

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.

)

THURSDAY, THE 14th

JUSTICE HAINEY

)

DAY OF JUNE, 2018

)

BETWEEN:

STRONACH CONSULTING CORP.

Applicant

-and-

BIONX CANADA INC.

Respondent



**APPROVAL AND VESTING ORDER
(Amego Sale Agreement)**

THIS MOTION, made by Grant Thornton Limited in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of BionX Canada Inc. (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by the asset purchase agreement (the "**Amego Sale Agreement**") between the Receiver and Amego Electric Vehicles Inc. (the "**Purchaser**") dated June 5, 2018 and appended to the Report of the Receiver dated June 8, 2018 (the "**Report**"), and vesting of the Purchased Assets (as defined in the Amego Sale Agreement) in the Purchaser, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, and other parties listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Nichole Gehbauer, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion 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 OF SALE TRANSACTION

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Amego 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.

VESTING OF THE PURCHASED ASSETS

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 Amego 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 McEwen dated February 27, 2018; (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 all of which are collectively referred to as the "**Encumbrances**" 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 for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets 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 from the sale of the Purchased Assets 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.

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

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect 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.

7. **THIS COURT ORDERS** that the Receiver is authorized, following the completion of the Sale Transaction, to execute, deliver and file any document, including without limitation, any articles of reorganization, required in order to effect a change of the Debtors' corporate name, and this Court waives any third party requirement or required consent pursuant to any Canadian federal or provincial legislation relating to same.

GENERAL

8. **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.



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

JUN 14 2018

PER / PAR:



Schedule A – Form of Receiver's Certificate

Court File No. CV-18-592741-00CL

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

BETWEEN:

STRONACH CONSULTING CORP.

Applicant

-and-

BIONX CANADA INC.

Respondent

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice McEwen of the Ontario Superior Court of Justice (the "**Court**") dated February 27, 2018, Grant Thornton Limited was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of BionX Canada Inc. (the "**Debtor**").

B. Unless otherwise indicated herein, capitalized terms have the meanings ascribed to them in the asset purchase agreement dated June 5, 2018 (the "**Amego Sale Agreement**") between the Receiver and Amego Electric Vehicles Inc. (the "**Purchaser**").

C. Pursuant to an Order of the Court dated June ●, 2018, the Court approved the Amego Sale Agreement and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, 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 sections 5.1, 5.2 and 5.3 of the Amego 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.

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 sections 5.1, 5.2 and 5.3 of the Amego 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].

**Grant Thornton Limited, in its capacity
as Receiver of the undertaking, property
and assets of BionX Canada Inc., and
not in its personal capacity**

Per: _____
Name:
Title:

Schedule B – Purchased Assets

[Attached]

BionX Canada Inc.
Detailed Inventory Listing

Note: Please be advised that the present inventory list is current as at May 1, 2018 and is subject to change. The latest versions of the following list will be uploaded as required.

Legend

Aur-M Aurora-Main
Aur-E Aurora-Engineering
Aur-Q Aurora-Quarantine
Aur-T Aurora-Transit
MRKG Marketing Warehouse
MUN-SRV Munich Service Warehouse
Service Service Warehouse

Item number	Item name	Qty	BV/Unit	Book Value	Revision	Site	Config	Size	Serial Nbr.	Warehouse Location	Item Description	Item type	Parcel	Parcel Name
P350DL	Kit P350DL - DT	1	\$604.14	\$ 604.14	CABRODI01	AUR	BLK/BLK7	20	W00170067-001	AUR-M AWP	KIT	BOM	Parcel 01	Finished Goods
P350DL	Kit P350DL - DT	54	\$601.37	\$ 32,474.18	CACYCLE01	AUR	BLK/BLK7	20	W00170067-001	AUR-M AWP	KIT	BOM	Parcel 01	Finished Goods
P350DL	Kit P350DL - DT	1	\$602.57	\$ 602.57	USBIKEF02	AUR	BLK/BLK7	20	W00170067-001	AUR-M AWP	KIT	BOM	Parcel 01	Finished Goods
P350DX	Kit P350DX - DT	1	\$632.26	\$ 632.26	USBIKEW03	AUR	BLK/BLK7	20	W00170069-001	AUR-M AWP	KIT	BOM	Parcel 01	Finished Goods
P350DX	Kit P350DX - DT	4	\$627.22	\$ 2,508.89	USRECUM04	AUR	BLK/BLK7	20	W00170069-001	AUR-M AWP	KIT	BOM	Parcel 01	Finished Goods
P350DX	Kit P350DX - DT	20	\$571.58	\$ 11,431.60	USSTOCK01	AUR	BLK/BLK7	20	W00170069-001	AUR-M AWP	KIT	BOM	Parcel 01	Finished Goods

STRONACH CONSULTING CORP.
Applicant

and **BIONX CANADA INC.**
Respondent

Court File No.: CV-18-592741-00C

**ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST**

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

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