



COURT FILE NUMBER 1801-04745

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF HILLSBORO VENTURES INC.

DEFENDANT CEANA DEVELOPMENT SUNRIDGE INC.

DOCUMENT APPLICATION

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF PARTY
FILING THIS DOCUMENT

Dentons Canada LLP
Bankers Court
15th Floor, 850 - 2nd Street S.W.
Calgary, Alberta T2P 0R8
Attention: Derek Pontin / John Regush
Ph. (403) 268-6301/7086 Fx. (403) 268-3100
File No.: 559316-3

NOTICE TO RESPONDENT Ceana Development Sunridge Inc.

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Judge.

To do so, you must be in Court when the application is heard as shown below:

Date: July 3, 2019

Time: 3:00 p.m.

Where: Calgary Courts Centre, Calgary, Alberta

Before Whom: The Honourable Madam Justice Romaine

Go to the end of this document to see what you can do and when you must do it.

Remedy Claimed or Sought:

1. Hillsboro Ventures Inc. ("**Hillsboro**") respectfully seeks an Order:
 - (a) declaring that the time for service of this application be abridged, that this application is properly returnable today and that further service of this application be dispensed with;

- (b) appointing Hardie & Kelly Inc. ("HKI"), as receiver and manager (the "**Receiver**") of all of the assets, undertakings, and properties of Ceana Development Sunridge Inc. ("**Ceana Sunridge**") pursuant to section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985 c B-3 and section 13 of the *Judicature Act*, RSA 2000 c J-2, substantially in the form attached as **Schedule "A"** to this application;
- (c) granting permission to Hillsboro to amend its pleadings by filing the Amended Statement of Claim attached as **Schedule "B"** to this application; and
- (d) providing such further and other relief as this Honourable Court may deem just and appropriate.

Grounds for Making this Application:

Receivership

The Indebtedness and Security

- 2. Hillsboro has extended financing to Ceana Sunridge under and by way of three mortgage facilities (the "**Facilities**").
- 3. Mortgages granted in relation to the Facilities charge the property legally described as:

PLAN 9811891
BLOCK 8
LOT 1
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 1.398 HECTARES (3.45 ACRES) MORE OR LESS

(the "**Lands**").
- 4. Ceana Sunridge granted Hillsboro various other security in respect of the Facilities, including agreements granting Hillsboro a security interest in all of Ceana Sunridge's present and after acquired personal property.
- 5. Hillsboro registered its security in the applicable public registries.

Default and Demands

- 6. Ceana Sunridge is in default of its loan agreements and related security, including but not limited to by failing to repay amounts owed to Hillsboro.
- 7. Hillsboro has issued demands for repayment and a Notice of Intention to Enforce Security pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985 c B-3.
- 8. Despite these demands, Ceana Sunridge has failed or neglected to pay, and continues to fail or neglect to pay, the indebtedness owed to Hillsboro (the "**Hillsboro Indebtedness**").
- 9. As of June 5, 2019, the Hillsboro Indebtedness totals more than \$8,000,000.

10. The Hillsboro Indebtedness continues to accrue interest and Hillsboro continues to incur fees and costs, including legal fees on a solicitor and his own client full indemnity basis, all of which are secured by Hillsboro's security.

Receivership

11. Since approximately August 10, 2018, there has been no material advancement of the construction project comprising the primary business of Ceana Sunridge.
12. Completing this project is critical to the ability of Ceana Sunridge's creditors, including Hillsboro, to obtain repayment of the amounts they are owed.
13. It is necessary to appoint a receiver and manager to oversee the completion of this construction project.
14. Hillsboro is entitled under its mortgages and security to appoint a receiver and manager over Ceana Sunridge.
15. Hillsboro is a secured creditor of Ceana Sunridge, and understands that Ceana Sunridge's other primary secured creditor, Connect First Credit Union, supports appointing a receiver and manager.
16. The appointment of a receiver and manager over the assets, properties, and undertakings of Ceana Sunridge is necessary, just, and convenient in order to protect the interests of Hillsboro, and other creditors of Ceana Sunridge, and to preserve and realize upon the assets of Ceana Sunridge in order to recover the Hillsboro Indebtedness.
17. The appointment of a receiver and manager is justified on the basis of the factors cited in ***Paragon Capital Corp. v Merchants & Traders Assurance Co.***, 2002 ABQB 430 at paras 26-32.
18. HKI has consented to act as receiver and manager should the Court so appoint it.
19. Such further and other grounds as Hillsboro may advise and this Honourable Court may permit.

Amended Statement of Claim

20. The Statement of Claim filed by Hillsboro in this action sought to foreclose on one of the three Facilities granted in favour of Hillsboro.
21. Hillsboro wishes to enforce all of its security under the various Facilities, including its right to appoint a receiver and manager.
22. It will be most efficient for Hillsboro to consolidate its mortgage actions under the existing action rather than to commence proceedings under separate actions.
23. The proposed amendments will enable this Honourable Court to resolve the real issues in dispute between the parties fairly and justly in the most timely and cost-effective way possible.

24. The proposed amendments address eventual limitation periods that Hillsboro would have to otherwise deal with.
25. The proposed amendments will not cause any prejudice to Ceana Sunridge.
26. The proposed amendments are not hopeless, do not seek to add a new party or cause of action after the expiry of a limitation period, nor is there any bad faith associated with the failure to plead the amendment in the first instance.
27. Such further and other grounds as Hillsboro may advise and this Honourable Court may permit.

Material or Evidence to be Relied on:

28. The affidavits of Keith Ferrel sworn August 31, 2018 and June 21, 2019.
29. The pleadings and proceedings in this action.
30. Such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable Rules:

31. *Alberta Rules of Court*, Alta Reg 124/2010.
32. *Bankruptcy and Insolvency General Rules*, CRC, c 368.
33. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

34. *Bankruptcy and Insolvency Act*, RSC 1985 c B-3.
35. *Judicature Act*, RSA 2000 c J-2.
36. *Limitations Act*, RSA 2000 c L-12.
37. Such further and other Acts and Regulations as counsel may advise and this Honourable Court may permit.

How the Application is Proposed to be Heard or Considered:

38. In person, before the Honourable Madam Justice Romaine.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

Clerk's Stamp:



COURT FILE NUMBER

1801-04745

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE OF

CALGARY

PLAINTIFF:

HILLSBORO VENTURES INC.

DEFENDANT:

CEANA DEVELOPMENT SUNRIDGE INC.

DOCUMENT

RECEIVERSHIP ORDER

CONTACT INFORMATION OF PARTY

Dentons Canada LLP

FILING THIS DOCUMENT:

Bankers Court

15th Floor, 850 - 2nd Street S.W.

Calgary, Alberta T2P 0R8

Attention: Derek M. Pontin

Ph. (403) 268-6301 Fx. (403) 268-3100

File No.: 559316-3

DATE ON WHICH ORDER WAS PRONOUNCED:		July 3, 2019
NAME OF JUDGE WHO MADE THIS ORDER:		Honourable Madam Justice B.E.C. Romaine
LOCATION OF HEARING:		Calgary, Alberta

UPON the application of Hillsboro Ventures Inc. in respect of Cean Development Sunridge Inc. (the "Debtor"); **AND UPON** having read the Application, the Affidavit of Keith Ferrel, dated June 21, 2019; and the Affidavit of Service of ●, filed; **AND UPON** reading the consent of Hardie & Kelly Inc. to act as receiver and manager (the "Receiver") of the Debtor, filed; **AND UPON** hearing counsel for the Plaintiff, counsel for the Defendant, 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 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA"), and sections 13(2) of the *Judicature Act*, R.S.A. 2000, c.J-2, 99(a) of the *Business Corporations Act*, R.S.A. 2000, c.B-9, and 65(7) of the *Personal Property Security Act*, R.S.A. 2000, c.P-7 Hardie & Kelly Inc. is hereby appointed Receiver, 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").

RECEIVER'S POWERS

3. 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;
 - (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 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 or by 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 undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) 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 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 Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;
- (k) to market any or all 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;
- (l) 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 \$25,000, provided that the aggregate consideration for all such transactions does not exceed \$200,000; 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 60(8) of the *Personal Property Security Act*, R.S.A. 2000, c. P-7 or any other similar legislation in any other province or territory shall not be required.

- (m) 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;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate 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;
- (o) to register a copy of this Order and any other orders in respect of the Property against title to any of the Property, and when submitted by the Receiver for registration this Order shall be immediately registered by the Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding Section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles shall accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity;
- (p) 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;
- (q) 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;
- (r) to assign the Debtor into bankruptcy;
- (s) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (t) 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, including the Debtor, and without interference from any other Person (as defined below).

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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 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 (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
5. 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 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 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 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.

NO PROCEEDINGS AGAINST THE RECEIVER

7. 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

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 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, 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 Receiver or affecting the Property are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, including, without limitation, any rights or remedies or provisions in any construction, ownership or operating agreement, joint venture agreement or any other agreements to which the Debtor is a party 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 Order shall empower the Debtor to carry on any business that the Debtor is not lawfully entitled to carry on; prevent the filing of any registration to preserve or perfect a security interest; prevent the registration of a claim for lien; or 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 Applicant 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 Monitor at the first available opportunity.

NO INTERFERENCE WITH THE RECEIVER

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 Receiver, or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract (as defined in the BIA) from closing out and terminating such contract in accordance with its terms.

CONTINUATION OF SERVICES

12. All persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Debtor, 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, suspending or terminating the supply of such goods or services as may be required by the Debtor or exercising any other remedy provided under such agreements or arrangements. The Debtor shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Debtor in accordance with the payment practices of the Debtor, or such other practices as may be agreed upon by the supplier or service provider and each of the Debtor and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. 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

14. Subject to employees' rights to terminate their employment, 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*, S.C. 2005, c.47 ("**WEPPA**").
15. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, 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

16. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
 - (i) before the Receiver's appointment; or
 - (ii) after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.

- (b) Nothing in sub-paragraph (a) exempts a Receiver 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 Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver 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 Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:
 - 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 Receiver, if the order is in effect when the Receiver is appointed, by,
 - A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver 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 Receiver 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 RECEIVER'S LIABILITY

- 17. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver 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 Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

RECEIVER'S ACCOUNTS

18. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Receiver'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 but subject to section 14.06(7), 81.4(4) and 81.6(2) and 88 of the BIA.
19. The Receiver and its legal counsel shall pass their accounts from time to time.
20. 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 the legal fees and disbursements, incurred at the normal 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

21. 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 \$4,500,000 (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, deemed 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 set out in sections 14.06(7), 81.4(4), 81.6(2) and 88 of the BIA.
22. 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.

23. 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.
24. 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.
25. The Receiver shall be allowed to repay any amounts borrowed by way of Receiver's Certificates out of the Property or any proceeds, including any proceeds from the sale of any assets without further approval of this Court.

ALLOCATION

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

GENERAL

27. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
28. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver 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 Receiver's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
29. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
30. 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 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, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

31. 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. The Plaintiff shall have its costs of this application, 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, including legal costs on a solicitor-client full 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. Any interested party may apply to this Court to vary or amend this Order on not less than 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.

FILING

34. The Receiver shall establish and maintain a website in respect of these proceedings (the **"Receiver's Website"**) and shall post there as soon as practicable:
 - (a) all materials prescribed by statute or regulation to be made publically available; and
 - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
35. 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; and
 - (b) posting a copy of this Order on the Receiver's Websiteand service on any other person is hereby dispensed with.

36. 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.

Justice of the Court of Queen's Bench of Alberta

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that **[RECEIVER'S NAME]**, the interim receiver and receiver and manager (the "Receiver") of all of the assets, undertakings and properties of **[DEBTOR'S NAME]** appointed by Order of the Court of Queen's Bench of Alberta and Court of Queen's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "Court") dated the **[day]** day of **[month]**, **[year]** (the "Order") made in action numbers **[●]**, 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 **[\$]** that 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 (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and 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 **[●]**.
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 (as defined in the Order),
and not in its personal capacity

Per: _____
Name:
Title:

Clerk's Stamp:

COURT FILE NUMBER	1801-04745
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	HILLSBORO VENTURES INC.
DEFENDANT	CEANA DEVELOPMENT SUNRIDGE INC.
DOCUMENT	<u>ORDER – AMEND STATEMENT OF CLAIM</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15 th Floor, 850 - 2 nd Street S.W. Calgary, Alberta T2P 0R8 Attention: Derek M. Pontin Ph. (403) 268-6301 Fx. (403) 268-3100 File No.: 559316-3
DATE ON WHICH ORDER WAS PRONOUNCED:	July 3, 2019
NAME OF JUDGE WHO MADE THIS ORDER:	The Honourable Madam Justice Romaine
LOCATION WHERE ORDER WAS PRONOUNCED:	Calgary, Alberta

UPON the application of Hillsboro Ventures Inc. ("**Hillsboro**"); AND UPON having read the Application, the Affidavit of Keith Ferrel, sworn June 21, 2019, filed, the pleading and proceedings in the within action, and the Affidavit of Service of [] , filed; AND UPON hearing counsel for Hillsboro, and any other counsel or other interested parties present; IT IS HEREBY ORDERED AND DECLARED THAT:

1. Hillsboro is granted permission to amend its Statement of Claim filed in this matter and the Clerk of the Court is directed to file the Amended Statement of Claim attached to this Order as Schedule "A".
2. There shall be no costs for this application.

Justice of the Court of Queen's Bench of Alberta

SCHEDULE "A"

Clerk's Stamp:



COURT FILE NUMBER	1801-04745
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	HILLSBORO VENTURES INC.
DEFENDANTS	CEANA DEVELOPMENT SUNRIDGE INC.
DOCUMENT	<u>AMENDED STATEMENT OF CLAIM</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<u>Dentons Canada LLP</u> <u>Bankers Court</u> <u>15th Floor, 850 - 2nd Street S.W.</u> <u>Calgary, Alberta T2P 0R8</u> <u>Attention: Derek M. Pontin</u> <u>Ph. (403) 268-6301 Fx. (403) 268-3100</u> <u>File No.: 559316-3</u>

NOTICE TO DEFENDANT(S)

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

Statement of facts relied on:

1. The Plaintiff is a corporation registered to carry on business in the Province of Alberta, and has offices in the City of Calgary, in the Province of Alberta and is the Mortgagee under the Mortgage sued on herein.
2. The Defendant, Ceana Development Sunridge Inc., is a corporation carrying on business and having offices in the City of Calgary, in the Province of Alberta.
3. By a Memorandum of Mortgage made under the Land Titles Act dated the 6th day of January, 2017, and registered in the Land Titles Office for the South Alberta Land Registration District on the 26th day of January, 2017, as Instrument No. 171 023 797 (the "First Mortgage"), Ceana Development Sunridge Inc., (the "Mortgagor") mortgaged to the Plaintiff (the "Mortgagee") the following lands, namely:

PLAN 9811891
BLOCK 8

LOT 1

EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "Lands")

for securing the payment of the sum of \$3,000,000.00 and interest at the rate of 18% per cent per annum calculated half yearly, not in advance, both before and after default, maturity and judgment.

4. The sum of \$3,000,000.00 was advanced by the Mortgagee to the Mortgagor on or about January 6, 2017.
5. By the First Mortgage, the Mortgagor covenanted to pay the principal and interest to the Mortgagee on the said sum at the said rate on the days and times and in the manner mentioned in the First Mortgage, with all interest not so paid to become part of the principal amount secured by the First Mortgage and bear interest at the rate aforesaid. The First Mortgage matured on January 1, 2018.
6. By the First Mortgage, it is provided that on default of payment of the principal or interest, or any monies thereby secured, the whole principal shall, at the option of the Mortgagee, become payable, which option is hereby exercised.
7. By a Memorandum of Mortgage made under the Land Titles Act dated the 28th day of July, 2017, and registered in the Land Titles Office for the South Alberta Land Registration District on the 18th day of August, 2017, as Instrument No. 171 183 985 (the "Second Mortgage"), the Mortgagor mortgaged to the Mortgagee the Lands for securing the payment of the additional sum of \$2,000,000.00 and interest at the rate of 18% per annum calculated monthly, not in advance, both before and after default, maturity and judgment.
8. The sum of \$2,000,000.00 was advanced by the Mortgagee to the Mortgagor on and after August 2, 2017.
9. By the Second Mortgage, the Mortgagor covenanted to pay the principal and interest to the Mortgagee on the said sum at the said rate on the days and times and in the manner mentioned in the Second Mortgage, with all interest not so paid to become part of the principal amount secured by the Second Mortgage and bear interest at the rate aforesaid. The Second Mortgage matured on July 5, 2018.
10. By the Second Mortgage, it is provided that on default of payment of the principal or interest, or any monies thereby secured, the whole principal shall, at the option of the Mortgagee, become payable, which option is hereby exercised.
11. By a Memorandum of Mortgage made under the Land Titles Act dated the 1st day of November, 2017, and registered in the Land Titles Office for the South Alberta Land Registration District on the 22nd day of November, 2017, as Instrument No. 171 262 891 (the "Third Mortgage"), the Mortgagor mortgaged to the Mortgagee the Lands for securing the payment of the additional sum of \$1,500,000.00 and interest from and including October 10, 2017 until October 9, 2018 at the

rate of 18% per annum, and thereafter, interest at 30% per annum, calculated monthly, not in advance, both before and after default, maturity and judgment.

12. As of June 5, 2019, the sum of \$842,720 was advanced by the Mortgagee to the Mortgagor.
13. By the Third Mortgage, the Mortgagor covenanted to pay the principal and interest to the Mortgagee on the said sum at the said rate on the days and times and in the manner mentioned in the Third Mortgage, with all interest not so paid to become part of the principal amount secured by the Third Mortgage and bear interest at the rate aforesaid. The Third Mortgage matured on November 9, 2018.
14. By the Third Mortgage, it is provided that on default of payment of the principal or interest, or any monies thereby secured, the whole principal shall, at the option of the Mortgagee, become payable, which option is hereby exercised.
15. By the First Mortgage, the Second Mortgage, and the Third Mortgage (collectively, the "Mortgages") the Mortgagor covenanted with the Mortgagee to pay all liens, taxes, rates, charges or encumbrances on the said lands which may fall due or be unpaid, and also to insure the building on the said land against damage by fire, in default of all or any of which the Mortgagee should have the right to do the same, and add to the Mortgage all costs and expenses incurred by the Mortgagee in that regard and in respect of all proceedings taken to realize the monies secured by the Mortgages.
16. By the Mortgages, the Mortgagor covenanted with the Mortgagee that on default of payment of the principal or interest or any monies thereby secured, to pay to the Mortgagee the full costs of solicitors, as between solicitor and client retained by the Mortgagee to remedy such default or enforce the Mortgages.
17. By the Mortgages, the Defendant covenanted with the Plaintiff that in the event of any default of the terms of the Mortgages, that the Plaintiff would be entitled to appoint a Receiver of Rents or Receiver and Manager of the Lands.
18. In addition to the Mortgages, the Defendant granted to the Plaintiff additional security, including:
 - a) Assignments of Leases;
 - b) Assignments of Rents;
 - c) General Security Agreements;
 - d) Assignments of Project Agreements; and
 - e) related authorizations, orders, and directions in furtherance of the foregoing;

(collectively, with the Mortgages, the "Security").
19. By the Security, the Defendant covenanted with the Plaintiff that in the event of default of any of the terms of the Security, the Plaintiff would be entitled to appoint a receiver and manager of any or all of the Lands and property of the Defendant.

20. Default has been made under the Security, including non-payment under the Mortgages.
21. On March 9, 2018 demand was made for the repayment of all amounts outstanding pursuant to the Mortgages, however that demand has not been satisfied.
22. There is due and owing to the Plaintiff pursuant to the Mortgages, the sum of \$8,361,944 as of June 5, 2019. Interest continues to accrue on that amount and costs continue to be incurred by the Mortgagee, all of which are claimed and secured under the Security, including all costs on a solicitor and its own client, full indemnity basis.
23. The Plaintiff pleads and relies upon Section 58 of the Land Titles Act, R.S.A. 2000 c. L-4 and amendments thereto, [^] the Law of Property Act, R.S.A. 2000 c. L-7 and amendments thereto, the Bankruptcy and Insolvency Act, RSC 1985 c B-3 and amendments thereto, and the Judicature Act, RSA 2000 c J-2, and amendments thereto.

Remedy sought:

24. The Plaintiff proposes that this action be tried at the Court House, in the City of Calgary, in the Province of Alberta. The trial of this action will be less than 25 days.
25. A Declaration as to the amount owing under the Mortgages with interest according to the said terms of the Mortgages and in default of payment, sale or foreclosure, and possession of the Lands.
26. Judgment against the Defendant in the amount found to be owing under the Mortgages together with interest according to the terms of the Mortgages or alternatively, pursuant to the Judgment Interest Act, R.S.A. 2002, c. J-1.
27. An Order validating service of this Amended Statement of Claim.
28. A declaration that the Security is valid and enforceable as against the Defendant and the Defendant's Lands and property.
29. A declaration that the Defendant is in default of its obligations to the Plaintiff under the Security.
30. An Order for Possession.
31. An Order for interim preservation of the Lands in the event it becomes vacant and apparently abandoned.
32. An Order for the Appointment of a Receiver or Receiver and Manager.
33. Solicitor and client costs of this action.
34. Such other relief as the nature of the case may require and to this Honourable Court deems just.

NOTICE TO THE DEFENDANT(S)

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff against you.