## IN THE COURT OF APPEAL OF THE REPUBLIC OF VANUATU

(Appellate Jurisdiction)

Civil Appeal Case No. 16/1561 CoA/CIVA

BETWEEN: EDENHOPE LIMITED

Appellant

AND: VENEER LOGGING LIMITED

Respondent

Before: Hon. Chief Justice Vincent Lunabek

Hon. Justice Bruce Robertson

Hon. Justice John Mansfield

Hon. Justice Oliver Saksak Hon. Justice Daniel Fatiaki

Hon. Justice Dudley Aru

Hon. Justice David Chetwynd

Counsel: John Malcolm for the Appellant

Robert Sugden for the Respondent

Date of Hearing: 19 July 2016

Date of Judgment: 22 July 2016

## ORDER SUBSEQUENT TO MEDIATION AGREEMENT

**UPON** this matter having been referred to mediation

AND UPON the parties having agreed to the terms set out in the signed agreement

annexed hereto

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## IT IS ORDERED THAT:

- The Agreement reached at mediation by the parties is hereby adopted as an order of the Court;
- 2. All further proceedings in this matter are stayed except for the purpose of carrying into effect the terms of the said Agreement.
- 3. For that purpose the parties have permission to apply to the Court.

BY THE COURT

APPEAL

COUR S'APPEL

**Vincent LUNABEK** 

**Chief Justice** 

## IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU COURT-CONNECTED MEDIATION MEDIATION AGREEMENT

IN THE MATTER OF MEDIATION BETWEEN EDENHOPE LIMITED AND VENEEER LOGGING LIMITED during the mediation session held on the 19<sup>th</sup> July, 2016 with the parties, together with their lawyers Robert Sugden and John Malcolm respectively it was agreed as follows:

- 1. That there is to be full and final settlement of all matters currently under litigation including:
  - (a) Civil Case 20 of 2009 and its Appeal;
  - (b) Civil Case 20 of 2011 and its Appeal; and
  - (c) All matters relating to the subject matter of the litigation inclusive of costs.
- 2. That there shall be orders as follows:
  - 1.) Payment to Edenhope Limited in the amount of VT5 million by Veneer Logging Limited.
  - 2.) Money order for the payment sum at a monthly rate of VT250, 000 payable on the 30<sup>th</sup> day of each month commencing 30<sup>th</sup> August, 2016. Edenhope to nominate a bank account to Veneers Solicitor.
  - 3.) Interest on all unpaid amounts at 5% per annum.

- 3. In the event the payment of the monthly tranche is in default in excess of seven (7) days;
  - (i) The total unpaid balance shall become immediately due and payable at 5% per annum;
  - (ii) Edenhope Limited entitled to issue enforcement proceedings or proceedings under the Companies Act;
  - (iii) Service of any notices or demands are to be delivered to Veneers solicitors at their chambers or by email.
- 4. Veneers Limited shall be entitled to uplift the one (1) metre length timber pieces stipulated in the audit report of Melcoffee Sawmills certified by Neil Croucher dated 13<sup>th</sup> July, 2011 as annexed, being a total of 1874 pieces to a total 10.92 cubic metres.
- 5. In the event of a shortfall the judgment sum is to be reduced by a sum amounting to VT50, 000 per cubic meter of such shortfall.
- 6. Veneers Limited to uplift the timber pieces within three (3) months of the date of this order, such date to be resolved as acceptable to the parties. The parties are not to act unreasonably. Storage charges will apply after the three (3) month allowable time at Vt30,000 per month until collection and in the event the collection occurs in the course of a month pro rata for the days of the month.
- 7. The parties agree to supervision of the uplift of the timber pieces, and in the event that they are unable to agree to a supervisor jointly paid by each, each party to appoint and pay their own representative for such supervision.

- 8. Veneers Limited becomes the sole owner of the completed joinery held in the container being the doors, windows and louvres.
- 9. All claims for storage and quantum meruit are hereby discontinued.
- 10. In the event of dispute in respect to resolution of this agreement either party may refer the matter to the Master or other mediator as may be appointed.

(Sgd.) Stephen Quintos

as Director for the Appellant

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(Sgd.) Robert Sugden

(Sgd.) John Schick as

**Director for the Respondent** 

(Sgd.) John Malcolm

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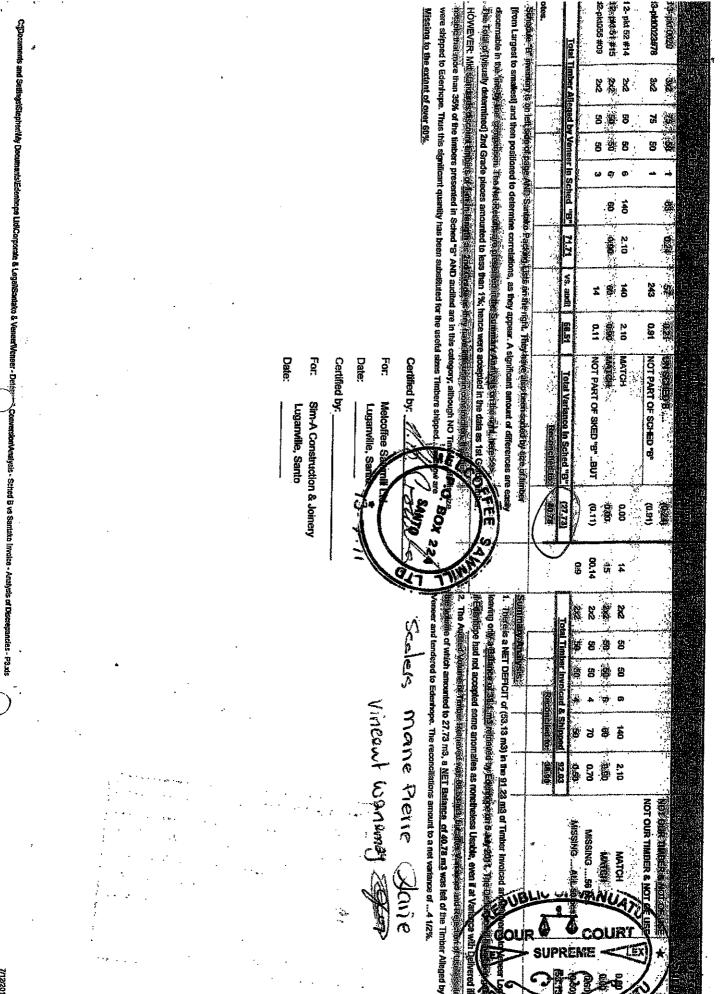
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