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COURT FILE NUMBER

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE OF

CALGARY

APPLICANT:

GURPREET LAIL-DHALIWAL AND
JASPREET LAIL

RESPONDENT(S):

MURAD TEJPAN and MAHMOOD TEJPAN

DOCUMENT

REFEREE ORDER

CONTACT INFORMATION OF PARTY

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DATE ON WHICH ORDER WAS

PRONOUNCED:

November 19, 2021

NAME OF JUDGE WHO MADE THIS

ORDER:

Justice K. Horner

LOCATION OF HEARING:

Calgary, Alberta

UPON the application of Gurpreet Lail-Dhaliwal in respect of 1178929 Alberta Ltd. (the "Debtor"); AND UPON having read the Application and the Affidavit of Gurpreet Lail-Dhaliwal; AND UPON reading the consent of Alvarez and Marsal Canada Inc. to act as Referee to the Debtor (the "Referee") appointed pursuant to section 218(c) of the *Alberta Business Corporations Act*, RSA 2000 B-9 (the "*ABCA*") and Rules 6.44 to 6.46 of the Alberta Rules of Court, Alta Reg 124/2010 (the "*Rules*") of the Debtor, filed; AND UPON noting the consent endorsed hereon of the respondents, Murad Tejpar and Mahmood Tejpar; AND UPON hearing from counsel for Applicants, counsel for the proposed Referee and any other counsel or other interested parties present; IT IS HEREBY ORDERED AND DECLARED THAT::

SERVICE

1. The time for service of the notice of application for this order (the "**Order**") is hereby abridged and deemed good and sufficient and this application is properly returnable today.

APPOINTMENT

2. Pursuant to section 218(c) of the *ABCA* and Rules 6.44-6.46 of the *Rules*, Alvarez and Marsal Canada Inc. is hereby appointed Referee, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the "**Property**").

REFEREE'S POWERS

3. The Referee is hereby empowered and authorized, but not obligated, to act at once in respect of the Property, to review the debts of the Debtor and determine the distribution of the Property to any proven creditors of the Debtor and, without in any way limiting the generality of the foregoing, the Referee is hereby expressly empowered and authorized to do any of the following where the Referee 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
 - (b) 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 Referee's powers and duties, including without limitation those conferred by this Order;
 - (c) 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;
 - (d) to settle, extend or compromise any indebtedness owing to or by the Debtor;

- (e) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Referee's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (f) 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 Referee, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Referee to defend or settle the action in which this Order is made unless otherwise directed by this Court;
- (g) to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing 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;
- (h) to report to, meet with and discuss with such affected Persons (as defined below) as the Referee deems appropriate all matters relating to the Property and this appointment, and to share information, subject to such terms as to confidentiality as the Referee deems advisable;
- (i) to run a claims process to be designed and executed by the Referee;
- (j) to inspect and verify records of the Debtor;
- (k) to inspect, examine or take a view of the Property;
- (l) to conduct an accounting or verify accounts of the Debtor;
- (m) to make any determination required to verify a claim and to determine the distribution, if any, of a creditors proportionate share of the Property;
- (n) to do anything else required to answer a question or respond to a matter in accordance with this Order; and
- (o) 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 Referee takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtor, and without interference from any other Person (as defined below).

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE REFEREE

4. (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 (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Referee of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Referee, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Referee upon the Referee's request.
5. All Persons shall forthwith advise the Referee 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 Referee or permit the Referee to make, retain and take away copies thereof and grant to the Referee unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 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 Referee due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.
6. 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 Referee for the purpose of allowing the Referee 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 Referee in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Referee. Further, for the purposes of this paragraph, all Persons shall provide the Referee with all such assistance in gaining immediate access to the information in the Records as the Referee may in its discretion require including providing the Referee with instructions on the use of any computer or other system and providing the Referee with any and all access codes, account names, and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE REFEREE

7. No proceeding or enforcement process in any court or tribunal (each, a **"Proceeding"**), shall be commenced or continued against the Referee except with the written consent of the Referee or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Referee 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, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph; and (ii) affect a Regulatory Body's investigation in respect of the debtor or an action, suit or proceeding that is taken in respect of the debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. **"Regulatory Body"** means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a Province.

NO EXERCISE OF RIGHTS OF REMEDIES

9. All rights and remedies of any Person, whether judicial or extra-judicial, statutory or non-statutory (including, without limitation, set-off rights) against or in respect of the Debtor or the Referee or affecting the Property are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided, however, that nothing in this Order shall:
 - (a) empower the Debtor to carry on any business that the Debtor is not lawfully entitled to carry on;
 - (b) prevent the filing of any registration to preserve or perfect a security interest;
 - (c) prevent the registration of a claim for lien; or
 - (d) exempt the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment.
10. Nothing in this Order shall prevent any party from taking an action against the Debtor where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance

with the other provisions of this Order, and notice in writing of such action be given to the Referee at the first available opportunity.

NO INTERFERENCE WITH THE REFEREE

11. No Person shall accelerate, suspend, 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, except with the written consent of the Debtor and the Referee, or leave of this Court.

REFEREE TO HOLD FUNDS

12. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Referee 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 Referee (the "**Post Refereeship Accounts**") and the monies standing to the credit of such Post Refereeship Accounts from time to time, net of any disbursements provided for herein, shall be held by the Referee to be paid in accordance with the terms of this Order or any further order of this Court
13. Cameron Hone LLP is directed to remit to the Referee all sales proceeds from property previously owned by the Debtor that it currently holds in trust, which the Referee shall deposit into the Post Refereeship Accounts.

LIMITATION ON ENVIRONMENTAL LIABILITIES

14. (a) Notwithstanding anything in any federal or provincial law, the Referee is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
 - (i) before the Referee's appointment; or
 - (ii) after the Referee's appointment unless it is established that the condition arose or the damage occurred as a result of the Referee's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Referee from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Referee to

remedy any environmental condition or environmental damage affecting the Property, the Referee is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,

- (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Referee, if the order is in effect when the Referee is appointed, or during the period of the stay referred to in clause (ii) below, the Referee:
 - A. complies with the order, or
 - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
- (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Referee, if the order is in effect when the Referee is appointed, by,
 - A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Referee to contest the order; or
 - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- (iii) if the Referee had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

LIMITATION ON THE REFEREE'S LIABILITY

- 15. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Referee shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Referee under any applicable law.

REFEREE'S ACCOUNTS

- 16. The Referee and counsel to the Referee shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Referee and counsel to the Referee shall be entitled to the benefits of and are hereby granted a charge (the "**Referee's Charge**") on the Property, which charge shall not exceed an aggregate amount of **[\$150,000]**, as security for their professional fees and disbursements incurred at the normal rates and charges of

the Referee and such counsel, both before and after the making of this Order in respect of these proceedings, and the Referee's Charge shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.

17. The Referee and its legal counsel shall pass their accounts from time to time.
18. Prior to the passing of its accounts, the Referee 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 the legal fees and disbursements, incurred at the normal rates and charges of the Referee or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

ALLOCATION

19. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Referee's Charge amongst the various assets comprising the Property.

GENERAL

20. The Referee may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
21. Notwithstanding Rule 6.11 of the *Rules*, unless otherwise ordered by this Court, the Referee will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Referee's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
22. Upon completion of its investigation, the Referee will complete a final report pursuant to section 6.46 of the *Rules*. In its report, the Referee shall provide the Court with any views and findings it has formed as a result of its claims process and investigation of any claims, and the Referee will provide its views on the apportionment of the costs, including and professional fees, incurred for the completion of its duties pursuant to this Order and the reasons for such views.
23. Nothing in this Order shall prevent the Referee from acting as a trustee in bankruptcy or as a Receiver of the Debtor.
24. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction to give effect to this Order and to assist the Referee 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 Referee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Referee in any foreign proceeding, or to assist the Referee and its agents in carrying out the terms of this Order.

25. The Referee is 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 Referee 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.
26. The Applicant is entitled to claim costs of this Application from any party opposing the relief sought herein. The amount and nature of any costs payable shall be at the discretion of this Court.
27. This Order is made *without prejudice* regarding the Applicants' evidence contained in the Affidavit of Gurpreet Lail-Dhaliwal, sworn on July 28, 2021 and in the event further applications or appearances before the Court in this Action are necessary, the Respondents shall have the right to cross-examine Ms. Lail-Dhaliwal on her Affidavit, sworn July 28, 2021.
28. Any interested party may apply to this Court for advice and direction pertaining to this Order, or to vary or amend this Order on not less than 48 hours notice to the Referee 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.

FILING

29. This Order is issued and shall be filed in Court of Queen's Bench Action No. 2001-09142.
30. The E-Service Guide of the Alberta Court of Queen's Bench Commercial List (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide shall be valid and effective service. Subject to *Rules* 11.25 and 11.26, this Order shall constitute an order for substituted service pursuant to *Rule* 11.28. Subject to paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. A Case Website shall be established at the following URL: <http://www.alvarezandmarsal.com/117AB>.
31. Service of this Order shall be deemed good and sufficient by:
 - (a) serving the same on:

- (i) the persons listed on the service list created in these proceedings or otherwise served with notice of these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) and service on any other person is hereby dispensed with.
32. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.
33. This effect of this Order will be stayed until 12:00 pm on Friday, November 26, 2021.



Justice of the Court of Queen's Bench of Alberta