreed that the 2016 HST Assessment would be withdrawn and no amounts would be assessed for the time periods covered by the 2016 HST Assessment.
- 2.4 A final settlement with CRA has been negotiated with respect to the 2014 HST Assessment, the 2016 HST Assessment and the HST Appeal Proceedings. The material terms of the settlement are as follows:
- CRA will pay \$2,000,000 of the approximately \$3,366,000 which it seized from Lanwest in July 2014 to the Receiver plus any applicable interest thereon;
  - CRA will vacate the 2016 HST Assessment;
  - The Receiver will retain, for distribution, the Cash Security;
  - CRA will withdraw its claim in the Proposal;
  - CRA will not assert a claim against any of the proceeds from the sale of the Caledonia Property;
  - CRA will not assert any claims in respect of the funds that were held in Lanwest’s RBC account #0132 1004662, totaling \$303,315.09;
  - The HST Appeals will be discontinued without costs;



- Mr. Landry will provide an undertaking to CRA not to sell tobacco products to Status Indians without charging and collecting HST; and,
- GRE and CRA will provide a mutual covenant not to sue in respect of the Minutes of Settlement.

2.5 The Receiver and CRA have agreed that the terms of settlement for the 2014 HST Assessment and the 2016 HST Assessment described above will be documented in one comprehensive Minutes of Settlement and Mutual Release (the “CRA Settlement”). A copy of the CRA Settlement documentation is attached as Appendix “F”.

### 3.0 LANWEST BOOKS AND RECORDS

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- 3.1 A considerable amount of records are being maintained by the Receiver with respect to Lanwest's various tax filings for HST, Federal tobacco taxes, Ontario tobacco taxes and Quebec tobacco taxes and the estate continues to pay for the storage of these records.
- 3.2 As set out in the First Report, the Receiver settled any potential outstanding tobacco tax accounts with The Queen in Right of the Province of Ontario As Represented by the Minister of Finance (the "Minister"). Mutual releases were provided by the parties to that settlement. Accordingly, Lanwest's records relating to its Ontario tobacco tax filings are no longer required to be maintained and stored as all claims by the Ministry have been finally resolved and released.
- 3.3 If this Court grants the requested order approving the CRA Settlement, there will no longer be a requirement for the Receiver to maintain and store Lanwest's records relating to the Company's HST filings as all claims of CRA with respect to HST will have been finally resolved and released.
- 3.4 The Minister and CRA have been provided with notice of this motion and the Receiver's request for an order approving the destruction of these books and records of Lanwest.
- 3.5 Accordingly, the Receiver requests that the Court grant an order approving the destruction of Lanwest's HST filing records; Federal tobacco tax records; and, Ontario tobacco tax records. The Receiver will continue to maintain Lanwest's Quebec tobacco tax records until the outstanding issues with Revenu Quebec have been resolved.

## **4.0 RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS AND PROPOSED DISTRIBUTION**

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### **4.1 Receiver's Statement of Receipts and Disbursements**

- 4.1.1 Attached as Appendix "G" is a summary of the Receiver's Statement of Receipts and Disbursements for the period October 14, 2016 to April 25, 2017. As is illustrated, receipts total approximately \$8,792,000, primarily related to the Ontario Settlement, the Cash Security, the funds transferred by KPMG in its capacity as privately appointed receiver, the funds in Lanwest account #0132 1004662, the sale of the Caledonia Property, and the funds received from RBC in respect of the CRA Bond.
- 4.1.2 The Receiver has made disbursements of approximately \$337,000, primarily for the sale and costs to maintain the Caledonia Property and legal and Receiver's fees. The Receiver has distributed approximately \$6,113,000 to GRE pursuant to the previous orders of the Court. Accordingly, as at April 25, 2017 the Receiver has net funds in its trust account of approximately \$2,342,000.

### **4.2 Proposed Distribution**

- 4.2.1 Following the completion of the CRA Settlement, if approved by this Honourable Court, the Receiver proposes to make a distribution to GRE in the total amount of \$3.4 million, being:
- (i) \$1.4 million, representing the Cash Security; and,
  - (ii) \$2 million representing the funds to be paid by the CRA to the Receiver in respect of the funds seized for the 2014 HST Assessment.
- 4.2.2 As described in greater detail above, CRA and the Receiver have settled all claims with respect to the 2014 HST Assessment and the 2016 HST Assessment. As part of the CRA Settlement, CRA has agreed to release any claims it may assert in respect of the lien it registered against the Caledonia Property.
- 4.2.3 As noted above, the Court approved the sale of the Caledonia Property in the February Order. The Receiver completed the sale of the Caledonia Property on February 15, 2017 and received the net proceeds of \$526,547.92 (the "Net Proceeds"), after the payment of the usual closing adjustments for property taxes, legal fees and commissions. The Receiver has also paid all utilities for the Caledonia Property up to the date of closing of the sale and has cancelled the insurance coverage for the Caledonia Property. Accordingly, there do not appear to be any further costs to be paid with respect to the Caledonia Property. Therefore, the Receiver proposes to pay the Net Proceeds from the sale of the Caledonia Property to GRE pursuant to its security.
- 4.2.4 KPMG, in its capacity as privately appointed receiver of Lanwest, sold a vehicle to Mr. John Landry based on appraised values and with the approval of GRE as secured creditor. The sale price was to be paid by Mr. Landry over time and Mr. Landry provided a promissory note to the receiver for the outstanding balance, which was registered pursuant to the Personal Property Security Act against the vehicle. There is \$11,000 remaining to be paid by Mr. Landry in respect of the sale (the "Outstanding Vehicle

Balance”). The Receiver proposes to distribute the Outstanding Vehicle Balance to GRE in kind as an \$11,000 permanent reduction in GRE’s outstanding indebtedness.

- 4.2.5 If the Court grants an order approving the CRA Settlement and permitting the Receiver to make the proposed distributions, GRE will still be owed in excess of \$2 million in respect of its secured loans to Lanwest. The only remaining assets in the Lanwest estate are: (i) the funds seized by Revenu Quebec in respect of Provincial tobacco taxes; and, (ii) Lanwest’s production equipment. Based on the potential value of these assets, it is unlikely there will be any funds available for unsecured creditors.

## **5.0 FEES OF RECEIVER AND ITS COUNSEL**

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- 5.1 Pursuant to paragraph 19 of the Appointment Order, any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees and disbursements of the Receiver and its Counsel are secured by the “Receiver’s Charge”. The fees and disbursements of the Receiver for the period February 1, 2017 to April 30, 2017 are detailed in the affidavit of Brad Newton, a copy of which is attached as **Appendix “H”**. The fees and disbursements of the Receiver’s Counsel for the period February 1, 2017 to May 5, 2017 are detailed in the affidavit of Colleen Yamashita, a copy of which is attached as **Appendix “I”**.
- 5.2 The Receiver’s fees for the period February 1, 2017 to April 30, 2017 encompass 53.2 hours at an average hourly rate of approximately \$379.40 and disbursements of \$23.35 for a total of \$20,207.65, prior to applicable taxes. The Receiver is therefore requesting that this Honourable Court approve its total fees inclusive of applicable taxes in the amount of \$22,834.65.
- 5.3 The Receiver’s Counsel’s fees for the period February 1, 2017 to May 5, 2017 encompass 16.85 hours at an average hourly rate of approximately \$469.88 and disbursements of \$91.89 for a total of \$8,009.39, prior to applicable taxes. The Receiver is therefore requesting that this Honourable Court approve Counsel’s total fees and disbursements inclusive of taxes in the amount of \$9,049.64.
- 5.4 The Receiver has reviewed the above noted fees and disbursements with GRE and GRE has no objection to the payment of the fees.

## 6.0 RECOMMENDATIONS

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- 6.1 The Receiver respectfully submits this Third Report to the Court in support of the Receiver's motion for an Order:
- Approving the CRA Settlement and authorizing and directing the Receiver to execute the Minutes of Settlement and Mutual Release and to implement the CRA Settlement;
  - Approving the destruction of the Company's books and records as described in Section 3 of this Third Report;
  - Approving the R&D;
  - Approving the proposed distribution of \$3.4 million to GRE;
  - Approving the proposed distribution of the Net Proceeds to GRE;
  - Approving the proposed distribution of the Outstanding Vehicle Balance to GRE;
  - Approving the fees and disbursements of the Receiver and its Counsel, as outlined herein; and,
  - Approving the Receiver's activities as outlined in this Third Report.

All of which is respectfully submitted this 17<sup>th</sup> day of May, 2017.

**BDO CANADA LIMITED**  
**COURT-APPOINTED RECEIVER AND MANAGER OF**  
**LANWEST MFG. TECHNOLOGIES INC.**  
and without personal or corporate liability

Per:   
Brad Newton, CA CPA CBV CIRP LIT  
Vice President

# Appendix A

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ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) FRIDAY, THE 14TH  
JUSTICE CONWAY ) DAY OF OCTOBER, 2016

GRAND RIVER ENTERPRISES SIX NATIONS LIMITED

Applicant

- and -

LANWEST MFG. TECHNOLOGIES INC.

Respondent

**ORDER**  
**(appointing Receiver)**

**THIS APPLICATION** made by the Applicant, Grand River Enterprises Six Nations Limited ("**GRE**") for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing BDO Canada Limited ("**BDO**") as receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of Lanwest Mfg. Technologies Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Bryan Porter sworn October 7, 2016 (the "**Porter Affidavit**") and the Exhibits thereto and on hearing the submissions of counsel for GRE, and other parties listed on the counsel slip, no else one appearing for although all parties on the service list were duly served as appears from the affidavits of service filed with this Court and on reading the consent of BDO to act as the Receiver,



## SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

## APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**").

## RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby 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, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property including, but not limited to, the real property of the Debtor known municipally as 107 Greens Road, Caledonia, Ontario and as more particularly described in PIN#38154-0217 in the Haldimand Land Registry Office (No. 18) (the "**Caledonia Property**"); all equipment of the Debtor related to the production and manufacture of tobacco products (the "**Equipment**"), wherever located, and bank account number 0132 1004662 at the Royal Bank of Canada ("**RBC**");
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent

security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) 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 without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) 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 such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) 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;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority he

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conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) 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 in its discretion may deem appropriate, including the Caledonia Property, which the Receiver is hereby authorized and directed to list, market or otherwise dispose of at its discretion;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (l) 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 thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) 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, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, 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, including, KPMG Inc. ("KPMG") in its capacities as Proposal Trustee and Private Receiver of the Debtor (all of the foregoing, collectively, being "Persons" and each being 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 to the Receiver upon the Receiver's request with the exception of the funds held by

KPMG in its capacity as privately appointed receiver which funds will be transferred to BDO in its capacity as court-appointed receiver pursuant to a further order of the Court.

5. THIS COURT ORDERS that the Receiver is hereby authorized and directed to execute and implement the terms of the Minutes of Settlement between the Debtor, Her Majesty The Queen In Right Of the Province of Ontario As Represented by the Minister of Finance (the "**Minister**") and RBC, as more particularly described in and attached as Exhibit "P" to the Porter Affidavit, as amended (the "**Minutes of Settlement**"). Upon execution of the Minutes of Settlement, the Minister shall forthwith pay the amount of \$4,404,461.67 to the Receiver, and RBC shall forthwith pay the amount of \$1,212,538.33 to the Receiver and upon receipt of such funds, the Receiver shall pay the amount of \$5,617,000 to GRE as a permanent reduction to the amounts owed by the Debtor to GRE under its security.

6. THIS COURT ORDERS that all Persons, 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 business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 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 the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by 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 onto paper 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 in its discretion require including 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. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

9. THIS COURT ORDERS that 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.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

10. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

11. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the

Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVER**

12. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

#### **CONTINUATION OF SERVICES**

13. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

#### **RECEIVER TO HOLD FUNDS**

14. THIS COURT ORDERS that 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 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.

## **EMPLOYEES**

15. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

16. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall 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

17. THIS COURT ORDERS that nothing herein contained 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 respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. 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 it is actually in possession.

### LIMITATION ON THE RECEIVER'S LIABILITY

18. THIS COURT ORDERS that 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 for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. 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

19. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of

this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

20. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

22. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

23. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

24. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

25. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

### SERVICE AND NOTICE

26. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '[@](#)'.

27. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## GENERAL

28. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. THIS COURT ORDERS that KPMG is hereby discharged as Proposal Trustee of the Debtor and BDO is hereby appointed as Proposal Trustee of the Debtor in the BIA proposal proceedings of the Debtor in Superior Court of Justice File No. 32-1895126 and the funds currently held by KPMG in its capacity as Proposal Trustee will be transferred to BDO in its capacity as replacement Proposal Trustee pursuant to a further order of the Court.

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

31. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. THIS COURT ORDERS that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

33. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party

likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

A handwritten signature in cursive script, appearing to read "Conway", is written over a horizontal line.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

OCT 14 2016

PER / PAR: 

**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an action having Court file number \_\_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[RECEIVER'S NAME], solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_

Name:

Title:

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

- and -

**LANWEST MFG. TECHNOLOGIES INC.**

Applicant

Respondent

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

Proceeding commenced at Toronto

**ORDER  
(appointing Receiver)**

**BLAKE, CASSELS & GRAYDON LLP**  
Barristers & Solicitors  
Box 40, Commerce Court West  
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Lawyers for Grand River Enterprises Six Nations  
Limited



## Appendix B

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C.  
1985, c. B-3, as amended**

**BETWEEN:**

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

**Applicant**

**-and-**

**LANWEST MFG. TECHNOLOGIES INC.**

**Respondent**

**AFFIDAVIT OF BRYAN PORTER  
(Re: Receivership Application)  
(Sworn October 7, 2016)**

**I, BRIAN PORTER, of the Village of Oshweken, in the Province of Ontario,  
MAKE OATH AND SAY:**

**INTRODUCTION**

1. I am the Chief Financial Officer of the applicant, Grand River Enterprises Six Nations Limited ("GRE") and as such, I have knowledge of the matters to which I hereinafter depose. Where this affidavit is not based on actual knowledge, it is based on information and belief, the source of which I have identified, and I verily believe it to be true.

2. This affidavit is sworn in support of this application by GRE, the first secured creditor of the respondent Lanwest Mfg. Technologies Inc. ("Lanwest"), seeking, among other things, the appointment of BDO Canada Limited ("BDO") as receiver and manager of Lanwest (the "Receiver") pursuant to section 243 of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"). As set out below, BDO is the

trustee in bankruptcy of Lanwest (the "Bankruptcy Trustee"). KPMG Inc. ("KPMG") is the Proposal Trustee in the Proposal Proceedings and Private Receiver of Lanwest (as such terms are defined below).

3. It is the position of GRE that the appointment of the Receiver is necessary, just and convenient to, among other things, facilitate the orderly and efficient resolution of outstanding issues between Lanwest and the following government taxation authorities, all of which is described in greater detail below:

- i. the Canada Revenue Agency (the "CRA"), which continues to hold \$1,400,000 in the form of cash security and has a potential claim on a \$600,000 bond it holds as security for any excise tax amounts owing by Lanwest although the CRA has confirmed that no excise tax amounts are owing. This is in addition to a claim by the CRA for \$29,837,740.90 with respect to HST for the period prior to the Proposal Proceedings which remains subject to proceedings before the Tax Court of Canada and another Notice of Assessment delivered by the CRA in late July 2016 also claiming \$1,455,126.91 for the period prior to the Proposal Proceedings;
- ii. Revenue Quebec, which called on and collected \$300,000 from a letter of credit provided by Lanwest and continues to hold another letter of credit in the amount of \$250,000 as security for any tobacco tax amounts owed by Lanwest to Revenue Quebec. Revenue Quebec also delivered an assessment for the period prior to the Proposal Proceedings in the amount of \$900,000 which Lanwest has appealed. Further, the Private Receiver filed two Statements of Adjustment with Revenue Quebec in March

2016 which indicate that Lanwest is entitled to a refund of \$10,000; and

- iii. Her Majesty The Queen In Right Of the Province of Ontario As Represented by the Minister of Finance (the "Minister") which has substantially agreed to the terms of a settlement agreement with Lanwest and the Royal Bank of Canada ("RBC") which would provide for the return of over \$4,700,000 to Lanwest which was collected by the Minister under two letters of credit and an additional residual letter of credit in the amount of \$890,000; however, the settlement agreement has not been finalized and the funds have not been returned given concerns raised by the Minister regarding the capacity of Lanwest and/or the Proposal Trustee to enter into the Minutes of Settlement in light of the subsequent bankruptcy of Lanwest.

4. The Bankruptcy Trustee, the Proposal Trustee and the Private Receiver have been engaged in ongoing efforts with these taxation authorities with a view to resolving these issues. To date, these issues remain outstanding.

5. Security in the form of cash, bonds or letters of credit in the aggregate amount of approximately \$8,000,000 remains at issue between Lanwest and these three taxation authorities. The appointment of the Receiver would permit the Receiver, under the Court's supervision, to take possession of the cash and other forms of security described above and provide one forum to address, determine and/or resolve the claims and entitlements of all parties, including GRE and the taxation authorities. This would also permit the Receiver to take possession and sell or otherwise dispose of Lanwest's remaining real property, equipment and any other assets for the benefit of all stakeholders.

6. I am advised by the Bankruptcy Trustee and the Proposal Trustee that they support the relief sought on this application.

THE COMPANY

7. Lanwest is a corporation incorporated pursuant to the laws of Ontario which, for over 10 years, manufactured and sold tobacco products, including cigarettes and loose-leaf non-tobacco products, at premises located in Caledonia, Ontario and Hamilton, Ontario. Lanwest historically sold certain of its products to Status Indians (as defined in the *Indian Act* (Canada)) residing on the Six Nations of the Grand River Reserve located in Oshweken, Ontario.

8. Lanwest ceased operations on or about September 18, 2015.

THE GRE SECURITY AND PRIVATE RECEIVERSHIPS

9. GRE is a corporation incorporated pursuant to the laws of Canada which manufactures tobacco products with its head office located in Oshweken, Ontario on the Six Nations of the Grand River Reserve. Pursuant to a general security agreement dated March 6, 2014 (the "March Security"), GRE advanced funds to Lanwest prior to the commencement of the Proposal Proceedings. A copy of the March Security is attached hereto as Exhibit "A".

10. On July 14, 2014, GRE delivered a Notice of Intention to Enforce Security under the March Security in the amount of \$10,122,808.34 pursuant to Section 244(1) of the BIA (a "Section 244 Notice") to Lanwest. A copy of the Notice of Intention to Enforce Security and Consent and Waiver executed by Lanwest are attached hereto as Exhibit "B".

11. Pursuant to a letter of appointment dated July 24, 2014, a copy of which is attached hereto as Exhibit "C", GRE appointed KPMG as private receiver and

manager under the March Security over all of the assets of Lanwest. This private receivership appointment terminated on March 4, 2015.

12. Pursuant to the terms of the Proposal (as defined below) and as set out in a Commitment Letter dated December 19, 2014, Lanwest agreed to provide a Promissory Note in favour of GRE equal to GRE's Proven Secured Claim in the Proposal Proceedings in the amount of \$9,913,616 and GRE agreed to continue to provide credit to Lanwest (the "Commitment Letter"). Lanwest also agreed to provide replacement security in favour of GRE pursuant to a general security agreement dated December 19, 2014 substantially on the same terms as the March Security (the "December Security"). Copies of the Commitment Letter, the Promissory Note and the December Security are attached hereto as Exhibit "D".

13. On July 22, 2015, GRE delivered a demand and a Section 244 Notice in the amount of \$12,090,674.68 under the December Security to Lanwest, copies of which are attached hereto as Exhibit "E".

14. Pursuant to a letter of appointment dated September 18, 2015, a copy of which is attached hereto as Exhibit "F", GRE appointed KPMG as private receiver and manager under the December Security over all of the assets of Lanwest (the "Private Receiver"). If this Court approves the appointment of BDO as the Receiver, GRE intends to terminate the appointment of the Private Receiver.

15. As of August 8, 2016, Lanwest was indebted to GRE under the December Security in the amount of \$12,596,490.45 plus interest, costs, legal fees and expenses, which continue to accrue and for an unsecured amount of \$428,215.88.

16. Attached hereto as Exhibit "G" is a copy of a PPSA Registry Search of Lanwest current as of October 6, 2016.

#### THE PROPOSAL PROCEEDINGS

17. On July 28, 2014, Lanwest commenced the proposal proceedings under the BIA by filing a Notice of Intention to Make A Proposal to its Creditors pursuant to section 50.4(1) of the BIA (the "Proposal Proceedings"), a copy of which is attached hereto as Exhibit "H". KPMG consented to act and was appointed as the Proposal Trustee (the "Proposal Trustee"). At the hearing of this application, GRE intends to request that this Court grant an Order terminating the appointment of KPMG as Proposal Trustee and appointing BDO as Proposal Trustee.

18. By letter dated October 14, 2014, the Proposal Trustee sent a Notice of Proposal to Creditors advising that Lanwest had filed a proposal to its creditors (the "Proposal") and advising of the First Meeting Of Creditors on October 30, 2014 (the "First Meeting Of Creditors"). A copy of the letter, the Notice of Proposal, the Proposal and the Trustee's Report on the Proposal are attached hereto as Exhibit "I".

19. The Proposal was approved unanimously by Lanwest's creditors at the First Meeting of Creditors and approved pursuant to the Order of the Honourable Mr. Justice Newbould dated December 4, 2014 (the "Proposal Approval Order"), a copy of which is attached hereto as Exhibit "J".

20. Payments to Lanwest's creditors under the Proposal are awaiting the determination of a claim in the Proposal by CRA in the amount of approximately \$31,000,000 with respect to HST for the aggregate period January 1, 2010- September 30, 2013 prior to the commencement of the Proposal Proceedings which is currently the subject of proceedings before the Tax Court of Canada (the "Tax Court Proceedings").

#### THE BANKRUPTCY PROCEEDINGS

21. On July 21, 2016, Lanwest filed an assignment in bankruptcy and BDO was appointed as Bankruptcy Trustee (the "Bankruptcy Proceedings"). A copy of the Certificate of Appointment is attached hereto as Exhibit "K".

**CANADA REVENUE AGENCY**

**Cash Security and Bond**

22. As described in the letter dated July 28, 2016 from the Private Receiver to the CRA (the "July 28 Letter"), a copy of which is attached hereto as Exhibit "L", the CRA continues to hold cash security of Lanwest in the amount of \$1,400,000 (the "CRA Cash Security") and a bond from the Guarantee Company of North America ("GCNA") in the amount of \$600,000 (the "CRA Bond"). The CRA Cash Security and the CRA Bond were provided by Lanwest to the CRA as security for any obligations incurred by Lanwest under the *Excise Tax Act* (Canada) with respect to its license to manufacture and warehouse tobacco products and its operations. As security for the CRA Bond, Lanwest provided Letter of Credit No. 304829 issued by RBC and cash in the amount of \$600,000 held in a GIC by RBC.

23. As set out in the July 28 Letter and the correspondence and documentation attached to the July 28 Letter, CRA has completed final audits of Lanwest and has confirmed that no amounts are owing; Lanwest's tobacco and excise warehouse licenses have been cancelled; and Lanwest ceased operations over one year ago. Accordingly, it is the position of GRE, the Proposal Trustee and the Bankruptcy Trustee that there is no need for the CRA to retain the CRA Cash Security and the CRA Bond. However, notwithstanding requests by the Private Receiver for the immediate return of the Cash Security and the CRA Bond, the CRA has not done so.

24. As such, GRE, supported by the Proposal Trustee and the Bankruptcy Trustee, requests that the CRA be directed to deliver the CRA Cash Security and the CRA Bond to the Receiver, and that RBC deliver Letter of Credit No. 304829 and the amount of \$600,000 to the Receiver, which the Receiver would hold pending the determination or resolution of any priority claims.

**Notice of Assessment**



25. In addition to CRA's claim for HST which is the subject of the Tax Court Proceedings described above, by letter to Lanwest dated July 19, 2016, and to the Private Receiver dated July 21, 2016, the CRA delivered a Notice of Assessment and related documentation in which it claimed \$1,465,126.94 with respect to HST for the period November 30, 2014–October 31, 2015, after the commencement of the Proposal Proceedings (the "July NOA"). Copies of CRA's correspondence and related documentation are attached hereto as Exhibit "M". The CRA holds no security for this claim.

26. On or about October 7, 2016, the Bankruptcy Trustee filed a Notice of Objection, with respect to the July NOA, a copy of which is attached hereto as Exhibit "N". As set out in the Notice of Objection, it is the position of the Bankruptcy Trustee that there is no basis for the CRA's claim: i.) there was no deemed disposition of property by Lanwest in September 2014 and therefore no HST owing for such deemed disposition; ii.) there were no HST input tax credits claimed on the loan from GRE that have not been or will not be paid when the applicable portion of the loan is repaid and therefore, no HST input tax credits to reverse; and iii.) input tax credits were paid on all invoices where input tax credits were claimed by Lanwest.

#### REVENUE QUEBEC

27. Revenue Quebec has received proceeds in the amount of \$550,000 under letters of credit provided by Lanwest as security for any amounts which may be owed to Revenue Quebec. Revenue Quebec filed an assessment in the amount of \$900,000 which it claims is owed by Lanwest for the period prior to the commencement of the Proposal Proceedings which has been appealed by Lanwest.

28. By letter to Revenue Quebec dated March 15, 2016, a copy of which is attached hereto as Exhibit "O", the Private Receiver filed two Statements of Adjustment with respect to Quebec tobacco tax and sales tax which indicate that

Lanwest is entitled to a refund of \$10,000. To date, the Private Receiver has not received a response from Revenue Quebec

29. If appointed, the Receiver will continue discussions with Revenue Quebec with a view to resolving these outstanding issues.

ONTARIO MINISTER OF FINANCE

30. In order to obtain the licenses and registrations from the Minister required to manufacture, sell and import certain tobacco products, Lanwest obtained irrevocable letters of credit in favour of the Minister in the aggregate amount of \$5,617,000 (the "Letters of Credit") as security for any obligations-incurred by Lanwest under the *Tobacco Tax Act* (Ontario).

31. On or about October 23, 2015, the Minister collected approximately \$4,726,253.40 with respect to a claim by the Minister which had been previously disallowed by the Proposal Trustee in the Proposal Proceedings which the Minister did not appeal. As a result of extensive discussions between Lanwest, the Proposal Trustee and the Minister, the parties substantially agreed on the terms of Minutes of Settlement, a copy of which are attached hereto as Exhibit "P". The Minutes of Settlement provide for the payment of the aggregate amount of \$5,617,000 which includes the return of the funds collected by the Minister in their entirety and the release of the balance of funds under a residual letter of credit.

32. The Minutes of Settlement have not been finalized and the funds have not been returned to Lanwest given concerns raised by the Minister with respect to the capacity of Lanwest and/or the Proposal Trustee to enter into and carry out the Minutes of Settlement given the subsequent commencement of the Bankruptcy Proceedings. Further, RBC was subsequently added as a party to the Minutes of Settlement. Accordingly, GRE requests that this Court authorize and direct the Receiver to enter into and carry out the terms of the Minutes of Settlement and to direct the Minister and

RBC, as applicable, to pay the funds to the Receiver which the Receiver, if appointed, will pay to GRE as a permanent reduction of the amounts owed to it under the December Security and in particular, the repayment of the equipment loan of \$1,775,000 plus HST.

**CALEDONIA PROPERTY AND EQUIPMENT**

33. Lanwest is the registered owner of certain real property located in Caledonia, Ontario which is currently vacant and was used primarily for storage (the "Caledonia Property"). A copy of the PIN for the Caledonia Property dated October 4, 2016 is attached hereto as Exhibit "Q". The CRA registered a lien on title with respect to its HST claim in the Tax Court Proceedings.

34. On this application, GRE requests that the Receiver, if appointed, be authorized and directed to take possession of the Caledonia Property for the purpose of listing it with a real estate broker or otherwise marketing it for sale. Any proceeds from the sale of the Caledonia Property would be held by the Receiver pending determination or resolution of priority claims and entitlements, including CRA.

35. Lanwest is also the owner of certain equipment for the manufacture and production of tobacco products, including production lines (the "Equipment"). As set out in the Manufacturer Registration Certificate issued by the Minister (the "MRC"), a copy of which, together with a list of the Equipment, is attached hereto as Exhibit "R", the Equipment can only be sold to another party with a valid MRC and is currently being stored at leased facilities located in Simcoe, Ontario.

36. On this application, GRE requests that the Receiver, if appointed, be authorized and directed to take possession of the Equipment in order to secure it pending discussions with the Minister and any other necessary parties with a view to

ultimately selling or otherwise disposing of the Equipment with the proceeds to be held pending determination or resolution of any priority claims and entitlements.

37. Lanwest also has bank account number 01312 1004662 at the Royal Bank of Canada which was garnished by CRA in or about July 2014 with respect to the CRA's HST claim in the Tax Court Proceedings. Similarly, GRE requests that the Receiver be authorized and directed to take possession of this bank account pending determination or resolution of any claims or entitlements.

**CONCLUSION**

38. For the reasons described above, GRE requests the appointment of the Receiver and the other relief sought on this application.

39. I swear this affidavit in support of this application by GRE for, among other things, the appointment of the Receiver and for no other purpose.

SWORN BEFORE ME at the Village )  
of Ohswéken in the Province of Ontario )  
this 7<sup>th</sup> day of October, 2016. )

  
\_\_\_\_\_  
Harriette E. Codrington  
A Commissioner for Taking Oaths, etc.

  
\_\_\_\_\_  
BRYAN PORTER

## Appendix C

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**BETWEEN:**

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

Applicant

- and -

**LANWEST MFG. TECHNOLOGIES INC.**

Respondent

**IN THE MATTER OF AN APPLICATION UNDER  
SUBSECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985 c. B-3 AND  
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. 43**

**FIRST REPORT TO THE COURT  
SUBMITTED BY BDO CANADA LIMITED,  
IN ITS CAPACITY AS RECEIVER AND MANAGER OF  
LANWEST MFG. TECHNOLOGIES INC.**

**DECEMBER 8, 2016**

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## **1.0 INTRODUCTION AND PURPOSE OF REPORT**

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### **1.1 Introduction**

- 1.1.1** This is the First Report to Court (the "First Report") of BDO Canada Limited ("BDO") in its capacity as the receiver and manager (the "Receiver") of Lanwest Mfg. Technologies Inc. ("Lanwest" or the "Company") pursuant to the Order of the Honourable Madam Justice Conway dated October 14, 2016 (the "Appointment Order") a copy of which is attached as Appendix "A". Further background regarding Lanwest is set out in the affidavit of Bryan Porter sworn October 7, 2016 (the "Porter Affidavit") a copy of which (without Exhibits) is attached as Appendix "B". The Porter Affidavit was filed with the Court in support of the application by Grand River Enterprises Six Nations Limited ("GRE"), the first secured creditor of Lanwest, for the appointment of the Receiver.
- 1.1.2** Lanwest was in business for over 10 years as a manufacturer of tobacco products, including cigarettes, and loose leaf non-tobacco products. Lanwest sold its cigarettes under the brand name of "Podium". Lanwest's primary cigarette manufacturing facility operated from leased premises at 29 Industrial Drive, Caledonia, Ontario. Lanwest also operated two divisions: Grysto Wholesale Cash and Carry division ("Grysto") and Shisha division ("Shisha"). Grysto sold bulk tobacco products made by Lanwest and purchased from third party licensed suppliers and, sold grocery products purchased from third party suppliers. Grysto operated from leased premises at 401 Grays Rd., Hamilton, Ontario. Shisha formerly sold a form of vaporising product with minimal tobacco content. Shisha operated from owned premises at 107 Greens Road, Caledonia. Shisha ceased production in or about December 2014 and the last sales of Shisha product were made in or about August 2015. Grysto ceased operations in or about June, 2015 and Lanwest ceased operations in September, 2015.
- 1.1.3** Lanwest had historically sold certain of its products to Status Indians, as defined by the *Indian Act* (Canada), residing on the Ohsweken Reserve near Caledonia and did not charge HST/GST on those sales as provided for under the *Indian Act*. In the fall of 2013, the Canada Revenue Agency ("CRA") commenced an audit of Lanwest's HST returns for the period January 1, 2010 to September 30, 2013. As a result of this audit, CRA claimed that the sales by Lanwest to Status Indians on the Ohsweken Reserve should not be exempt from the charging of HST pursuant to the *Indian Act*. This resulted in CRA issuing certain notices of assessment in the spring of 2014 for unremitted HST on sales to Status Indians on the Ohsweken Reserve in the total amount of approximately \$33 million (the "2014 HST Assessment").
- 1.1.4** In May 2014, Lanwest filed a Notice of Objection to the 2014 HST Assessment and requested that CRA allow the dispute to proceed directly to the Tax Court of Canada (the "Tax Court") by way of appeal. On July 2, 2014, CRA consented to the dispute proceeding directly to the Tax Court. On July 22, 2014, Millar Kreklewetz LLP, counsel for Lanwest for this litigation, filed an appeal of the assessment with the Tax Court (the "HST Appeal Proceedings"). The HST Appeal Proceedings are ongoing.
- 1.1.5** On June 30, 2014, CRA issued a requirement to pay to the Royal Bank of Canada ("RBC") in the amount of approximately \$33 million (the "Requirement to Pay"). This resulted in the freezing of Lanwest's operating bank account and the payment to CRA

of approximately \$3.35 million on deposit in the accounts. Consequently, Lanwest had no funds with which to operate. Accordingly, in order to stabilize its operations and allow it to continue operating, on July 28, 2014, Lanwest filed a Notice of Intention to Make a Proposal ("NOI") pursuant to the *Bankruptcy and Insolvency Act* (Canada) ("BIA"). KPMG Inc. ("KPMG") was appointed as trustee (in such capacity the "Proposal Trustee") in respect of the proposal proceedings (the "Proposal Proceedings").

- 1.1.6 On or about July 22, 2014, CRA registered a lien in the amount of \$347,814.02 in respect of the 2014 HST Assessment against Lanwest's owned property at 107 Greens Road, Caledonia, Ontario (the "Caledonia Property").
- 1.1.7 Following the filing of the NOI, Lanwest contacted numerous financial institutions in order to open a new operating bank account. Due to the nature of the Company's business (tobacco) and the Requirement to Pay, the Company was unable to open a new account at any of the non-RBC institutions contacted and RBC was concerned that the Requirement to Pay would extend to any accounts opened by Lanwest.
- 1.1.8 KPMG investigated the possibility of opening an account as a private receiver of Lanwest at RBC and was advised that it could do so and that the account would not be subject to the Requirement to Pay. Accordingly, in order to obtain access to a bank account to facilitate Lanwest's receipts and disbursements, on July 30, 2014, Lanwest consented to the appointment of KPMG as private receiver of Lanwest (in such capacity the "Private Receiver") on a limited basis.
- 1.1.9 On October 10, 2014, Lanwest filed its proposal (the "Proposal") in the Proposal Proceedings. The Proposal was unanimously approved by Lanwest's creditors at the meeting of creditors on October 30, 2014. The proposal was approved by the Court pursuant to an Order of the Honourable Mr. Justice Newbould dated December 4, 2014 (the "Proposal Approval Order"). Payments to creditors with claims of \$5,000 or less were paid from the proposal funds. The claims of the remaining creditors under the Proposal are awaiting the resolution of the HST Appeal Proceedings before they can be paid as the dividend to be paid to those creditors is dependent on the potential quantum, if any, of CRA's claim in respect of HST.
- 1.1.10 On November 3, 2014, Her Majesty The Queen In Right of the Province of Ontario As Represented by the Minister of Finance (the "Minister") filed a claim in the Proposal Proceedings for \$5,717,000 with respect to pre-filing amounts alleged to be owing by Lanwest pursuant to the *Tobacco Tax Act (Ontario)* (the "Minister's Claim"). On or about April 17, 2015, the Proposal Trustee delivered a Notice of Disallowance to the Minister, disallowing the Minister's Claim in its entirety on the basis it was a contingent claim and no supporting evidence was provided with the Minister's Claim. The Minister did not appeal the Notice of Disallowance.
- 1.1.11 As a result of the successful Proposal, the Private Receiver transferred the operating cash flow responsibilities back to Lanwest and the privately appointed receivership terminated on March 4, 2015.
- 1.1.12 Pursuant to the terms of the Proposal, Lanwest agreed to provide a Promissory Note in favour of GRE equal to GRE's proven secured claim and GRE agreed to continue to provide credit to Lanwest. Lanwest agreed to provide replacement security in favour of GRE pursuant to a general security agreement dated December 19, 2014.

1.1.13 By the summer of 2015 it became apparent that Lanwest's sales and operations were deteriorating and on July 22, 2015 GRE issued a demand and notice pursuant to section 244 of the BIA. Lanwest was unable to repay its indebtedness to GRE and, consequently, on September 18, 2015, GRE again appointed KPMG as Private Receiver. At that time, all of Lanwest's operations were shut down.

1.1.14 At the time of the Private Receiver's appointment, Lanwest had various funds on deposit with RBC in support of numerous letters of credit. All but one of these letters of credit were provided to Federal and Provincial tax authorities as security for taxes on sales of tobacco products to be collected by Lanwest. The chart below summarizes the various letters of credit that were issued by RBC in respect of Lanwest and the related GIC's that were deposited by Lanwest with RBC as security for the letters of credit:

Summary of Lanwest L/C's and GIC's		
Amounts in CDN \$ 000's unless otherwise stated		
<u>Letters of Credit</u>		
Revenu Quebec	\$	550
Minister of Finance Alberta		300
Guarantee Company of North America		600
Sobey's Capital		150
Minister of Finance Ontario		5,617
<b>Total</b>	<b>\$</b>	<b>7,217</b>
<u>GIC's held by Royal Bank of Canada</u>		
022	\$	4,763
023		2,004
<b>Total</b>	<b>\$</b>	<b>6,767</b>
021	U.S.	500
<b>Total</b>	<b>U.S. \$</b>	<b>500</b>

1.1.15 The letters of credit issued to Sobey's Capital ("Sobey's") and the Alberta Minister of Finance ("Alberta") have already been cancelled with no claims made against those letters of credit. RBC has paid the security in respect of the Sobey's and Alberta letters of credit to the Private Receiver.

1.1.16 On or about October 9, 2015, the Minister completed an audit of Lanwest's Ontario tobacco tax accounts (the "Ontario Tobacco Audit") which resulted in a claim by the Minister that tobacco taxes were owed for the period prior to the filing of the NOI. On or about October 14, 2015, the Minister issued demand letters to RBC demanding that \$4,726,253.40 be paid from the letters of credit issued to the Minister in respect of the assessment related to the Ontario Tobacco Audit.

1.1.17 RBC paid the funds to the Minister and in turn liquidated Lanwest's GIC's that were held by RBC as security for the letters of credit. Over the following 10 months, the Proposal Trustee and the Private Receiver engaged in negotiations with the Minister and RBC for the return of the funds and the release of the remainder of the letters of

credit that were held by the Minister. The Minutes of Settlement and related payments with respect to this settlement were approved in the Appointment Order.

- 1.1.18 During the fall of 2015, CRA conducted audits of Lanwest's tobacco tax licenses under business numbers 8647 20818 RD001 and RD0002. The results of the audits were provided in two letters dated December 21, 2015, wherein CRA confirmed that there were no adjustments arising from the audits. CRA also issued assessments confirming there were no adjustments on the accounts but only the assessment for account 8647 20818 RD0002 was received. Despite requests for copies of the other assessment by the Private Receiver, no copies of the second assessment have been received. Copies of the letters for both accounts and the assessment for account 8647 20818 RD002 are attached as Appendix "C" (the "CRA Letters").
- 1.1.19 CRA also performed an audit of Lanwest's HST for the period starting from the date of the last assessment, October 1, 2013, to September 21, 2015. An assessment for this period was issued on July 18, 2016 (the "2016 HST Assessment"). The 2016 HST Assessment alleged that Lanwest owed HST in the amount of \$1,409,119.44 for the period.
- 1.1.20 On July 21, 2016 Lanwest filed an assignment in bankruptcy and BDO was appointed as trustee (the "Bankruptcy Trustee"). The Bankruptcy Trustee filed a notice of objection to the 2016 HST Assessment on October 7, 2016 (the "Notice of Objection"), a copy of which was attached to the Porter Affidavit filed with the Court.
- 1.1.21 Lanwest also has ongoing appeals of three pre-proposal assessments by Revenu Quebec in respect of tobacco taxes assessed by Revenu Quebec for tobacco sales in Quebec for the period July, 2003 to September, 2006 (the "Quebec Assessments"). Lanwest appealed the Quebec Assessments in January 2007 (the "Quebec Appeal"). As noted above, Revenu Quebec had letters of credit totaling \$550,000 in support of any claims for tobacco taxes. Also, Revenu Quebec filed a proof of claim in the Proposal Proceedings in respect of this outstanding assessment. The Proposal Trustee is awaiting the result of the Quebec Appeal and therefore, has not allowed nor disallowed the claim. By September 15, 2016, Revenu Quebec had demanded on their letters of credit and received the related funds from RBC. RBC in turn liquidated their security in the form of Lanwest's GIC's and realized on that security.
- 1.1.22 As a result of the numerous insolvency proceedings, the various claims by government tax authorities against Lanwest's assets putting approximately \$8,000,000 posted by Lanwest as security at issue and the general complexity of the estate, GRE commenced the application for the appointment of the Receiver and determined that it would terminate the private receivership. Among other things, paragraph 29 of the Appointment Order also replaced KPMG with BDO as Proposal Trustee such that all active insolvency estates for Lanwest are administered by BDO.
- 1.1.23 There are certain funds that have been paid or the Receiver has requested will be paid to the Receiver to be held by the Receiver pending further order of the Court. In addition, there is certain property that will be sold by the Receiver and the proceeds will be held by the Receiver pending further order of the Court. Accordingly, any claims for priority against those funds that could be raised should be filed with the Receiver for review and should not be filed against the original holder of the funds or

property and the original holder of the funds or property should be released from any claims. The Receiver intends to develop a claims bar process in respect of those funds and proceeds that will be the subject of a future motion.

## **1.2 Purpose of this Report**

**1.2.1** This First Report is filed by the Receiver in support of the relief sought by the Receiver on this motion, as set out below in paragraph 7.1, and to:

- Report on the Receiver's activities to date;
- Report on the finalization of the Minutes of Settlement between Lanwest, the Minister and RBC;
- Report on the cash security held by CRA in respect of tobacco taxes exigible under the *Excise Act, 2001* (Canada) (the "Excise Act");
- Report on the bond issued by the Guarantee Company of North America ("GCNA") to CRA as security in respect of tobacco taxes exigible under the Excise Act (the "CRA Bond");
- Report on the funds held by KPMG in its capacities as Private Receiver and former Proposal Trustee; and,
- Report on the fees and disbursements of the Receiver and its Counsel as outlined in this First Report.

## 2.0 RECEIVER'S ACTIVITIES

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2.1 In addition to the activities discussed later in this Report, the Receiver has also performed the following:

- Informed Revenu Quebec of the Receiver's appointment and received the contact information for their counsel in respect of the Quebec Appeal so that the Receiver could commence settlement discussions, if appropriate;
- Informed the facility that is storing the Lanwest production equipment of the Receiver's appointment and informed them that all invoices are to be sent to the Receiver;
- Informed CRA of the Receiver's appointment and requested a new HST account for the Receiver;
- Informed the telephone and utility companies that supply utilities to the Caledonia Property of the Receiver's appointment and requested that all invoices be sent to the Receiver;
- Arranged to have the locks at the Caledonia Property changed;
- Arranged insurance for the equipment and real property;
- Informed the Office of the Superintendent of Bankruptcy of the Receiver's appointment;
- Pursuant to paragraph 26 of the Appointment Order, the Receiver has set up a case website with the URL <http://www.extranets.bdo.ca/lanwest/> and uploaded the pertinent documents relating to the court appointed receivership, the bankruptcy and the proposal;
- The Private Receiver sold a vehicle to Mr. John Landry, the sole director of Lanwest, at market value with the agreement of GRE. The payment of the total purchase price of \$28,000 plus HST was to be paid over several months. The Receiver has obtained post-dated cheques from Mr. Landry to pay the outstanding purchase price pursuant to the purchase and sale agreement. HST with respect to this sale has already been remitted to CRA by the Private Receiver; and,
- Informed the records storage company of the Receiver's appointment and requested that all invoices be sent to the Receiver.

2.2 Pursuant to paragraph 3(j) of the Appointment Order, the Receiver was authorized and directed to market and sell the Caledonia Property. To that end, the Receiver has arranged for three listing agents to review the property and provide listing proposals to the Receiver. The Receiver has obtained a copy of an appraisal prepared for the Company dated August 2014, which was used in the Proposal Proceedings. The Receiver will also be requisitioning a current appraisal of the Caledonia Property.

- 2.3 At the time of the Receiver's appointment, Lanwest did not have any employees. However, at the time of the Private Receiver's appointment in September 2015 there were nine employees remaining. At that time the employees had claims related solely to unsecured termination and severance pay as there were no outstanding wages or vacation pay. Accordingly, in October 2015 the Private Receiver filed claims for the employees under the *Wage Earner Protection Program Act* (Canada) ("WEPPA") for those unsecured claims. Subsequently, Service Canada paid the employees' claims under WEPPA and accordingly, Service Canada now has an unsecured claim in the bankruptcy of Lanwest.
- 2.4 As set out above, the HST Appeal Proceedings are ongoing. The Receiver and CRA have agreed to exchange documents by December 31, 2016 and that the appeal will be stayed until March 31, 2017. This stay will provide Lanwest and CRA with time to explore a settlement with respect to the HST Appeal Proceedings and any other outstanding issues between Lanwest and CRA, subject to final Court approval.



### ***3.0 SETTLEMENT WITH THE MINISTER OF FINANCE***

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- 3.1 Pursuant to paragraph 5 of the Appointment Order, the Receiver was authorized and directed to execute and implement the terms of the Minutes of Settlement between Lanwest, the Minister and RBC, as amended. At the return of the application for the Appointment Order, RBC requested that the Minutes of Settlement be amended to reflect the payment of its costs in dealing with these issues. RBC is entitled under its security to receive its costs as a priority charge over the assets of the Company and can set off any claims for these costs against the cash in its possession. Accordingly, the Receiver has agreed that the Minutes of Settlement would be amended to permit RBC to be paid its costs with the net funds after payment of these costs remitted to the Receiver. Accordingly, on this motion, the Receiver requests that paragraph 5 of the Appointment Order be amended to take into account RBC's costs, in particular, to amend the amount of funds paid by RBC to the Receiver and by the Receiver to GRE.
- 3.2 The Receiver expects to receive the funds from both the Minister and RBC as set out in the amended Minutes of Settlement if the Appointment Order is amended as requested. Accordingly, pursuant to paragraph 5 of the Appointment Order, once the funds are received by the Receiver, the Receiver will distribute those funds to GRE as a permanent reduction of the amounts owing by Lanwest to GRE pursuant to GRE's security.



## **4.0 FUNDS AND BOND HELD BY CANADA REVENUE AGENCY**

- 4.1 As described in the Porter Affidavit, CRA required a total of \$2 million in security from Lanwest in respect of its Federal Tobacco License. The break-down of the security is detailed in the documents from CRA that are attached as Appendix "D" (the "CRA Security Documents"). The CRA Security Documents confirm that CRA is holding \$1.4 million in cash security (the "Cash Security") for potential taxes owing by Lanwest under the *Excise Act* (the "Federal Tobacco Taxes") and a bond (the "CRA Bond") with a value of \$600,000 from GCNA.
- 4.2 As noted above, during the fall of 2015, CRA conducted audits of Lanwest's tobacco tax licenses under business numbers 8647 20818 RD001 and RD002. As set out in the CRA Letters, the CRA confirmed there were no changes to the accounts resulting from the audits. Based on the CRA Letters, the Private Receiver sent a letter to CRA on July 28, 2016 requesting that CRA pay the Cash Security held by CRA on behalf of Lanwest and release the CRA Bond (the "July 28 Letter"). A copy of the July 28 Letter is attached as Appendix "E". The Private Receiver did not receive a response to the July 28 Letter.
- 4.3 The terms of the CRA Bond require GCNA to provide CRA with thirty days' notice of its intention to terminate the CRA Bond. The terms also provide that any demands under the CRA Bond shall be made to GCNA within one year following the date of termination. On September 16, 2015, GCNA sent the thirty day notice to CRA informing them that the bond was being cancelled (the "Bond Cancellation Notice"). CRA confirmed receipt of the Bond Cancellation Notice on September 22, 2015, resulting in the cancellation being effective thirty days later on October 22, 2015. A copy of the Bond Cancellation Notice is attached as Appendix "F" and a copy of the CRA Bond is attached as Appendix "G". Accordingly, pursuant to the terms of the CRA Bond, CRA had one year from the date on which the Bond Cancellation Notice became effective, until October 22, 2016, to make a claim under the GCNA Bond. The one year time period to make any claims under the CRA Bond has now passed and GCNA has advised the Receiver that CRA did not make any claims under the bond as at the date this report was written. Accordingly, the CRA Bond is now cancelled and any claims under the CRA Bond should be forever barred and extinguished.
- 4.4 GCNA holds a letter of credit issued by RBC on behalf of Lanwest in the amount of \$600,000 (the "Letter of Credit") as security for any payments made in respect of the CRA Bond. RBC holds funds from Lanwest in the form of a GIC or cash as security in respect of the Letter of Credit in the amount of approximately \$600,000 (the "Lanwest Bond Security").
- 4.5 As noted above, there appear to be no amounts owing to CRA for Federal Tobacco Taxes and the CRA Bond has been cancelled and any claims that could have been made against it should be barred. Accordingly, on this motion, the Receiver requests that the Cash Security held by CRA be paid to the Receiver and that the CRA Bond be returned to GCNA. Once the CRA Bond has been returned to GCNA, GCNA no longer requires the Letter of Credit and the Letter of Credit should be returned to RBC. Once the Letter of Credit is returned to RBC, RBC no longer requires the Lanwest Bond Security and the Lanwest Bond Security should be liquidated and the resulting funds paid to the Receiver.

- 4.6 BDO, in its capacity as Trustee in Bankruptcy, had GRE's security reviewed by independent counsel, Scarfone Hawkins LLP, in August, 2016. Scarfone Hawkins LLP concluded that the security was valid and enforceable. A copy of the security opinion is attached as Appendix "H".
- 4.7 Accordingly, if the funds are received from CRA and RBC as set out above, the Receiver proposes to pay those funds to GRE as a partial loan repayment under GRE's security. As of August 8, 2016, Lanwest remains indebted to GRE in the amount of \$12,596,490.45 pursuant to GRE's security, upon which interest and costs continue to accrue.

## **5.0 FUNDS HELD BY KPMG INC.**

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- 5.1 KPMG, in its capacity as Private Receiver has realized on certain of Lanwest's assets to date. Accordingly, the Private Receiver continues to hold funds which have not been distributed. Pursuant to paragraph 3 (a) of the Appointment Order, the Receiver was authorized and directed to take possession of any and all proceeds, receipts and disbursements arising out of or from the property of Lanwest except, as set out in paragraph 4 of the Appointment Order, any funds in the hands of the Private Receiver which will be transferred to the Receiver pursuant to further order of the Court. To that end, the Private Receiver has prepared its statement of receipts and disbursements as at November 15, 2016 showing a net balance of funds on hand of \$202,523.63. A copy of the Private Receiver's statement of receipts and disbursements is attached as Appendix "I". GRE has advised the Receiver that upon transfer of these funds, GRE intends to terminate KPMG's appointment as Private Receiver.
- 5.2 KPMG is also in possession of the funds remaining in Lanwest's Proposal. Paragraph 29 of the Appointment Order provides that the funds currently being held by KPMG in its capacity as Proposal Trustee will be transferred to BDO in its capacity as the replacement Proposal Trustee pursuant to further order of the Court. The statement of receipts and disbursements as at November 15, 2016 of KPMG in its capacity as Proposal Trustee, attached as Appendix "J", shows that KPMG currently holds \$505,488.25 in respect of the Lanwest Proposal.
- 5.3 Accordingly, on this motion, the Receiver requests that the Court authorize and direct KPMG to transfer the funds in its possession to the Receiver.

## **6.0 FEES OF RECEIVER AND ITS COUNSEL**

- 6.1** Pursuant to paragraph 19 of the Appointment Order, any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees and disbursements of the Receiver and its Counsel, constitute the "Receiver's Charge". The fees and disbursements of the Receiver for the period to November 4, 2016 are detailed in the affidavit of Brad Newton, a copy of which is attached as Appendix "K". The fees and disbursements of the Receiver's Counsel for the period ended November 11, 2016 are detailed in the affidavit of Colleen Yamashita, a copy of which is attached as Appendix "L".
- 6.2** The Receiver's fees to November 4, 2016 encompass 76.9 hours at an average hourly rate of approximately \$389.35 for a total of \$29,940.80, prior to applicable taxes. The Receiver is therefore requesting that this Honourable Court approve its total fees inclusive of applicable taxes in the amount of \$33,833.10.
- 6.3** The Receiver's Counsel's fees to November 11, 2016 encompass 57.4 hours at an average hourly rate of approximately \$445.30 and disbursements of \$76.43 for a total of \$25,636.43, prior to applicable taxes. The Receiver is therefore requesting that this Honourable Court approve Counsel's total fees and disbursements inclusive of taxes in the amount of \$28,967.09.
- 6.4** The Receiver has reviewed the above noted fees and disbursements with GRE and GRE has no objection to the payment of the fees.


## 7.0 RECOMMENDATIONS

7.1 The Receiver respectfully submits this First Report to the Court in support of the Receiver's motion for an Order:

- Amending paragraph 5 of the Appointment Order to account for RBC's costs;
- Directing CRA to pay the Cash Security to the Receiver for distribution to GRE;
- Declaring that the time for the making of claims under the CRA Bond has expired, any claims under the CRA Bond are barred and forever extinguished and requiring CRA to deliver the GCNA Bond to GCNA forthwith;
- Authorizing and directing GCNA to deliver the Letter of Credit to RBC once it has received the CRA Bond from CRA;
- Authorizing and directing RBC to liquidate the Lanwest Bond Security and pay the resulting funds of approximately \$600,000 to the Receiver for distribution to GRE in accordance with the order of the Court once RBC has received the Letter of Credit from GCNA;
- Authorizing and directing KPMG in its capacities as Private Receiver and former Proposal Trustee to pay the funds in its possession in respect of Lanwest to the Receiver;
- Requiring that any party with a claim against any assets or funds held by the Receiver must file that claim with the Receiver, and any parties that provided the assets or funds to the Receiver shall be released from any claims with respect to such assets or funds upon delivery of such assets or funds to the Receiver;
- Approving the Receiver's activities as outlined in this First Report; and
- Approving the fees and disbursements of the Receiver and its Counsel, as outlined herein.

All of which is respectfully submitted this 8<sup>th</sup> day of December, 2016.

**BDO CANADA LIMITED**  
**COURT-APPOINTED RECEIVER AND MANAGER OF**  
**LANWEST MFG. TECHNOLOGIES INC.**  
and without personal or corporate liability

Per:   
Brad Newton, CA CPA CBV CIRP LIT  
Vice President

## Appendix D

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ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE ) FRIDAY , THE 16TH  
JUSTICE *Neuberger* ) DAY OF DECEMBER, 2016  
)

GRAND RIVER ENTERPRISES SIX NATIONS LIMITED

Applicant

- and -

LANWEST MFG. TECHNOLOGIES INC.

Respondent

**ORDER**

**(Re: Minister of Finance Settlement, CRA Cash Security and Bond, KPMG Funds)**

THIS MOTION made by BDO Canada Limited ("BDO") in its capacity as receiver and manager (the "Receiver") of the Respondent Lanwest Mfg. Technologies Inc. ("Lanwest") pursuant to the Order of the Honourable Madam Justice Conway dated October 14, 2016 (the "Appointment Order") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Receiver dated December 8, 2016 and the Appendices attached thereto (the "First Report") and on hearing the submissions of counsel for the Applicant, Grand River Enterprises Six Nations Limited ("GRE"), and other parties listed on the counsel slip, and on being advised by GRE's counsel that the Canada Revenue Agency (the "CRA") agrees to pay the \$1,400,000 cash security to the Receiver which the Receiver shall hold in an interest bearing trust account and which payment is without prejudice to the CRA's claim

to those funds, no else one appearing although all parties on the service list were duly served as appears from the affidavits of service filed with this Court,

### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Motion, the First Report and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

### **MINISTER OF FINANCE SETTLEMENT**

2. THIS COURT ORDERS that paragraph 5 of the Appointment Order be and is hereby amended to read as follows: "THIS COURT ORDERS that the Receiver is hereby authorized and directed to execute and implement the terms of the Minutes of Settlement between the Debtor, Her Majesty The Queen In Right Of the Province of Ontario As Represented by the Minister of Finance (the "**Minister**") and RBC, as more particularly described in and attached as Exhibit "P" to the Porter Affidavit, as amended (the "**Minutes of Settlement**"). Upon execution of the Minutes of Settlement, the Minister shall forthwith pay the amount of \$4,404,461.67 (the "**Minister Amount**") to the Receiver, and RBC shall forthwith pay the amount of \$15,000 *mu J.* less an amount not to exceed ~~\$10,000~~ (including HST) with respect to RBC's reasonable costs (the "**RBC Amount**") to the Receiver and upon receipt of such funds, the Receiver shall pay the Minister Amount and the RBC Amount to GRE as a permanent reduction to the amounts owed by the Debtor to GRE under its security."

### **CRA BOND**

3. THIS COURT ORDERS AND DECLARES that the time to make claims under Bond No. #TM0003011571 in the amount of \$600,000 issued by The Guarantee Company of North America ("**GCNA**") on behalf of Lanwest in favour of Her Majesty in Right of Canada, Her Heirs and Successors As Represented By The Minister of National Revenue of Canada (the "**Bond**") has expired and that the Bond be and is hereby cancelled.



4. THIS COURT ORDERS AND DECLARES that: the Bond is null and void; no claims may be made against the Bond; and all claims that were or could have been made against the Bond are forever barred and extinguished.

5. THIS COURT ORDERS that, upon receipt of the Bond, GCNA be and is hereby authorized and directed to forthwith deliver Irrevocable Standby Letter of Credit No. P304829T04117, as amended, issued by RBC in favour of GCNA (the "Letter of Credit") to RBC.

6. THIS COURT ORDERS that, upon receipt of the Letter of Credit, RBC be and is hereby authorized and directed to forthwith deliver the amount of \$600,000 representing cash security paid by Lanwest to RBC in respect of the Letter of Credit to the Receiver, \$500,000 of which the Receiver shall pay to GRE as a permanent reduction to the amounts owed by Lanwest to GRE under its security and \$100,000 of which the Receiver shall retain to pay Lanwest's expenses and the costs of these proceedings.

#### **FUNDS FROM PRIVATE RECEIVER AND FORMER PROPOSAL TRUSTEE**

7. THIS COURT ORDERS that KPMG Inc. ("KPMG") is hereby authorized and directed to deliver the funds in its possession in its capacities as former Proposal Trustee of Lanwest and Private Receiver of Lanwest, as set out in the First Report and the Statements of Receipts and Disbursements attached as Appendices "I" and "J" thereto, to the Receiver, subject to any amendments and adjustments as the Receiver and KPMG may agree.

#### **CLAIMS AGAINST FUNDS PAID TO RECEIVER**

8. THIS COURT ORDERS that any claims against any funds paid by any party(ies), including RBC, to the Receiver, pursuant to the terms of the Appointment Order, this Order or any Order granted in these proceedings, shall be filed and asserted with the Receiver, and any such parties shall be released from any claims with respect to such funds upon payment of the funds to the Receiver.

**APPROVAL OF FIRST REPORT**

9. THIS COURT ORDERS that the First Report, and the activities of the Receiver as described therein, be and are hereby approved.

**FEE APPROVAL**

10. THIS COURT ORDERS that the fees and disbursements of the Receiver and its counsel, as described in the First Report and the fee affidavits attached as Appendices "K" and "L" thereto, be and are hereby approved.

\_\_\_\_\_ 

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

DEC 16 2016

PER / PAR: 

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

- and -

**LANWEST MFG. TECHNOLOGIES INC.**

Applicant

Respondent

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

Proceeding commenced at Toronto

**ORDER**

**(Re: Minister of Finance Settlement, CRA Cash  
Security and Bond, KPMG Funds)**

**SCARFONE HAWKINS LLP**  
One James Street South  
14th Floor  
P.O. Box 926, Depot 1  
Hamilton, Ontario  
L8N 3P9

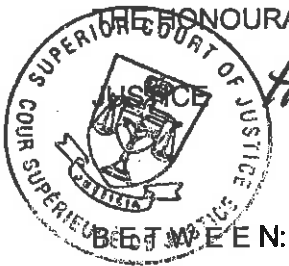
**Michael J. Valente (LSUC # 23925R)**  
mvalente@shlaw.ca  
Tel: 905-523-1333  
Fax: 905-523-5878

Lawyers for BDO Canada Limited in its capacity as Receiver and Manager, Trustee in Bankruptcy and Proposal Trustee of Lanwest Mfg. Technologies Inc.

# Appendix E

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ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST



HAINES

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)  
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THURSDAY, THE 9TH  
DAY OF FEBRUARY, 2017

GRAND RIVER ENTERPRISES SIX NATIONS LIMITED

Applicant

- and -

LANWEST MFG. TECHNOLOGIES INC.

Respondent

ORDER  
(Approval and Vesting re: Caledonia Property; Fee Approval)

THIS MOTION, made by BDO Canada Limited in its capacity as receiver and manager (the "Receiver") of the undertaking, property and assets of Lanwest Mfg. Technologies Inc. (the "Debtor" or "Lanwest") for an order, *inter alia*, approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and Botelho Investments Limited (the "Purchaser") dated December 7, 2016 and appended to and described in the Second Report to Court of the Receiver dated February 6, 2017 and the Confidential Supplement to the Second Report (together, the "Second Report") and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report and on hearing the submissions of counsel for the Receiver and the Applicant, Grand River Enterprises Six Nations Limited ("GRE"), and other parties listed on the counsel slip, no one else appearing, although all parties on the service list were properly served as appears from the affidavits of service filed with the Court;

**Service**

1. THIS COURT ORDERS AND DECLARES that the time for service and filing of the Notice of Motion, the Second Report and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

**Approval and Vesting**

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, 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 the Honourable Justice Conway dated October 14, 2016; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C 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 Schedule D) and, for greater

certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Registry Division of Haldimand (No. 18) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets (the "Net Proceeds") shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the Net 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.

6. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings; and
- (b) the existing proceedings pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on BDO Canada Limited in its capacity as trustee in bankruptcy of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

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

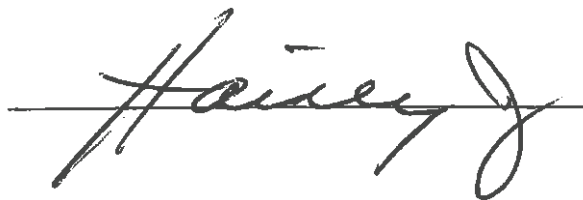
**Approval of Second Report and Sealing**

10. THIS COURT ORDERS that the Second Report, the activities of the Receiver as described therein and the Receiver's Statement of Receipts and Disbursements as at January 31, 2017 attached thereto, be and are hereby approved.

11. THIS COURT ORDERS that the Confidential Supplement to the Second Report be and shall remain sealed until the closing of the Transaction.

**Fee Approval**

12. THIS COURT ORDERS that the fees and disbursements of the Receiver and its counsel, as described in the Second Report and the fee affidavits attached as Appendices "F" and "G" thereto, be and are hereby approved.



ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

FEB 09 2017

PER / PAR:





**Schedule A – Form of Receiver's Certificate**

Court File No. CV-16-11546-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**BETWEEN:**

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

Applicant

- and -

**LANWEST MFG. TECHNOLOGIES INC.**

Respondent

**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Madam Justice Conway of the Ontario Superior Court of Justice (the "Court") dated October 14, 2016, BDO Canada Limited was appointed as the receiver and manager (the "Receiver") of the undertaking, property and assets of Lanwest Mfg. Technologies Inc. (the "Debtor").

B. Pursuant to an Order of the Court dated February 9, 2017 (the "Approval Order"), the Court approved the agreement of purchase and sale made as of December 7, 2016 (the "Sale Agreement") between the Receiver and Botelho Investments Limited (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, including the Real Property, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Approval Order.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the purchase price for the Purchased Assets payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**BDO CANADA LIMITED, in its capacity as  
Receiver of the undertaking, property and  
assets of Lanwest Mfg. Technologies Inc.,  
and not in its personal capacity**

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

**Schedule B – Purchased Assets**

PIN 38154-0217 (LT)  
PT E1/2 LT 8 RANGE 1 WEST OF PLANK RD SENECA PT 1 18R680; HALDIMAND COUNTY

**Schedule C – Claims to be deleted and expunged from title to Real Property**

**REAL PROPERTY LIENS TO BE DISCHARGED**

**Specific Registrations**

1. Instrument No. CH54092 being Lien registered on July 22, 2014.

**Additional Registrations**

Together with such further claims (other than permitted encumbrances) as may arise and/or be registered against title to any of the Real Property described in Schedule B up to and including the time of closing of the Transaction (as set out in more detail by way of Applicant's solicitor's statement or affidavit annexed to the Application for Vesting Order.)

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property**

**(unaffected by the Vesting Order)**

N/A

GRAND RIVER ENTERPRISES SIX NATIONS LIMITED - and - LANWEST MFG. TECHNOLOGIES INC.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding Commenced at Toronto

**ORDER**

**(Approval and Vesting re: Caledonia Property;  
Fee Approval)**

**SCARFONE HAWKINS LLP**

One James Street South, 14th Floor  
Hamilton, ON L8P 4R5

**Michael J. Valente**

e-mail: [mvalente@shlaw.ca](mailto:mvalente@shlaw.ca)

Tel: 905-523-1333 ext. 235

Fax: 905-523-5878

Lawyers for BDO Canada Limited in its capacity as  
Receiver and Manager, Trustee in Bankruptcy and  
Proposal Trustee of Lanwest Mfg. Technologies Inc.

# Appendix F

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

GRAND RIVER ENTERPRISES SIX NATIONS LTD.

Applicant

- and -

LANWEST MFG. TECHNOLOGIES INC.

Respondent

**MINUTES OF SETTLEMENT**

BETWEEN:

BDO CANADA LIMITED, in its capacities as  
Proposal Trustee, Trustee in Bankruptcy  
and Receiver and Manager of Lanwest Mfg. Technologies Inc.

- and -

HER MAJESTY THE QUEEN IN RIGHT OF CANADA  
as Represented by the Minister of National  
Revenue (Canada Revenue Agency) (the "CRA")

**WHEREAS** on or about June 28, 2005, Lanwest Mfg. Technologies Inc. ("Lanwest") provided cash security in the amount of \$900,000 to the CRA for any obligations incurred by Lanwest under the *Excise Act, 2001* (Canada) and provided additional cash security in the amount of \$500,000 to the CRA on or about October 16, 2009 for a total of \$1,400,000 in cash security (the "**Cash Security**");

**AND WHEREAS** during the periods January 1, 2010 to December 31, 2011 and January 1, 2012 to September 30, 2013 (the "**Periods**"), Lanwest sold commercial quantities of yellow band tobacco products to status Indians without charging or collecting the Harmonized Sales Tax ("**HST**") under the *Excise Tax Act* (Canada) (the "**Act**");



**AND WHEREAS**, the CRA issued Notices of Assessment dated March 27, 2014 (the “**2014 Assessments**”) in the amount of \$32,649,324.49 from Lanwest with respect to HST amounts, interest and penalties allegedly owing for the Periods;

**AND WHEREAS** on July 22, 2014, Lanwest appealed the 2014 Assessments to the Tax Court of Canada in appeal Nos. 2014-2546(GST)G and 2014-2547(GST)G (the “**Appeals**”);

**AND WHEREAS** the CRA alleges that, based on Lanwest’s interactions with the CRA, from time to time, Lanwest ought to have known, as agent, that at a certain time during the Periods, the CRA, as principal, wished Lanwest to begin collecting HST on all sales to status Indians (except allocations cigarettes), whether or not concluded on reserve and whether or not the supplies were delivered by Lanwest or its agent on a reserve;

**AND WHEREAS** the CRA alleges that at a particular time Lanwest became obliged, as the CRA’s statutory collections agent, to begin collecting HST from all of its customers, including status Indians (except allocation cigarettes), whether or not the particular sales were concluded on reserve and whether or not the supplies were delivered by Lanwest or its agent on a reserve;

**AND WHEREAS** the CRA alleges that while Lanwest’s collection obligation under the *Excise Tax Act* (Canada) ought to have been known to Lanwest at that particular time, the CRA agrees that the facts and mental state require to found application of, among others, section 327 of the Act or the Criminal Code of Canada to such alleged default were not present;

**AND WHEREAS** the CRA took collection action on the 2014 Assessments including issuing an enhanced requirement to pay on or around July 2, 2014 to Lanwest’s banking source,

the Royal Bank of Canada (the "**Garnishment**"), further to which the Royal Bank of Canada paid the amount of \$3,366,248.89 to the CRA on or about July 11, 2014 (the "**Seized Amount**") and registering a lien in the amount of \$32,698,555 on July 22, 2014 (the "**Lien**") on title to the real property owned by Lanwest located at 107 Greens Road, Caledonia, Ontario (the "**Caledonia Property**");

**AND WHEREAS** on July 28, 2014, Lanwest commenced proposal proceedings pursuant to the *Bankruptcy and Insolvency Act* (the "**BIA**") by filing a Notice of Intention to Make a Proposal to its Creditors in accordance with section 50.4(1) of the BIA (the "**Proposal**") and KPMG Inc. was appointed as Proposal Trustee (in such capacity, the "**Proposal Trustee**");

**AND WHEREAS** Lanwest filed HST returns for the June and July 2014 periods reporting the aggregate amount of \$601,730.30 owing for the two periods (the "**June and July 2014 Periods**"). The CRA assessed the June and July 2014 Periods on or about August 7 and 27, 2014, respectively, in accordance with Lanwest's filings. Neither Lanwest nor its Proposal Trustee objected to or appealed the CRA's assessments of the June and July 2014 Periods;

**AND WHEREAS** at the meeting of creditors held on October 30, 2014 and chaired by the Office of the Superintendent of Bankruptcy, the Proposal Trustee indicated that the CRA's claim in the proposal (the "**CRA's Proposal Proof of Claim**") was entirely contingent and valued at NIL as the assessment to which it related was under appeal. There were no objections to this characterization of the CRA's claim. The Proposal Trustee also noted that the portions of the claim that were not under appeal, relating to June and July, 2014 and totaling approximately \$602,000, did not represent a valid claim as the CRA was in possession of approximately \$3.35 million seized from the debtor's accounts prior to the filing of the notice of intention. If the

debtor was successful in its appeal the CRA would be obliged to refund the seized funds to the debtor net of the amounts owing for June and July, 2014;

**AND WHEREAS** pursuant to the Order of the Honourable Mr. Justice Newbould dated December 4, 2014 (the "**Approval Order**"), the Proposal was approved;

**AND WHEREAS** pursuant to a letter of appointment dated September 18, 2015, KPMG Inc. was appointed as private receiver and manager of all the assets of Lanwest (in such capacity, the "**Private Receiver**");

**AND WHEREAS** the CRA issued a Notice of Assessment dated July 20, 2016 (the "**2016 Assessment**") in the amount of \$3,200,330.21 with respect to HST amounts, interest and penalties allegedly owing for the period October 1, 2013 to September 21, 2015 (the "**2016 Assessment Period**");

**AND WHEREAS** Lanwest made an assignment in bankruptcy on July 21, 2016 and BDO Canada Limited ("**BDO**") was appointed Trustee in Bankruptcy (the "**Trustee**");

**AND WHEREAS** by letter dated July 28, 2016, the Private Receiver requested the return of the Cash Security;

**AND WHEREAS** on October 7, 2016, the Trustee in Bankruptcy filed a Notice of Objection with respect to the 2016 Assessment with the CRA (the "**Notice of Objection**");

**AND WHEREAS** by Order of the Honourable Madam Justice Conway dated October 14, 2016 commencing these receivership proceedings (the "**Receivership Proceedings**"), granted on application by Grand River Enterprises Six Nations limited ("**GRE**"), BDO was

appointed as receiver and manager of Lanwest (the "Receiver") and substituted as Proposal Trustee of Lanwest and on such application GRE sought, among other things, the payment of the Cash Security by the CRA to the Receiver which such relief was adjourned on consent;

**AND WHEREAS** as set out in the Order of the Honourable Mr. Justice Newbould dated December 16, 2016, the CRA paid the Cash Security in the amount of \$1,400,000 to the Receiver which the Receiver continues to hold in an interest bearing trust account pending the resolution of the claims of the Receiver and the CRA against the Cash Security;

**AND WHEREAS** the Receiver has recently provided the CRA with additional materials with respect to the 2016 Assessment and the CRA agrees that it is barred from making claims with respect to HST owing for the periods preceding the Proposal Proceedings that are part of the 2016 Assessment;

**AND WHEREAS** the parties hereto wish to fully and finally resolve all issues, express or implied and whether presently known or unknown, with respect to the 2014 Assessments, the Appeals, the sales by Lanwest of tobacco products to status Indians, the Garnishment, the Lien, the Cash Security, the 2016 Assessment and the Notice of Objection, collection actions taken in respect of the 2014 Assessments and the 2016 Assessment;

**NOW THEREFORE** the parties agree as follows:

1. The facts as set out in the above recitals shall not be used or relied upon for any other purpose by any party other than for the implementation and enforcement of the terms of settlement set out in these Minutes of Settlement (the "**April 2017 Minutes of Settlement**"), the Mutual Release between BDO and the CRA, the Undertaking of John Landry ("**Landry**"), the

Mutual Release between Landry and the CRA, the Covenant Not to Sue as executed by GRE and the CRA.

2. The Receiver, the Proposal Trustee or the Trustee in Bankruptcy, as applicable, shall forthwith execute and deliver to counsel for the CRA a Notice of Discontinuance with respect to each of the Appeals, to be held on the undertaking of Counsel not to file them with the Tax Court of Canada until the CRA has issued a reassessment implementing the settlement for the Periods, whereupon the Notices of Discontinuance will be filed with the Court.

3. Counsel for the CRA shall consent in writing to the discontinuance of the Appeals on a without costs basis to either party.

4. Upon execution of the April 2017 Minutes of Settlement and approval of an Order of the Court, in a form acceptable to counsel, to be sought on a motion by the Receiver in the Receivership Proceedings, approving, among other things, the April 2017 Minutes of Settlement:

- (a) the CRA shall replace the 2014 Assessments by a reassessment in an amount not exceeding \$1,001,080.47 which amount will represent Lanwest's liability for HST, interest and penalties under the Act for the Periods (the "2017 Assessment");
- (b) the CRA shall withdraw the CRA Proposal Proof of Claim;
- (c) the CRA shall vacate the 2016 Assessment;
- (d) the CRA has withdrawn the Garnishment and hereby agrees to discharge the Lien forthwith and not to take any other enforcement steps or proceedings against any

property of Lanwest including, but not limited to, any proceeds from the sale of the Caledonia Property and any bank accounts or funds in the Receiver's possession;

- (e) the CRA shall discharge all registrations against Lanwest made pursuant to the *Personal Property Security Act* (Ontario);
- (f) any right of objection to or appeal from any reassessment considered by the April 2017 Minutes of Settlement are hereby waived, in accordance with subsections 301(1.6) and 306(2) of the Act;
- (g) the CRA shall pay to the Receiver the amount remaining from the Seized Amount once payment of the 2017 Assessment is effected (the parties understand that this amount is at least \$2,000,000, inclusive of interest accrued thereon);
- (h) the Receiver shall retain the full amount of the Cash Security;
- (i) the parties hereto shall execute and deliver a Mutual Release substantially in the form attached hereto as Schedule "A";
- (j) John Landry ("Landry") shall execute an Undertaking in favour of CRA substantially in the form attached hereto as Schedule "B" and CRA and Landry shall execute a Mutual Release substantially in the form attached hereto as Schedule "C", which such Undertaking and Mutual Release shall be held by counsel for Landry and CRA, respectively, and delivered to each of Landry and CRA upon completion of the terms of the April 2017 Minutes of Settlement;

- (k) GRE and CRA shall execute a Covenant Not To Sue substantially in the form attached hereto as Schedule "D", which such Covenant Not To Sue shall be held by counsel for GRE and CRA, respectively, and delivered to each of GRE and CRA upon completion of the terms of the April 2017 Minutes of Settlement

5. Each party hereto shall, at its own expense, promptly do, execute, deliver or cause to be done, executed and delivered all such further acts or documents in connection with the April 2017 Minutes of Settlement that the other parties may reasonably require for the purposes of giving effect to the April 2017 Minutes of Settlement.

6. The April 2017 Minutes of Settlement shall enure to the benefit of and be and are binding upon the parties hereto and their respective successors and permitted assigns. Neither the April 2017 Minutes of Settlement nor any of the rights, interests or obligations hereunder may be assigned by any party hereto without the prior written consent of the other parties and the parties hereto represent and warrant that they have not made any such assignments.

7. The April 2017 Minutes of Settlement shall be construed in accordance with the laws of the Province of Ontario and the applicable laws of Canada. Should any disputes or issues arise regarding the April 2017 Minutes of Settlement any such disputes or issues shall be adjudicated in the Receivership Proceedings and the Parties hereto unconditionally attorn to the jurisdiction of the Courts of the Province of Ontario and the Receivership Proceedings.

8. The April 2017 Minutes of Settlement may be executed in two or more counterparts, each of which shall be considered an original and both of which taken together will be deemed to constitute one and the same instrument. Counterparts may be executed either in original,

electronic or faxed form and the parties adopt any signatures received electronically or by a receiving fax machine as original signatures of the parties.

9. The April 2017 Minutes of Settlement shall be enforced to the fullest extent permitted by applicable law. If for any reason any provision of the April 2017 Minutes of Settlement are held to be invalid or unenforceable to any extent, then (a) such provision shall be interpreted, construed, or reformed to the extent reasonably required to render that provision valid, enforceable, and consistent with the original intent underlying such provisions, and (b) such invalidity or unenforceability shall not affect any other provision of the April 2017 Minutes of Settlement.

DATED AT HAMILTON, this \_\_\_\_\_ day of April, 2017

**BDO Canada Limited, solely in its  
capacities as Proposal Trustee, Trustee in  
Bankruptcy and Receiver of Lanwest Mfg.  
Technologies Inc.**  
Per:

---

*(I have authority to bind the estate)*

DATED AT TORONTO, this \_\_\_\_\_ day of April, 2017

**HER MAJESTY THE QUEEN IN RIGHT  
OF CANADA as represented by the  
Minister of National Revenue (Canada  
Revenue Agency)**  
Per: Diane Winters/André LeBlanc

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*(I have authority to bind the Minister)*



**GRAND RIVER ENTERPRISES SIX NATIONS LTD.**  
Applicant

v. **LANWEST MFG. TECHNOLOGIES INC.**  
Respondent

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

**MINUTES OF SETTLEMENT**

**SCARFONE HAWKINS LLP**  
One James Street South  
14th Floor  
P.O. Box 926, Depot 1  
Hamilton, Ontario  
L8N 3P9

Michael J. Valente (LSUC # 23925R)  
mvalente@shlaw.ca  
Tel: 905-523-1333  
Fax: 905-523-5878

Lawyers for BDO Canada Limited, in its capacities as  
Proposal Trustee, Trustee in Bankruptcy and Receiver of  
Lanwest Mfg. Technologies Inc.

## SCHEDULE "A"

### MUTUAL RELEASE

IN CONSIDERATION of the mutual release of claims set out herein and such further consideration, the receipt and sufficiency of which is hereby acknowledged, together with the delivery of this Mutual Release, it is agreed that **BDO CANADA LIMITED**, in its capacities as **Proposal Trustee, Trustee in Bankruptcy and Receiver and Manager of Lanwest Mfg. Technologies Inc. and HER MAJESTY THE QUEEN IN RIGHT OF CANADA** as represented by the **Minister of National Revenue (Canada Revenue Agency)** (collectively the "**Parties**"), including their respective administrators, successors, assigns, subsidiaries, affiliates, agents, officers, directors, employees, agents, sub-contractors, solicitors and insurers, as the case may be, hereby remise, release and forever discharge each other and each of their respective administrators, successors, assigns, subsidiaries, affiliates, agents, officers, directors, employees, agents, sub-contractors, solicitors and insurers, as the case may be, from any and all actions, causes of action, suits, demands, proceedings, debts, accounts, contracts, claims, damages and demands for damages, loss, costs and liabilities (collectively, the "**Claims**"), whether such Claims are based in statute, property, tort, negligence, contract, indemnity, revision, warranty, strict liability, or any other theory of recovery, and whether or not for statutory, compensatory, punitive, equitable or other relief, whether existing or within the reasonable contemplation of each of the Parties, with respect to the issues raised, or which could have been raised in connection with the facts; circumstances, issues and subject matter forming the basis of the April 2017 Minutes of Settlement duly executed by the Parties including, but not limited to, the cash security provided by Lanwest Mfg. Technologies Inc. ("**Lanwest**") to the Canada Revenue Agency (the "**CRA**") in the amount of \$1,400,000 for any obligations incurred by Lanwest under the *Excise Act, 2001* (Canada) (the "**Cash Security**"), the Notices of Assessment issued by the CRA dated March 27, 2014 in the amount of \$32,649,324.49 (the "**2014 Assessments**") with respect to Harmonized Sales Tax ("**HST**") amounts, the interest and penalties allegedly owing for the periods January 1, 2010 to December 31, 2011 and January 1, 2012 to September 30, 2013, the appeals No. 2014-2546(GST)G and 2014-2547(GST)G (the "**Appeals**"), the Notice of Assessment issued by the CRA dated July 20, 2016 in the amount of \$3,200,330.31 (the "**2016 Assessment**") with respect to HST amounts, interest and penalties allegedly owing for the period October 1, 2013 to September 21, 2015 (the "**2016 Assessment Period**"), the Notice of Objection filed by the Trustee in Bankruptcy with respect to the 2016 Assessment (the "**Notice of Objection**"), the HST returns filed by Lanwest for the June and July 2014 periods (the "**June and July 2014 Periods**"), any collection action taken by the CRA on account of the 2014 Assessments or the 2016 Assessment, and any Claims

with respect to the 2014 Assessments, the Appeals, the Cash Security, the 2016 Assessments, the Notice of Objection, the June and July 2014 Periods, director's liability under section 323 of the *Excise Tax Act* (Canada), liability under section 327 of the *Excise Tax Act* (Canada) and liability under the Criminal Code of Canada and any collection action taken by the CRA on account of the 2014 Assessments, the 2016 Assessment, the June and July 2014 Periods, including, but not limited to, the requirement to pay issued by the CRA on or around July 2, 2014 to the Royal Bank of Canada and the lien registered by the CRA on or around July 22, 2014 on title to the real property owned by Lanwest located at 107 Greens Road, Caledonia, Ontario and any other Claims which were made or could have been made in the receivership proceedings involving Lanwest in Ontario Superior Court of Justice File Number CV-16-11546-00CL (the "Receivership Proceedings"), the proceedings before the Tax Court of Canada, or any other proceedings.

**AND THE PARTIES HERETO** further agree not to make any claim or take any proceedings against each other or any other person or entity which might claim contribution or indemnity under the provisions of any statute or otherwise in respect of any matter arising out of or relating to matters as described aforesaid and represent and confirm that they have not made any such claims.

**AND THE PARTIES HERETO** agree and understand that, except to the extent of the liabilities or obligations specifically expressed in the April 2017 Minutes of Settlement and this Mutual Release, the Parties do not admit to any other liabilities or obligations of any kind whatsoever to each other, and the Parties hereto acknowledge that such other liabilities and obligations are in fact specifically denied.

**THE PARTIES HERETO UNDERTAKE AND AGREE** to cooperate with each of them to execute and deliver such further and other documents as may be reasonably required to give effect to this Mutual Release.

**THIS MUTUAL RELEASE SHALL BE GOVERNED AND CONSTRUED** in accordance with the laws of the Province of Ontario and the applicable laws of Canada. Should any dispute arise regarding this Mutual Release any such dispute shall be adjudicated in the Receivership Proceedings and the Parties hereto unconditionally attorn to the jurisdiction of the Courts of the Province of Ontario and the Receivership Proceedings.

**THIS MUTUAL RELEASE** may be executed by the Parties in separate counterparts each of which when so executed and delivered to all of the Parties shall be deemed to be an original and shall be read as a single agreement among the parties. In addition, this Mutual Release and/or counterparts hereof, may be executed either in original, PDF or faxed form and any signature received by

way of a faxed transmission or PDF or a photocopy of such faxed or PDF transmission, shall be deemed to constitute the original signature of such party to this Release.

**IN WITNESS WHEREOF** the undersigned have hereunto set their hands,

DATED at \_\_\_\_\_, Ontario, this \_\_\_\_\_ day of April, 2017.

Her Majesty the Queen in right of Canada  
as represented by the Minister of National  
Revenue (Canada Revenue Agency)  
Per: Diane Winters/André LeBlanc

---

(I have capacity to bind her Majesty the Queen in  
right of Canada, as represented by the  
Minister of National Revenue (Canada Revenue  
Agency))

DATED at \_\_\_\_\_, Ontario, this \_\_\_\_\_ day of April, 2017

BDO Canada Limited, solely in its capacities as  
Proposal Trustee, Trustee in Bankruptcy and  
Receiver and Manager of Lanwest Mfg.  
Technologies Inc.

Per:

---

(I have capacity to bind BDO Canada Limited, solely  
in its capacities as Proposal Trustee, Trustee in  
Bankruptcy and Receiver and Manager of Lanwest  
Mfg. Technologies Inc.)

UNDERTAKING

**TO:** HER MAJESTY THE QUEEN IN RIGHT OF CANADA as Represented by the  
Minister of National Revenue (Canada Revenue Agency) (the "CRA")

**FROM:** John Landry ("Landry")

**WHEREAS** the CRA and BDO Canada Limited, in its capacities as Proposal Trustee, Trustee in Bankruptcy and Court-Appointed Receiver and Manager of Lanwest Mfg. Technologies Inc. ("Lanwest") have entered into Minutes of Settlement dated April 2017 with respect to, among other things, the settlement of claims made by the CRA with respect to the collection of the tax under the *Excise Tax Act* (Canada) (the "Act") for tobacco products sold by Lanwest;

**AND WHEREAS** Landry has been the sole director, officer and shareholder of Lanwest since at least January 1, 2010;

**NOW THEREFORE**, in consideration of a mutual release between CRA and Landry, the receipt and sufficiency of which is hereby acknowledged, John Landry hereby undertakes as follows:

1. Landry undertakes to never sell tobacco products to status Indians (the "**Tobacco Business**") without charging and collecting the tax under the Act (except for allocation cigarettes) whether or not the particular sales were concluded on reserve and whether or not the supplies sold were delivered by Landry or his agent on a reserve.
2. This undertaking is given by Landry, in any capacity, but for greater certainty and without limiting the generality of the foregoing, whether as an employee, contractor, agent, shareholder, officer, or director of any person engaged in the Tobacco Business.

DATED AT \_\_\_\_\_, this \_\_\_\_\_ day of April, 2017

**JOHN LANDRY**

\_\_\_\_\_

Witness: \_\_\_\_\_

## MUTUAL RELEASE

IN CONSIDERATION of the mutual release of claims set out herein and such further consideration, the receipt and sufficiency of which is hereby acknowledged, together with the delivery of this Mutual Release, it is agreed that JOHN LANDRY and HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by the Minister of National Revenue (Canada Revenue Agency) (collectively the "Parties"), including their respective administrators, successors, assigns, subsidiaries, affiliates, agents, officers, directors, employees, agents, sub-contractors, solicitors and insurers, as the case may be, hereby remise, release and forever discharge each other and each of their respective administrators, successors, assigns, agents, solicitors and insurers, as the case may be, from any and all actions, causes of action, suits, demands, proceedings, debts, accounts, contracts, claims, damages and demands for damages, loss, costs and liabilities (collectively, the "Claims"), whether such Claims are based in statute, property, tort, negligence, contract, indemnity, revision, warranty, strict liability, or any other theory of recovery, and whether or not for statutory, compensatory, punitive, equitable or other relief, whether existing or within the reasonable contemplation of the Parties, with respect to the issues raised, or which could have been raised in connection with the facts, circumstances, issues and subject matter forming the basis of the April 2017 Minutes of Settlement duly executed by the CRA and BDO Canada Limited in its capacities as Proposal Trustee, Trustee in Bankruptcy and Receiver and Manager of Lanwest Mfg. Technologies Inc. ("Lanwest") including, but not limited to, the cash security provided by Lanwest to the Canada Revenue Agency (the "CRA") in the amount of \$1,400,000 for any obligations incurred by Lanwest under the *Excise Act, 2001* (Canada) (the "Cash Security"), the Notices of Assessment issued by the CRA dated March 27, 2014 in the amount of \$32,649,324.49 (the "2014 Assessments") with respect to Harmonized Sales Tax ("HST") amounts, interest and penalties allegedly owing for the periods January 1, 2010 to December 31, 2011 and January 1, 2012 to September 30, 2013, the appeals No. 2014-2546(GST)G and 2014-2547(GST)G (the "Appeals"), the Notice of Assessment issued by the CRA dated July 20, 2016 in the amount of \$3,200,330.31 (the "2016 Assessment") with respect to HST amounts, interest and penalties allegedly owing for the period October 1, 2013 to September 21, 2015 (the "2016 Assessment Period"), the Notice of Objection filed by the Trustee in Bankruptcy with respect to the 2016 Assessment (the "Notice of Objection"), the HST returns filed by Lanwest for the June and July 2014 periods (the "June and July 2014 Periods"), any collection action taken by the CRA on account of the 2014 Assessments or the 2016 Assessment, and any claims with respect to the 2014 Assessments, the Appeals, the Cash Security, the 2016 Assessments, the Notice of Objection, the June and July 2014 Periods, director's liability under the *Excise Tax Act* (Canada), liability under section 327 of the *Excise Tax Act* (Canada) and liability under the Criminal Code of Canada and

any collection action taken by the CRA on account of the 2014 Assessments, the 2016 Assessment, the June and July 2014 Periods, including, but not limited to, the requirement to pay issued by the CRA on or around July 2, 2014 to the Royal Bank of Canada and the lien registered by the CRA on or around July 22, 2014 on title to the real property owned by Lanwest located at 107 Greens Road, Caledonia, Ontario and any other Claims which were made or could have been made in the receivership proceedings involving Lanwest in Ontario Superior Court of Justice File Number CV-16-11546-00CL (the "Receivership Proceedings"), the proceedings before the Tax Court of Canada, or any other proceedings.

**AND THE PARTIES HERETO** further agree not to make any claims or take any proceedings against each other or any other person or entity which might claim contribution or indemnity from the Parties under the provisions of any statute or otherwise in respect of any matter arising out of or relating to matters as described aforesaid and represent and confirm that the Parties have not made any such claims.

**AND THE PARTIES HERETO** agree and understand that, except to the extent of the liabilities or obligations specifically expressed in this Mutual Release, the Parties do not admit to any other liabilities or obligations of any kind whatsoever to each other in respect of the matters described herein and the Parties hereto acknowledge that any such liabilities and obligations are in fact specifically denied.

**THE PARTIES HERETO UNDERTAKE AND AGREE** to cooperate with each of them to execute and deliver such further and other documents as may be reasonably required to give effect to this Mutual Release.

**THIS RELEASE SHALL BE GOVERNED AND CONSTRUED** in accordance with the laws of the Province of Ontario and the applicable laws of Canada. Should any dispute arise regarding this Release any such dispute shall be adjudicated in the Receivership Proceedings and the Parties hereto unconditionally attorn to the jurisdiction of the Courts of the Province of Ontario and the Receivership Proceedings.

**THIS MUTUAL RELEASE** may be executed by the Parties in separate counterparts each of which when so executed and delivered to all of the Parties shall be deemed to be an original and shall be read as a single agreement among the parties. In addition, this Mutual Release and/or counterparts hereof, may be executed either in original, PDF or faxed form and any signature received by way of a faxed transmission or PDF or a photocopy of such faxed or PDF transmission, shall be deemed to constitute the original signature of such party to this Release.



**IN WITNESS WHEREOF** the undersigned have hereunto set their hands,

DATED at \_\_\_\_\_, Ontario, this \_\_\_\_\_ day of April, 2017.

Her Majesty the Queen in right of Canada  
as represented by the Minister of National  
Revenue (Canada Revenue Agency)  
Per: Diane Winters/André LeBlanc

\_\_\_\_\_  
(I have capacity to bind her Majesty the Queen in  
right of Canada, as represented by the  
Minister of National Revenue (Canada Revenue  
Agency))

DATED at \_\_\_\_\_, Ontario, this \_\_\_\_\_ day of April, 2017.

Witness: \_\_\_\_\_

\_\_\_\_\_  
John Landry

## **COVENANT NOT TO SUE**

**IN THE MATTER** of a receivership proceeding commenced by Grand River Enterprises Six Nations Ltd. (“**GRE**”) against Lanwest Mfg. Technologies Inc. (“**Lanwest**”) in the Ontario Superior Court of Justice (Commercial List) bearing Court File No. CV-16-11546-00CL (the “**Receivership Proceedings**”);

**WHEREAS** GRE is a secured creditor of Lanwest and sought and obtained an Order in the Receivership Proceedings dated October 14, 2016, among other things, appointing BDO Canada Limited (“**BDO**”) as receiver and manager of Lanwest;

**AND WHEREAS** CRA and BDO have entered into the April 2017 Minutes of Settlement in respect of matters as set out in the April 2017 Minutes of Settlement;

**AND WHEREAS** CRA has advised that the settlement as described in the April 2017 Minutes of Settlement is conditional upon CRA and GRE (the “**Parties**”) agreeing and acknowledging that each does not have any claim whatsoever against each other in respect of the April 2017 Minutes of Settlement, any fact or act recorded therein, or any of the steps to be taken to give effect to the April 2017 Minutes of Settlement (the “**Lanwest Matters**”) and covenant not to sue or make any claim of any kind against each other in respect of the Lanwest Matters;

**NOW THEREFORE** the parties agree as follows:

**IN CONSIDERATION** of the execution and implementation of the April 2017 Minutes of Settlement by CRA and BDO and the release of certain funds to BDO as court appointed receiver of Lanwest and consequently to GRE as secured creditor of Lanwest and such further and other consideration, the receipt and sufficiency of which is hereby acknowledged:

1. The Parties acknowledge and confirm that they do not have any claim whatsoever against each other in respect of the Lanwest Matters, and without restricting the generality of the foregoing, have no actions, causes of action, suits, demands, proceedings, debts, accounts, contracts, damages and demands for damages, loss, costs and liabilities in respect of the Lanwest Matters (collectively, the “**Claims**”), whether such Claims are based in statute, property, tort, negligence, contract, indemnity, revision, warranty, strict liability, equity or any other theory of recovery, and whether or not for statutory, compensatory, punitive, equitable or other relief, whether existing or within the reasonable contemplation of the Parties, and whether raised, or which could have been raised in connection with the Lanwest

Matters;

- 2. The Parties covenant not to sue each other in respect of any of the Lanwest Matters;
- 3. The Parties understand and agree that the Parties do not admit to any liabilities or obligations of any kind whatsoever to each other in respect of the Lanwest Matters and acknowledge that any such liabilities and obligations are in fact specifically denied; and
- 4. The Parties agree to cooperate with each of them to execute and deliver such further and other documents as may be reasonably required to give effect to this Covenant Not to Sue.

**THIS COVENANT NOT TO SUE** shall be governed and construed in accordance with the laws of the Province of Ontario and the applicable laws of Canada. Should any dispute arise regarding this Covenant Not to Sue, this Covenant Not to Sue may be pleaded as a complete defence and reply to any claims brought in respect of the Lanwest Matters, and may be relied upon in such a proceeding as a complete estoppel to dismiss the said proceeding including on a motion for summary judgement to dismiss the said proceeding on an expedited and summary basis. Any such dispute shall be adjudicated in the Receivership Proceedings, or if those proceedings are concluded, in the Commercial List of the Superior Court of Justice of Ontario, and the Parties hereto unconditionally attorn to the jurisdiction of the Courts of the Province of Ontario and the Receivership Proceedings.

**THIS COVENANT NOT TO SUE** may be executed by the Parties in separate counterparts each of which when so executed and delivered to all of the parties shall be deemed to be an original and shall be read as a single agreement among the parties. In addition, this Covenant Not to Sue and/or counterparts hereof, may be executed either in original, PDF or faxed form and any signature received by way of a faxed transmission or PDF or a photocopy of such faxed or PDF transmission, shall be deemed to constitute the original signature of such party to this Release.

**IN WITNESS WHEREOF** the undersigned have hereunto set their hands,

DATED at \_\_\_\_\_, Ontario, this \_\_\_\_\_ day of April, 2017.

Her Majesty the Queen in right of Canada  
 as represented by the Minister of National  
 Revenue (Canada Revenue Agency)  
 Per: Diane Winters/André LeBlanc

\_\_\_\_\_

(I have capacity to bind her Majesty the Queen in  
right of Canada, as represented by the  
Minister of National Revenue (Canada Revenue  
Agency))

DATED at \_\_\_\_\_, Ontario, this \_\_\_\_\_ day of April, 2017.

Grand River Enterprises Six Nations Ltd.

Per:

\_\_\_\_\_  
(I have capacity to bind the Corporation)

## Appendix G

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**BDO Canada Limited**  
**Court Appointed Receiver of**  
**Lanwest Mfg. Technologies Inc.**  
**For the Period October 14, 2016 to April 25, 2017**

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**Receipts**

Proceeds from the settlement with the Ministry of Finance	\$ 5,616,999.99
Cash security received from Canada Revenue Agency	1,400,000.00
Cash security received from RBC re: CRA Bond	600,000.00
Sale of real property	590,000.00
Funds from Lanwest account #0132 1004662	303,315.19
Funds transferred from private receiver	203,391.06
HST refunds	36,756.99
Interest earned	36,589.01
Collection on note receivable re: sale of vehicle	3,789.00
Accounts receivable	1,449.70

Total receipts \$ 8,792,290.94

**Disbursements**

Legal fees	187,010.44
Receiver's fees	62,503.82
HST paid	36,870.63
Commission on sale or real property	29,500.00
Insurance	10,834.56
Property taxes	5,362.06
Appraisal	2,897.75
Utilities	1,058.31
Records storage	704.60
Locksmith	178.78
OSB filing fee	70.00
Bank charges	50.00

Total disbursements 337,040.95

Payments to secured creditor 6,112,874.65

Net funds available \$ 2,342,375.34

## Appendix H

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**BETWEEN:**

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

**Applicant**

**-and-**

**LANWEST MFG. TECHNOLOGIES INC.**

**Respondent**

**AFFIDAVIT OF BRAD NEWTON**

(sworn May 1, 2017)

**I, BRAD NEWTON, of the Town of Beamsville in the Province of Ontario,**

**MAKE OATH AND SAY:**

1. I am a Vice President of BDO Canada Limited ("**BDO**"), Court appointed receiver of Lanwest Mfg. Technologies Inc. (the "**Receiver**"), and as such have knowledge of the matters hereinafter deposed.
2. The Receiver was appointed under an order of the Honourable Justice Conway dated October 14, 2016.
3. I confirm the amount of \$22,834.65 accurately reflects the time charges, fees and disbursements inclusive of applicable taxes incurred by the Receiver from February 1 to April 30, 2017. Attached hereto as **Exhibit "A"** is a true copy of the account rendered for the above period by BDO in its capacity as Receiver.





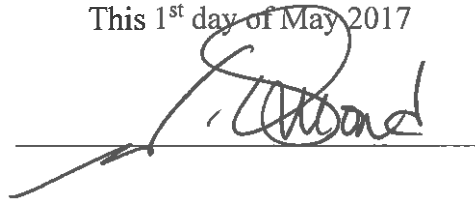
Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF Brad Newton

Sworn before me

This 1<sup>st</sup> day of May 2017

A handwritten signature in black ink, appearing to read "N. Ormond", is written over a horizontal line. The signature is cursive and somewhat stylized.

Commissioner for taking Affidavits, etc

**Nicole Marie Ormond, a Commissioner, etc.,  
Province of Ontario, for BDO Canada Limited,  
Trustee in Bankruptcy.  
Expires September 12, 2018.**

Lanwest Manufacturing Technologies Inc.  
c/o BDO Canada  
25 Main Street West, Suite 805  
Hamilton, Ontario  
L8P 1H1

**INTERIM INVOICE**

<b>Date</b>	<b>Client No.</b>	<b>Invoice No.</b>
May 9, 2017	Lanwest Manufacturing Technologies Inc.	

**TO PROFESSIONAL SERVICES RENDERED** in respect of the Court appointed receivership of Lanwest Manufacturing Technologies Inc. for the period ending April 30, 2017;

	<u>Hours</u>	<u>Fee</u>
<b>Vice President</b>		
C. Mazur	2.20	\$ 1,050.00
<b>Vice President</b>		
B. Newton	46.10	\$ 18,440.00
A. Consoli	0.10	\$ 40.00
<b>Staff</b>		
S. Rickards	0.10	\$ 12.40
T. Smith	2.00	\$ 284.00
C. Casco	0.60	\$ 70.20
J. Miceli	2.10	\$ 287.70
	<u>53.20</u>	<u>\$ 20,184.30</u>
HST on BDO fees		\$ 2,623.96
Sub Total		<u>\$ 22,808.26</u>
<b>Disbursements</b>		
Courier Fees		\$ 23.35
HST on Courier Fees		\$ 3.04
		<u>\$ 26.39</u>
<b>Amount Due</b>		<u>\$ 22,834.65</u>

Lanwest Mfg. Technologies Inc.  
Listing of Time Charges for the Receiver  
For the Period February 1 to April 30, 2017 (and time previously miscoded)

Date	Employee	Hours	Rate	Fee	Comments
8-Feb-17	Newton, Brad	3.0	400.00	1,200.00	Review of draft release and provide comments; discussions with J Landry re timing of supply of minutes and release document; conference call with Quebec counsel re outstanding assessments from Revenu Quebec; review of various emails re edits to CRA minutes and release
9-Feb-17	Newton, Brad	2.0	400.00	800.00	Review of J Landry Undertaking and release; discussions with J Landry re Undertaking and release and providing same to Cassels Brock; review of fax from M Dorais and subsequent discussion with M Dorais re same; prepare email re Revenu Quebec claims and proposed settlement position; update to website for court materials; payment of estate expenses
10-Feb-17	Newton, Brad	0.6	400.00	240.00	Discuss counsel contact for J Landry ILA with J Landry and forward draft release and undertaking to John Landry and Shayne Kukulowicz for their review and discuss; respond to inquiry from CRA re amount payable to receiver on settlement
13-Feb-17	Newton, Brad	2.0	400.00	800.00	Complete real estate sale forms and send to counsel; emails and discussions with M McGraw re settlement proposal for Revenu Quebec; disbursements
14-Feb-17	Newton, Brad	0.8	400.00	320.00	Discussion with S Kukulowicz re: Undertaking and release and background on CRA settlement; message left for J Hammond re: any comments on CRA settlement docs and assignment of vehicle sale to secured creditor
15-Feb-17	Newton, Brad	1.0	400.00	400.00	Completion of sale of real property and cancel insurance; emails and discussions re J Landry Undertaking and Release; emails and discussions re Quebec settlement strategy
20-Feb-17	Newton, Brad	0.3	400.00	120.00	Emails re undertaking and release for J Landry; email to M Dorais re settlement position with Revenu Quebec
21-Feb-17	Newton, Brad	1.0	400.00	400.00	Retrieve payment for sale of real property and have all details recorded in Ascend; HST return completion; review email from CRA regarding mutual release and call with J Landry and message left for S Kukulowicz re same
22-Feb-17	Newton, Brad	0.4	400.00	160.00	Call with S Kukulowicz re CRA mutual release and funds in retainer; message with S Weisz re CRA release
23-Feb-17	Newton, Brad	0.4	400.00	160.00	Emails with CRA re mutual release; finalize real estate insurance
27-Feb-17	Newton, Brad	0.2	400.00	80.00	Review and arrange payment of expenditures; complete Feb tobacco tax return
28-Feb-17	Newton, Brad	0.5	400.00	200.00	Discussion with CRA re audit of January 2017 HST return, gather information to send to CRA for audit
2-Mar-17	Newton, Brad	0.8	400.00	320.00	Update call with J Hammond and follow up with counsel re CRA settlement and Revenu Quebec settlement

Lanwest Mfg. Technologies Inc.  
 Listing of Time Charges for the Receiver  
 For the Period February 1 to April 30, 2017 (and time previously miscoded)

Date	Employee	Hours	Rate	Fee	Comments
9-Nov-16	Casco, Carla	0.1	117.00	11.70	Prepared deposit slip for Nov 9/16
23-Nov-16	Casco, Carla	0.1	117.00	11.70	Prepared deposit slip for Nov 23/16
24-Jan-17	Casco, Carla	0.1	117.00	11.70	Prepared deposit slip for January 24/17
21-Feb-17	Casco, Carla	0.1	117.00	11.70	Prepared deposit slip for Feb 21/17
6-Apr-17	Casco, Carla	0.1	117.00	11.70	Prepared deposit slip for April 6/17
26-Apr-17	Casco, Carla	0.1	117.00	11.70	Prepared deposit slip for April 26/17
15-Feb-17	Consoli, Angelo	0.1	400.00	40.00	Bank rec
20-Nov-16	Mazur, Chris	1.2	450.00	540.00	Review report to court
22-Nov-16	Mazur, Chris	0.3	510.00	153.00	Finalize file review.
27-Jan-17	Mazur, Chris	0.1	510.00	51.00	review/sign off on funds transfer.
31-Jan-17	Mazur, Chris	0.3	510.00	153.00	Review report to court, file.
3-Feb-17	Mazur, Chris	0.3	510.00	153.00	review non-confidential report to court.
21-Feb-17	Miceli, Janet	0.2	137.00	27.40	HST Return
21-Mar-17	Miceli, Janet	0.5	137.00	68.50	Phone with CRA to obtain HST online access code, file Feb/17 HST Return, email B. Newton
30-Mar-17	Miceli, Janet	0.9	137.00	123.30	Prepare Receiver's 246(2) report and amendments to same as per B. Newton, prepare excel invoicing schedule
6-Apr-17	Miceli, Janet	0.3	137.00	41.10	Print current GL for B. Newton, complete online HST Return
13-Apr-17	Miceli, Janet	0.2	137.00	27.40	Prepare cheque requisition, Ascend data entry
1-Feb-17	Newton, Brad	3.2	400.00	1,280.00	Additional edits and updates to court reports and send to counsels for review; review draft order and provide comments; review KPMG files to confirm audit of source deductions was completed and no amounts owing
2-Feb-17	Newton, Brad	3.8	400.00	1,520.00	Amendment to real property sale agreement; adjust reports for change in real property sale agreement; review revised order and notice of motion; emails re statement of adjustments for real property sale and provide information to counsel for prep of same; internal report review with M Hanson; complete affidavit for report; gather report appendices and provide to counsel; discuss with Kreklewetz change to pre-NOI HST assessment settlement brought up by CRA and call with M McGraw re same
3-Feb-17	Newton, Brad	4.6	400.00	1,840.00	Numerous discussions and emails re CRA settlement, reviewing records at KPMG re June/July 2014 HST returns; discussions with J Landry re June/July HST returns; edits/updates to court reports, review of draft statement of adjustments; obtain final appendices to reports
6-Feb-17	Newton, Brad	3.0	400.00	1,200.00	Edits to Court reports to account for removal of CRA settlement, sign and send to counsel for filing; review changes to order; review draft minutes of settlement with CRA and provide comments to counsel
7-Feb-17	Newton, Brad	0.5	400.00	200.00	Review of emails re CRA minutes of settlement and discuss with M McGraw

Lanwest Mfg. Technologies Inc.

Listing of Time Charges for the Receiver

For the Period February 1 to April 30, 2017 (and time previously miscoded)

Date	Employee	Hours	Rate	Fee	Comments
3-Mar-17	Newton, Brad	3.0	400.00	1,200.00	Numerous discussions and emails with R Kreklewetz, S Kukulowicz, S Weisz, J Hammond, and CRA re settlement with CRA and related settlement documentation; update re Revenu Quebec
6-Mar-17	Newton, Brad	1.5	400.00	600.00	Review of updated minutes of settlement and release with CRA and provide comments and related email with J Hammond; payments of expenses; discussion with S Kukulowicz re mutual release with CRA; follow up on incorrect assessment received on Receiver's account for tobacco taxes
7-Mar-17	Newton, Brad	0.3	400.00	120.00	Review revised minutes and made edits and send back to counsel; confirm from Ministry of Finance that the outstanding balance shown on the Receiver's Tobacco tax account has been removed
9-Mar-17	Newton, Brad	0.5	400.00	200.00	Prep of February HST return
13-Mar-17	Newton, Brad	2.5	400.00	1,000.00	Emails re CRA settlement, review revised documents and discuss revised documents with J Hammond; draft third report
14-Mar-17	Newton, Brad	0.3	400.00	120.00	Draft paragraph for minutes of settlement with CRA and send to counsels
17-Mar-17	Newton, Brad	0.3	400.00	120.00	Update call with J Landry and email to counsels re draft docs from CRA
20-Mar-17	Newton, Brad	0.5	400.00	200.00	February HST return; follow up with counsel re call with CRA
22-Mar-17	Newton, Brad	0.3	400.00	120.00	Recording HST refund and expenses
23-Mar-17	Newton, Brad	0.5	400.00	200.00	Review emails re changes to covenant not to sue and discuss those and changes to settlement minutes with S Weisz; follow up email to group on revised paragraph for minutes of settlement
24-Mar-17	Newton, Brad	0.3	400.00	120.00	Email to counsels re CRA settlement documents final sign off for all docs except Covenant not to sue
30-Mar-17	Newton, Brad	0.4	400.00	160.00	Follow up on CRA settlement docs; interim receiver report for OSB
31-Mar-17	Newton, Brad	0.3	400.00	120.00	Update R&D and send OSB report
4-Apr-17	Newton, Brad	0.2	400.00	80.00	HST refund
6-Apr-17	Newton, Brad	0.2	400.00	80.00	Prep of March HST return
24-Apr-17	Newton, Brad	2.0	400.00	800.00	Discussion with J Hammond re final documentation re CRA settlement and signature of same by GRE and discuss next steps to finalize CRA settlement and timing and remaining issues in estate; discussion with M Valente re finalize CRA docs and court report and attendance for approval of CRA settlement; emails to CRA settlement parties to sign settlement docs and return to Receiver; consider changes to draft report to deal with records and outstanding vehicle loan
25-Apr-17	Newton, Brad	4.1	400.00	1,640.00	Update 3rd Court report, R&D and distribution figures and provide to counsel for review; follow up with a parties to CRA settlement in order to obtain signed settlement documents

Lanwest Mfg. Technologies Inc.

Listing of Time Charges for the Receiver

For the Period February 1 to April 30, 2017 (and time previously miscoded)

Date	Employee	Hours	Rate	Fee	Comments
26-Apr-17	Newton, Brad	0.8	400.00	320.00	Discussions and emails with J Landry and his counsel re signing of CRA settlement docs; follow up with counsel for GRE re signing of settlement doc; email to counsel for GRE re storage of records
31-Mar-17	Rickards, Susan	0.1	124.00	12.40	fax receiver's report
14-Oct-16	Smith, Teresa	0.1	142.00	14.20	Enter and allocate payments to estate
7-Feb-17	Smith, Teresa	0.2	142.00	28.40	Prepare cheque on account
9-Feb-17	Smith, Teresa	0.4	142.00	56.80	Prepare cheques on account
21-Feb-17	Smith, Teresa	0.1	142.00	14.20	Enter and allocate payments to estate
28-Feb-17	Smith, Teresa	0.3	142.00	42.60	Prepare cheques on account
7-Mar-17	Smith, Teresa	0.3	142.00	42.60	Prepare chqs on account
23-Mar-17	Smith, Teresa	0.2	142.00	28.40	Prepare cheque on account
5-Apr-17	Smith, Teresa	0.1	142.00	14.20	Enter and allocate payments to estate
24-Apr-17	Smith, Teresa	0.2	142.00	28.40	Prepare cheque on account
26-Apr-17	Smith, Teresa	0.1	142.00	14.20	Enter and allocate payments to estate
		<u>53.2</u>		<u>20,184.30</u>	

# Appendix I

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY**

**BETWEEN:**

**IN THE MATTER of the Proposal  
of LANWEST MFG. TECHNOLOGIES INC.  
of the Town of Caledonia,  
in the Province of Ontario**

**AFFIDAVIT OF COLLEEN YAMASHITA  
(Sworn May 8, 2017)**

I, Colleen Yamashita, of the City of Hamilton, Province of Ontario, **MAKE OATH  
AND SAY:**

1. I am a lawyer qualified to practice law in the Province of Ontario, and am a Partner with the law firm, Scarfone Hawkins LLP, lawyers to BDO Canada Limited, in its capacity as Court appointed receiver of Lanwest Mfg. Technologies Inc. (the "Receiver"), and as such, I have knowledge of the matters to which I hereinafter depose.
2. In connection with acting as counsel to the Receiver, a total fee of \$9,049.64 inclusive of disbursements and HST was charged by Scarfone Hawkins LLP during the period commencing February 1, 2017 to May 5, 2017, inclusive. Attached hereto and marked as collective **Exhibit "A"** to this my Affidavit is a true copy of Scarfone Hawkins LLP account dated May 5, 2017 in this regard (the "Account").
3. The Account is a fair and accurate description of the services provided, the disbursements incurred and the amounts charged by Scarfone Hawkins LLP. A copy of the Account has been provided to the Receiver. I am advised by the Receiver that the

Receiver has reviewed the Account and it considers the fees and disbursements fair and reasonable.

4. To the best of my knowledge the rates charged by Scarfone Hawkins LLP in connection with acting as counsel to the Receiver are comparable to the rates charged by other law firms in the Hamilton market for the provision of similar services.

5. The hourly billing rates set out in the account are the normal hourly rates charged by Scarfone Hawkins LLP for services rendered in relation to similar proceedings.

6. I make this Affidavit solely in support of an order approving the fees and disbursements of counsel for the Receiver and for no other or improper purpose.

**SWORN BEFORE ME** at the  
City of Hamilton, Province of  
Ontario on this 8 day of May,  
2017



Commissioner for Taking Affidavits  
(or as may be)

Michael Valente



COLLEEN YAMASHITA

This is Exhibit "A" referred to in the Affidavit of COLLEEN  
YAMASHITA sworn May 8, 2017



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*Commissioner for Taking Affidavits (or as may be)*

BDO CANADA LIMITED  
IN ITS CAPACITY AS RECEIVER OF LANWEST MFG. TECHNOLOGIES  
25 MAIN ST W, SUITE 805  
HAMILTON, ONTARIO  
L8P 1H1 CANADA

BRAD NEWTON, VICE PRESIDENT

INVOICE NUMBER:  
131259  
DATE:  
May 5, 2017  
OUR FILE NO.:  
14C340

**Scarfone Hawkins LLP**

IN ACCOUNT WITH

LAWYERS AND TRADE-MARK AGENTS  
ONE JAMES STREET SOUTH  
14TH FLOOR  
P.O. BOX 926, DEPOT #1  
HAMILTON, ONTARIO  
L8N 3P9

TELEPHONE 905-523-1333  
TELEFAX 905-523-5878

H.S.T. REGISTRATION NO. 873984314 RT - 0001

**RE: SALE TO BOTELHO INVESTMENTS LIMITED OF 107 GREENS ROAD,  
CALEDONIA**

TO ALL PROFESSIONAL services rendered in connection with the above-noted matter to May 05/17

DATE	TIMEKEEPER	HOURS	DESCRIPTION
02 /01/17	DI	0.20	<i>Instructions regarding closing documents and purchaser's lawyer;</i>
02 /01/17	DI	0.10	<i>Letter forwarded to Katz;</i>
02 /02/17	MJV	0.60	<i>Receiving and reviewing draft receiver reports and order; correspondence to BDO and Blakes with respect to same;</i>
02 /02/17	MJV	0.20	<i>Correspondence from and to BDO and Blakes regarding motion;</i>
02 /02/17	MJV	0.30	<i>Receiving and reviewing draft statement of adjustments; drafting, reviewing and revising supporting affidavit;</i>
02 /02/17	MJV	0.10	<i>Correspondence from and to Department of Justice;</i>
02 /02/17	MJV	0.30	<i>Review of final draft of motion materials; correspondence to Blakes;</i>
02 /02/17	DI	0.20	<i>Reviewing and revising closing documents; Letter forwarded to BDO;</i>
02 /02/17	DI	0.15	<i>Letter received from and letter forwarded to KPMG;</i>
02 /02/17	DI	0.10	<i>Letter forwarded to BDO;</i>
02 /03/17	MJV	0.25	<i>Receipt and review of correspondence from and to BDO and Blakes regarding CRA settlement;</i>

Account payable upon receipt. In accordance with the Section 33 of the Solicitors Act, interest will be charged at the annual rate stated calculated from 30 days after delivery of this account. A receipted account will not be mailed unless requested by you

02 /03/17	MJV	0.10	<i>Correspondence from and to Blair Blanchard;</i>
02 /03/17	MJV	0.30	<i>Receipt and review of revised CRA Minutes; correspondence from Blakes, BDO and Inch; correspondence from and to BDO;</i>
02 /03/17	DI	0.15	<i>VM from B. Newton; Instructions regarding SOA;</i>
02 /06/17	MJV	0.40	<i>Receipt and review of revised draft Minutes;</i>
02 /06/17	MJV	0.10	<i>Receipt and review of correspondence from Blakes &amp; R. Kreklewetz;</i>
02 /06/17	CY	0.30	<i>Correspondence forwarded to BDO;</i>
02 /06/17	DI	0.20	<i>Letter received from and Letter forwarded to client; Letter forwarded to Katz;</i>
02 /07/17	MJV	0.30	<i>Receipt and review of further revised Minutes; correspondence from and to Blakes;</i>
02 /07/17	MJV	0.40	<i>Receipt and review of R. Krekewetz comments and further revised Minutes; correspondence from Blakes; receipt and review of further revised Mutual Release;</i>
02 /07/17	DI	0.15	<i>Letter received from Katz; Instructions regarding requisitions; Letter forwarded to BDO; Instructions regarding vesting order;</i>
02 /08/17	MJV	0.20	<i>Receipt and review of correspondence from BDO, Blakes and R. Krekelewetz regarding release; email to Blakes;</i>
02 /08/17	MJV	0.10	<i>Correspondence from and to Blakes;</i>
02 /08/17	MJV	0.20	<i>Correspondence from and to Blakes; receipt and review of further revisions to Minutes and release; correspondence from Inch Hammond;</i>
02 /08/17	MJV	0.30	<i>Considering issues relating to Minutes; considering and advising with respect to relevant case law raised by R. Krekelewetz;</i>
02 /08/17	DI	0.10	<i>Instructions regarding taxes;</i>
02 /09/17	MJV	0.25	<i>Receipt and review of revised Minutes considering and advising with respect to amendments;</i>
02 /09/17	MJV	0.40	<i>Receipt and review of Sale Approval Order; correspondence to H. Katz; telephone attendance with H. Katz regarding same;</i>
02 /09/17	DI	0.25	<i>Reviewing order; Instructions regarding disbursement of closing funds;</i>
02 /09/17	DI	0.15	<i>Reviewing and Revising documents;</i>
02 /10/17	MJV	0.20	<i>Receipt and review of undertaking and release; correspondence from Blakes; correspondence from R. Krekelewetz;</i>
02 /10/17	MJV	0.20	<i>Correspondence from BDO regarding Revenue Quebec position and offer; email to BDO;</i>
02 /10/17	MJV	0.20	<i>Telephone attendance with purchaser's counsel regarding vesting order;</i>

02 /12/17	JGS	0.90	<i>Reviewing and Investigating advices and materials;</i>
02 /13/17	JGS	0.10	<i>Letter forwarded to client;</i>
02 /13/17	JGS	0.15	<i>Letter received from client; Reviewing Order;</i>
02 /13/17	JGS	0.30	<i>Reviewing documents; Letter forwarded to client;</i>
02 /13/17	JGS	0.10	<i>Letter's received from client (2); Instructions regarding advices;</i>
02 /13/17	JGS	0.20	<i>Reviewing and revising direction and disbursement summary; Letter's forwarded to client (2);</i>
02 /13/17	JGS	0.10	<i>Letter received from client;</i>
02 /13/17	MJV	0.20	<i>Correspondence to and telephone attendance with H. Katz;</i>
02 /13/17	DI	0.15	<i>Letter forwarded to BDO; Instructions regarding disbursement;</i>
02 /13/17	DI	0.20	<i>Reviewing and Revising documents;</i>
02 /14/17	JGS	0.20	<i>Reviewing and execute signed documents;</i>
02 /14/17	JGS	0.10	<i>Reviewing advices;</i>
02 /14/17	JGS	0.10	<i>Reviewing advice;</i>
02 /14/17	DI	0.10	<i>Telephone attendance on B. Newton;</i>
02 /15/17	JGS	0.10	<i>Reviewing instruction regarding HST and advice;</i>
02 /15/17	JGS	0.30	<i>Letter received from HK; Reviewing and instructions regarding advice and material;</i>
02 /15/17	JGS	0.20	<i>Reviewing advices regarding closing and materials;</i>
02 /15/17	JGS	0.20	<i>Reviewing advices to HK and client; Letter's forwarded to HK and client;</i>
02 /15/17	JGS	0.15	<i>Reviewing tax material; Letter's forwarded to City and HK;</i>
02 /15/17	DI	0.10	<i>Instructions regarding HST;</i>
02 /15/17	DI	0.20	<i>Instructions regarding closing; Instructions regarding Receiver's Certificate;</i>
02 /16/17	JGS	0.10	<i>Reviewing advice;</i>
02 /16/17	MJV	0.10	<i>Correspondence from and to BDO;</i>
02 /21/17	JGS	0.10	<i>Letter received from BDO; Letter forwarded to BDO;</i>
02 /21/17	JGS	0.10	<i>Letter received from client;</i>
02 /21/17	MJV	0.20	<i>Receipt and review of correspondence from BDO and Department of Justice; review of undertaking and release;</i>

02 /21/17	MJV	0.20	Telephone attendance with opposing counsel regarding release;
02 /23/17	MJV	0.20	Correspondence from Minister of Justice and BDO; correspondence to BDO;
02 /24/17	MJV	0.20	Telephone attendance with opposing counsel regarding receiver's position regarding mutual release;
03 /03/17	MJV	0.10	Correspondence from Department of Justice regarding release;
03 /06/17	MJV	0.30	Receipt and review of CRA settlement documents and BDO's amendments thereto;
03 /07/17	MJV	0.20	Receipt and review of further revised Minutes of CRA;
03 /07/17	MJV	0.10	Receipt and review of various correspondence from counsel;
03 /13/17	MJV	0.30	Correspondence from A. LeBlanc; receipt and review of CRA settlement documents with Crown's comments;
03 /14/17	MJV	0.20	Correspondence from BDO, Department of Justice and Blakes; receipt and review of CRA revised Minutes;
03 /17/17	JGS	0.30	Reviewing advice and materials; Reviewing and Revising report;
03 /17/17	MJV	0.10	Correspondence from BDO and Blakes;
03 /21/17	MJV	0.20	Receipt and review of Department of Justice edits to covenant not to sue;
03 /22/17	MJV	0.25	Considering and advising with respect to further amendments to Covenant not to sue; correspondence and to BDO;
03 /27/17	MJV	0.20	Correspondence from Department of Justice; telephone attendance with D. Winters;
03 /27/17	MJV	0.10	Correspondence between Department of Justice and Blakes;
03 /27/17	MJV	0.40	Receipt and review of final Department of Justice documents; correspondence to BDO Dunwoody;
04 /06/17	MJV	0.10	Receipt and review of correspondence re: covenant not to sue;
04 /21/17	MJV	0.20	Email from A. LeBlanc and final review of settlement documents;
04 /24/17	MJV	0.10	Telephone attendance with B. Newton and receiving his instructions;
04 /24/17	MJV	0.20	Correspondence to counsel; telephone attendance with opposing counsel;
04 /25/17	MJV	0.20	Correspondence from and to counsel;
04 /26/17	MJV	0.50	Receipt and review of draft third report; correspondence to BDO;

**TIMEKEEPER SUMMARY**

<b>Timekeeper</b>	<b>ID</b>	<b>Hours</b>	<b>Rate</b>	<b>Total</b>
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Account payable upon receipt. In accordance with the Section 33 of the Solicitors Act, interest will be charged at the annual rate stated calculated from 30 days after delivery of this account. A receipted account will not be mailed unless requested by you

JOSEPH G. SPERANZINI	JGS	3.80	\$550.00	\$2,090.00
MICHAEL J. VALENTE	MJV	10.25	\$450.00	\$4,612.50
COLLEEN YAMASHITA	CY	0.30	\$300.00	\$90.00
DANIELLE IAMPINETRO	DI	2.50	\$450.00	\$1,125.00
<b>TOTAL FEES:</b>				<u>\$7,917.50</u>


FEE	PLUS H.S.T.	DISBURSEMENTS	H.S.T EXEMPT	H.S.T NON- EXEMPT	PLUS H.S.T.	GRAND TOTAL
\$7,917.50	\$1,029.28					\$8,946.78
		PAID TO ISSUE BANK DRAFT(S)	\$7.50			\$7.50
		PHOTOCOPIES		\$25.00		\$25.00
		CONVEYANCER USER FEE		\$20.00		\$20.00
		FAX TRANSMISSIONS		\$0.75		\$0.75
		POSTAGE		\$1.64		\$1.64
		COURIER CHARGE(S)		\$37.00		\$37.00
\$7,917.50	\$1,029.28		\$7.50	\$84.39	\$10.97	\$9,049.64

**BALANCE DUE TO THIS OFFICE: \$9,049.64**  
**PREVIOUS AMOUNT OWING \$7,276.99**  
**PREVIOUS PAYMENTS \$7,276.99**  
**BALANCE DUE NOW \$9,049.64**

THIS IS OUR ACCOUNT,

Per:

SCARFONE HAWKINS LLP

*for:*   
 JOSEPH G. SPERANZINI  
 JGS / /  
 E. & O.E.

Beth Wise

Account payable upon receipt. In accordance with the Section 33 of the Solicitors Act, interest will be charged at the annual rate stated calculated from 30 days after delivery of this account. A receipted account will not be mailed unless requested by you



DATE	ITEM	TRUST STATEMENT	
		DISBURSEMENTS	RECEIPTS
February-15-2017	Received From: HARVEY KATZ PROFESS CLOSING FUNDS		\$538,234.91
February-15-2017	Paid To: BLAIR BLANCHARD STAPLETC BALANCE OF REAL ESTATE COMMISSION	\$8,335.00	
February-15-2017	Paid To: COUNTY OF HALDIMAND PAY OUTSTANDING TAXES	\$87.73	
February-16-2017	Paid To: BDO CANADA LIMITED CLOSING FUNDS	\$526,547.92	
	<b>TOTAL</b>	<u>\$534,970.65</u>	<u>\$538,234.91</u>
	<b>TRUST BALANCE</b>		<b>\$3,264.26</b>

SCARFONE HAWKINS LLP

Per:



for: JOSEPH G. SPERANZINI

IN THE MATTER IN THE MATTER of the Proposal of Lanwest Mfg. Technologies Inc. of the Town of Caledonia, in the Province of Ontario

Court File No. 32-1895126

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY  
PROCEEDING COMMENCED AT  
TORONTO**

**AFFIDAVIT OF COLLEEN YAMASHITA**

**SCARFONE HAWKINS LLP**  
Barristers & Solicitors  
One James Street South  
14th Floor  
P. O. Box 926, Depot 1  
Hamilton, Ontario  
L8N 3P9

Michael J. Valente (23925R)  
mvalente@shlaw.ca  
Tel: 905-523-1333  
Fax: 905-523-5878

Lawyers for the receiver, BDO Canada Limited

**GRAND RIVER ENTERPRISES SIX NATIONS LIMITED**

- and -

**LANWEST MFG. TECHNOLOGIES INC.**

Applicant

Respondent

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

Proceeding commenced at Toronto

**MOTION RECORD  
(CRA SETTLEMENT, INTERIM DISTRIBUTION,  
DESTRUCTION OF RECORDS, FEE APPROVAL)  
(RETURNABLE JUNE 14, 2017)**

**SCARFONE HAWKINS LLP**  
One James Street South, 14th Floor  
Hamilton, ON L8P 4R5

**Michael J. Valente**  
e-mail: [mvalente@shlaw.ca](mailto:mvalente@shlaw.ca)  
Tel : 905-523-1333 ext. 235  
Fax : 905-523-5878

Lawyers for BDO Canada Limited in its capacity as  
Receiver and Manager, Trustee in Bankruptcy and  
Proposal Trustee of Lanwest Mfg. Technologies Inc.