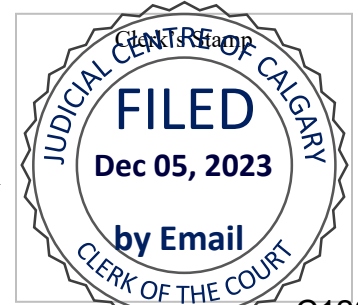


COURT FILE NUMBER 25-2979735 B201-979735
 COURT COURT OF KING'S BENCH OF ALBERTA
 JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY* ACT, R.S.C. 1985, c B-3, AS AMENDED C120289
 Dec 15, 2023
 COM

AND IN THE MATTER OF THE NOTICE OF INTENTION
 TO MAKE A PROPOSAL OF GRIFFON PARTNERS
 OPERATION CORPORATION, GRIFFON PARTNERS
 HOLDING CORPORATION, GRIFFON PARTNERS
 CAPITAL MANAGEMENT LTD., STELLION LIMITED,
 2437801 ALBERTA LTD., 2437799 ALBERTA LTD., 2437815
 ALBERTA LTD., and SPICELO LIMITED

APPLICANTS GRIFFON PARTNERS OPERATION CORPORATION,
 GRIFFON PARTNERS HOLDING CORPORATION,
 GRIFFON PARTNERS CAPITAL MANAGEMENT LTD.,
 STELLION LIMITED, 2437801 ALBERTA LTD., 2437799
 ALBERTA LTD., 2437815 ALBERTA LTD., and SPICELO
 LIMITED

DOCUMENT **AFFIDAVIT OF DARYL STEPANIC**

ADDRESS FOR SERVICE **OSLER, HOSKIN & HARCOURT LLP**
 AND CONTACT Suite 2700, Brookfield Place
 INFORMATION OF 255 – 6th Avenue SW
 PARTY FILING THIS Calgary, AB T2P 1N2
 DOCUMENT

Solicitors: Randal Van de Mosselaer / Emily Paplawski
 Phone: 403.260.7000 / 7071
 Email: rvandemosselaer@osler.com / epaplawski@osler.com
 Matter: 1247318

AFFIDAVIT OF DARYL STEPANIC
SWORN DECEMBER 4th, 2023

I, Daryl Stepanic, of the City of Calgary, in the Province of Alberta, **MAKE OATH AND SAY:**

1. I am the Chief Executive Officer (“**CEO**”) and a Director of Griffon Partners Operation Corp. (“**GPOC**”) and a Director of Griffon Partners Holding Corp. (“**GPCM**”) and Griffon

Partners Capital Management Ltd. (collectively, the “**Griffon Entities**”). I have been CEO of GPOC and a Director of each of the Griffon Entities since 2022. Prior to joining the Griffon Entities, I held various Vice President, asset manager, and reservoir engineer positions with Burlington Resources, ConocoPhillips and Fractal Energy Resource Holdings Inc., among others. I am a professional engineer with more than 35 years of experience in oil and gas production, exploitation, marketing, corporate development and acquisition activities and hold a Bachelor of Science in Chemical and Petroleum Engineering from the University of Calgary.

2. As such, I have personal knowledge of the matters to which I depose in this Affidavit, except where stated to be based on information and belief, in which case I believe such information to be true. In preparing this Affidavit, I consulted with the Applicants’ (as defined below) management teams and advisors and reviewed relevant documents and information concerning the Applicants’ operations and business and financial affairs. I am authorized by the Applicants to swear this Affidavit.

3. I swear this Affidavit in support of an application by the Applicants for an Order extending the time within which the Applicants are required to file a proposal to their creditors with the Official Receiver under section 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”) to February 6, 2023 (the “**Stay Period**”).

A. Overview of these NOI Proceedings and the Applicants’ Activities

4. On August 25, 2023, the Griffon Entities, Spicelo Limited (“**Spicelo**”), Stellion Limited, 2437799 Alberta Ltd., 2437801 Alberta Ltd. and 2437815 Alberta Ltd. (collectively with the Griffon Entities, the “**Applicants**”) filed Notices of Intention to Make a Proposal (the “**NOI Proceedings**”) with the Office of the Superintendent of Bankruptcy Canada pursuant to section

50.4(1) of the BIA. Alvarez & Marsal Canada Inc. was appointed Proposal Trustee in each NOI Proceeding (the “**Proposal Trustee**”). Further information regarding the Applicants, the reasons leading to these NOI Proceedings and the Applicants’ intended restructuring plans is provided in my Affidavit sworn September 14, 2023 (my “**First Stepanic Affidavit**”), attached hereto (without exhibits) as **Exhibit “A”**.

5. On September 22, 2023, the Applicants brought an application (the “**First Stay Extension Application**”) to the Alberta Court of King’s Bench (the “**Court**”) for an Order: (i) extending the time for the Applicants to file a proposal to November 8, 2023, (ii) administratively consolidating the Applicants’ estates, (iii) granting an Administration Charge and a Directors and Officers Charge (“**D&O Charge**”), (iv) authorizing the Applicants to make certain pre-filing payments, and (v) approving the Applicants’ engagement of Alvarez & Marsal Canada Securities ULC (the “**Transaction Agent**”) to run a sale and investment solicitation process.

6. The First Stay Extension Application was opposed by Trafigura Canada Limited and Signal Alpha C4 Limited (collectively, the “**Lenders**”) who filed a cross-application to terminate these NOI proceedings as against Spicelo and appoint a Receiver over Spicelo (the “**Receivership Application**”).

7. On September 22, 2023, the Court granted the Applicants’ First Stay Extension Application in full (with the exception only of the D&O Charge) (the “**First Stay Extension Order**”). The Court did not grant the Receivership Application. A copy of the First Stay Extension Order is attached hereto as **Exhibit “B”**. A copy of the Court’s reasons for decision is attached hereto as **Exhibit “C”**.

8. On October 18, 2023, the Applicants sought and obtained an Order from the Court (the “**SISP Approval Order**”) approving a sale and investment solicitation process (“**SISP**”) and authorizing the Applicants, the Transaction Agent and the Proposal Trustee to implement the SISP in accordance with the terms thereof. The SISP Approval Order was granted over the Lenders’ objections, who were opposed to the schedule set out in the SISP. A copy of the SISP Approval Order (with the SISP attached) is attached hereto as **Exhibit “D”**. A copy of the transcript from the October 18 hearing is attached hereto as **Exhibit “E”**.

9. On November 8, 2023, the Applicants brought an application (the “**Second Stay Extension Application**”) to the Court for an Order: (i) extending the time for the Applicants to file a proposal to December 23, 2023, (ii) approving a key employee retention plan and charge (“**KERP Charge**”), and (iii) approving the fees and disbursements of the Proposal Trustee and its counsel. The Court granted the Applicants’ Second Stay Extension Application in full (with the exception only of the KERP Charge) (the “**Second Stay Extension Order**”). A copy of the Second Stay Extension Order and my Affidavit sworn October 30, 2023 (without exhibits) is attached hereto as **Exhibit “F”** and “**G**”. A copy of the Court’s reasons for decision is attached hereto as **Exhibit “H”**.

10. Since the granting of the Second Stay Extension Order on November 8, 2023, the Applicants have, among other things:

- (a) worked in conjunction with the Proposal Trustee and the Transaction Agent to distribute the initial public offering summary (the “**Teaser**”) and confidentiality and nondisclosure agreement (“**NDA**”) directly to 235 Prospective Bidders (as defined in the SISP) as well as publishing the SISP in the Globe & Mail, BOE

Report and Daily Oil Bulletin, among others, for any other interested parties to participate in the SISP;

- (b) worked in conjunction with the Transaction Agent to: (i) collect 41 executed NDAs (each Prospective Bidder now a “**Qualified Bidder**”); (ii) compile and upload materials for the virtual data room (“**VDR**”); (iii) provide Qualified Bidders access to the VDR; and (iv) encourage parties to submit non-binding letters of intent by the December 12, 2023 deadline.
- (c) engaged in discussions with Qualified Bidders regarding the SISP, responded to due diligence inquiries, met with interested parties, provided additional information in response to queries, and provided in-depth technical management presentations to 9 parties on an as requested basis;
- (d) engaged in discussions with a significant number of contractual counterparties, royalty holders, suppliers and creditors regarding these NOI Proceedings, the status of such party’s accounts receivable/payable with the Applicants, and the continuing supply of goods and/or services during these proceedings;
- (e) worked with the Proposal Trustee to prepare updated cash flow forecasts;
- (f) at the request of the Lenders, worked with the Lender, the Proposal Trustee and the Transaction Agent to explore options and pricing to place hedges with respect to a portion of the Griffon Entities’ oil production; and
- (g) operated the business in the normal course with a view to maximizing the value of the Applicants for the benefit of all stakeholders.

The Greenfire Share Certificates

11. Since the First Stay Extension Order, the Greenfire Resources Ltd. (“**Greenfire**”) share certificates have been in the possession of GLAS Americas LLC as collateral agent for and on behalf of the Lenders (the “**Collateral Agent**”) pursuant to the terms of the Spicelo Securities Pledge Agreement (as defined in the First Stepanic Affidavit). However, the Greenfire share certificates remain registered in the name of Spicelo, and Spicelo continues to be the owner of the Greenfire shares. At no time has Spicelo: (a) caused the Greenfire shares to be transferred to or registered in the name of the Collateral Agent or its nominee; (b) endorsed any securities certificated to the Collateral Agent or in blank; (c) delivered any consents or other documents to the Collateral Agent to effect the transfer of the Greenfire shares to the Collateral Agent or any third party; or (d) entered into any control agreement with the Collateral Agent and Greenfire.

12. Spicelo is party to the Lock-Up Agreement which is attached as Exhibit “J” to the Affidavit of Dave Gallagher sworn in these proceedings on November 20, 2023.

B. Extension of the Stay Period

13. The Applicants are seeking to extend the Stay Period up to and including February 6, 2023. The extension of the Stay Period is necessary to allow the SISP to conclude for the benefit of the Applicants’ stakeholders. Pursuant to the SISP, the Teaser and NDA were distributed by the Transaction Agent on October 25th and the due diligence period commenced on October 30, 2023. Non-binding Letters of Intent are due by December 12, 2023, with final bids due by January 8, 2024. As such, the SISP is significantly underway and requires the necessary time to be undertaken in accordance with the SISP Approval Order to maximize the value of the Applicants for the benefit of stakeholders. The Applicants believe that the extension of the Stay Period is necessary

and appropriate in the circumstances, and both the Lenders and the subordinate secured creditor, Tamarack Valley Energy Ltd., have advised the Applicants that they consent to the requested extension of the Stay Period.

14. The Applicants have acted, and continue to act, in good faith and with due diligence in these NOI Proceedings. Since the granting of the Second Stay Extension Order, the Applicants have worked diligently to conduct the SISP. In conjunction with the Proposal Trustee, the Applicants have continued to consult with their Lenders regarding various operational and financial matters impacting the Applicants, as well as the status of the SISP and the possibility of placing hedges. The Applicants have maintained regular communications with applicable regulators, contractual counterparties, royalty holders, suppliers and creditors regarding these NOI Proceedings.

15. I understand that the Fourth Report will include, among other things, a cash flow forecast demonstrating that, subject to the underlying assumptions contained therein, the Applicants will have sufficient liquidity to continue their operations and fund these NOI Proceedings through February 6, 2023. I further understand that the Fourth Report will recommend that the Stay Period be extended.

SWORN BEFORE ME this 4th day of
December, 2023 in the City of Calgary, in the
Province of Alberta.



Commissioner for Taking Affidavits in and for
the Province of Alberta

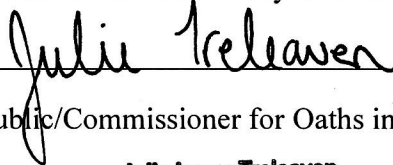


Daryl Stepanic

Julie Laura Treleaven
Barrister & Solicitor

This is **Exhibit "A"** to the Affidavit of Daryl Stepanic

sworn before me this 4th day of December 2023.

A handwritten signature in cursive script, reading "Julie Treleaven", is written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

COURT FILE NUMBER

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COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

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

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Matter: 1247318

COURT FILE NUMBER

25-2979721

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COURT

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COURT

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COURT

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COURT

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COURT

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JUDICIAL CENTRE

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**AFFIDAVIT OF DARYL STEPANIC
SWORN SEPTEMBER 14, 2023**

I, Daryl Stepanic, of the City of Calgary, in the Province of Alberta, **MAKE OATH AND SAY:**

1. I am the Chief Executive Officer (“**CEO**”) and a Director of Griffon Partners Operation Corp. (“**GPOC**”) and a Director of Griffon Partners Holding Corp. (“**GPHC**”) and Griffon Partners Capital Management Ltd. (“**GPCM**”, and together with GPOC and GPHC, the “**Griffon Entities**”). I have been CEO of GPOC and a Director of each of the Griffon Entities since 2022. Prior to joining the Griffon Entities, I held various Vice President, asset manager, and reservoir engineer positions with Burlington Resources, ConocoPhillips and Fractal Energy Resource Holdings Inc., among others. I am a professional engineer with more than 35 years of experience in oil and gas production, exploitation, marketing, corporate development and acquisition activities and hold a Bachelor of Science in Chemical and Petroleum Engineering from the University of Calgary.

2. As such, I have personal knowledge of the matters to which I depose in this Affidavit, except where stated to be based on information and belief, in which case I believe such information to be true. In preparing this Affidavit, I consulted with the Applicants’ (as defined below) management teams and advisors and reviewed relevant documents and information concerning the Applicants’ operations and business and financial affairs. I am authorized by the Applicants to swear this Affidavit.

3. I swear this Affidavit in support of an application by the Applicants for an Order:

- (a) approving an extension of the time for the Applicants to file a proposal to November 8, 2023, pursuant to section 50.4(9) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (“**BIA**”);
- (b) granting a first ranking administration charge to Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as Trustee under the Notices of Intention to Make a Proposal filed by the Applicants (the “**Proposal Trustee**”), counsel to the Proposal Trustee and the Applicants’ counsel, as security for their professional fees and disbursements up to the maximum amount of \$500,000 (the “**Administration Charge**”);
- (c) granting a second ranking charge to the Applicants’ directors and officers as security for any obligations and liabilities they may incur as directors and officers of the Applicants after August 25, 2023, up to the maximum amount of \$250,000 (the “**D&O Charge**”);
- (d) declaring that the Administration Charge and D&O Charge (together, the “**BIA Charges**”) are priority charges that rank ahead of any and all charges, security interests, liens, trusts, deemed trusts and encumbrances against the Property, including liens and trusts created by federal and provincial legislation, and that the BIA Charges rank, as between themselves, in the following order of priority:
 - (i) First, the Administration Charge;
 - (ii) Second, the D&O Charge;

- (e) approving the Engagement Letter between Alvarez & Marsal Canada Securities ULC (the “**Refinancing Advisor**”) and GPOC, dated September 11, 2023 (the “**Engagement Letter**”);
 - (f) directing that the Engagement Letter be sealed by the Clerk of the Court, and no persons other than the parties (and their respective successors and assigns), their counsel and Court personnel be given access;
 - (g) authorizing the Applicants, *nunc pro tunc*, with the consent of the Proposal Trustee to make payments up to a maximum aggregate amount of \$1,000,000 for goods or services supplied to the Applicants prior to the filing of the NOIs (as defined below) if, in the opinion of the Applicants, and with the consent of the Proposal Trustee, the supplier or vendor of such goods or services is determined by the Applicants to be necessary to its ongoing operations and/or restructuring efforts; and
 - (h) directing that the proposal proceedings and estates of the Applicants shall be procedurally consolidated and shall continue under a single estate (each individual estate being an “**Estate**”, and the consolidated estate being the “**Consolidated Estate**”), authorizing and directing the Proposal Trustee to administer the Estates making up the Consolidated Estate on a consolidated basis, and granting ancillary relief arising from the procedural consolidation of the Estates.
4. All references to monetary amounts in this Affidavit are in Canadian dollars unless otherwise noted.

A. Notice of Intention to Make a Proposal

5. For the reasons described below, on August 25, 2023, each of the Applicants filed Notices of Intention to Make a Proposal with the Office of the Superintendent of Bankruptcy Canada pursuant to section 50.4(1) of the BIA in Estate numbers 25-2979721, 25-2979725, 25-2979732, 25-2979735, 25-2979736, 25-2979737, 25-2979738, and 25-2979739 (the “**NOIs**”). A&M was appointed Proposal Trustee in each of the Applicants’ proceedings. Attached as **Exhibit “A”** are copies of the NOIs.

B. The Applicants’ Businesses

(a) Corporate Structure

6. All of the Griffon Entities are private corporations existing under the laws of the Province of Alberta, with their registered offices in Calgary, Alberta. GPCM is the ultimate parent company of the Griffon Entities. GPHC and GPOC are wholly-owned, direct subsidiaries of GPCM.

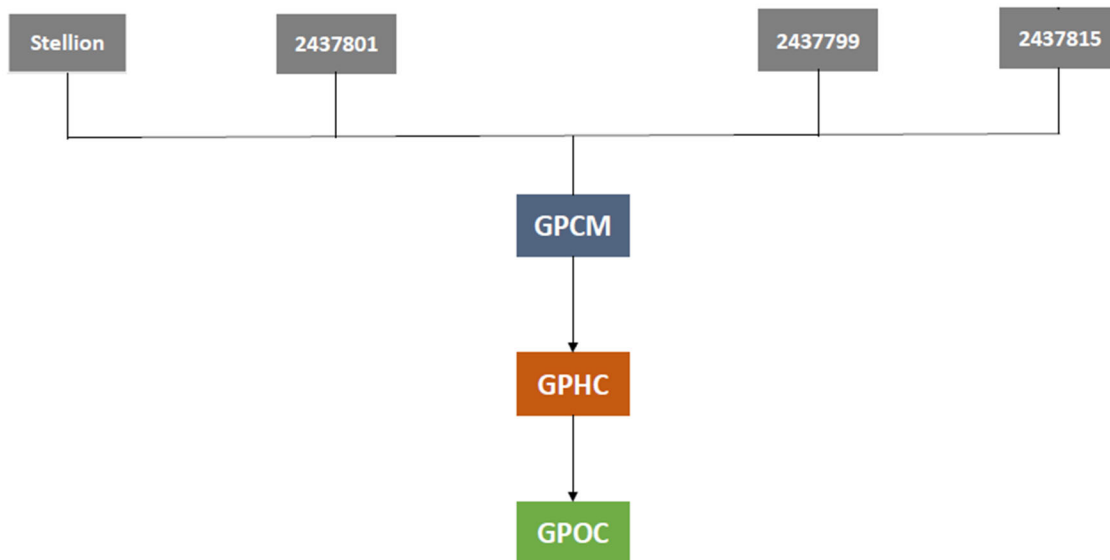
7. Each of the Griffon Entities (other than GPHC) has four directors: Elliott Choquette, Jonathan Klesch, Trevor Murphy and myself, all of whom have been directors of the Griffon Entities since the incorporation of each company in 2022. GPHC has one additional director, Dave Gallagher, who is a nominee of Signal (as defined below).

8. GPCM is wholly-owned by four holding companies which are, in turn, each owned by a director of the Griffon Entities. Specifically: (a) 2437801 Alberta Ltd. holds 1 class A common share and 8,500 class B common shares of GPCM and is owned by Mr. Choquette; (b) Stellion Limited (“**Stellion**”) holds 1 class A common share and 79,500 class B common shares of GPCM and is beneficially owned by Mr. Klesch; (c) 2437799 Alberta Ltd. holds 1 class A common share and 6,000 class B common shares of GPCM and is owned by Mr. Murphy; and (d) 2437815

Alberta Ltd. (“**Stepanic Shareholder Corp.**”) holds 1 class A common share and 6,000 class B common shares of GPCM and is owned by me. Each of the foregoing entities is referred to in this Affidavit as the “**Shareholder Corporations**”.

9. All of the Shareholder Corporations are incorporated pursuant to the laws of the Province of Alberta other than Stellion, which is incorporated pursuant to the laws of the Republic of Cyprus and extra provincially registered in Alberta.

10. A copy of the corporate chart showing the structure of the Griffon Entities and each of the Shareholder Corporations is attached hereto as **Exhibit “B”**. A simplified version of the corporate chart is below:



11. In addition to the Griffon Entities and the Shareholder Corporations, Spicelo Limited is an investment company incorporated pursuant to the laws of the Republic of Cyprus and extra-provincially registered in Alberta (“**Spicelo**” and together with the Griffon Entities and the Shareholder Corporations, the “**Applicants**”). Mr. Klesch is the sole beneficial shareholder of Spicelo. As discussed further below, Spicelo, like each of the Shareholder Corporations, is party

to a Limited Recourse Guarantee and Securities Pledge Agreement granted in favour of Trafigura Canada Limited (“**Trafigura**”) and Signal Alpha C4 Limited (“**Signal**” and together, the “**Lenders**”) to secure all of GPOC’s obligations under a Loan Agreement between GPOC (as borrower), GPCM and GPHC (as guarantors), the Lenders, GLAS USA LLC (the “**Administrative Agent**”), and GLAS Americas LLC (the “**Collateral Agent**”) dated July 21, 2022 (as amended by First Amending Agreement to the Griffon Partners Operation Corp. Loan Agreement, made effective as of August 31, 2022, and as may be further amended, restated, supplemented, or otherwise modified from time to time, the “**Amended Credit Agreement**”). Spicelo’s most significant asset is 1,125,002 common shares held in the capital of Greenfire Resources Inc. (“**Greenfire**” and the shares held by Spicelo, the “**Greenfire Shares**”).

12. Copies of Alberta corporate searches for each of the Applicants are attached hereto as **Exhibit “C”**.

(b) The Griffon Entities’ Business

13. The Griffon Entities’ business is focused on the exploration and development of light oil and natural gas liquids in the Viking formation in western Saskatchewan and eastern Alberta. All of the Griffon Entities’ oil and natural gas interests are held in the name of or otherwise through GPOC, which conducts all business and operations on behalf of the Griffon Entities.

14. GPOC holds rights in more than 120,000 acres in the Viking light oil and natural gas fairway. All of the Griffon Entities’ current oil and gas production and related assets were acquired by GPOC from Tamarack Valley Energy Ltd. (“**Tamarack**”) in July 2022 for a purchase price of \$70 million, funded in part by financing accessed by GPOC pursuant to the Amended Credit

Agreement and in part by a Subordinated Secured Promissory Note in the amount of \$20 million granted by GPOC in favour of Tamarack (the “**Subordinated Tamarack Note**”).

15. As at December 31, 2022, the Griffon Entities had total proved reserves of approximately 6.06 million barrels of oil equivalent (“**MBOE**”) and total proved plus probable reserves of approximately 9.73 MBOE, based on forecast prices and costs. The net present value of future net revenue before taxes discounted at a rate of 10% of such proved reserves is approximately \$90 million and proved plus probable reserves is \$152.5 million.

16. The Griffon Entities’ average daily production for the year ended December 31, 2022 totaled 1,679 barrels per day, comprised of approximately 30% light oil, 50% natural gas and 20% natural gas liquids.

17. All of the Griffon Entities’ commodity production is marketed and sold by Trafigura pursuant to the terms of the following marketing agreements: (a) General Terms – Crude Oil Purchase Sale Agreement – Wellhead, dated July 21, 2022 between Trafigura and GPHC; (b) General Terms – LPG Mix Purchase and Sale Agreement, dated July 21, 2022 between Trafigura and GPHC; and (c) GasEDI Base Contract for Sale and Purchase of Natural Gas, dated July 21, 2022 between Trafigura and GPCM. By email dated September 8, 2023, Trafigura confirmed that it would continue delivering all revenues and other deliverables to the Griffon Entities in the normal course pursuant to the applicable marketing agreement on the 25th day of each month, notwithstanding these proceedings. A copy of the email from Trafigura is attached hereto as **Exhibit “D”**.

18. As at the date of this Affidavit, the Griffon Entities do not have any employees. Instead, GPOC has engaged 13 full time consultants and 3 part time consultants to provide field labour, administrative, management and other business-critical services to GPOC.

(c) Shareholder Corporations and Spicelo

19. I am advised by Messrs. Choquette, Klesch and Murphy that the only assets held by their respective Shareholder Corporations are the GPCM common shares. I confirm the same with respect to the Stepanic Shareholder Corp.

20. I am further advised by Mr. Klesch that the only significant asset held by Spicelo are the Greenfire Shares. The Greenfire Shares are comprised of approximately 1.125 million common shares in Greenfire, a private Alberta corporation specializing in the acquisition, development and production of oil and gas assets in Western Canada.

C. Financial Position of the Applicants

21. The Griffon Entities' financial reporting is completed on a consolidated basis and reported through GPCM. Attached as **Exhibit "E"** is a copy of GPCM's Consolidated Financial Statements for the period from date of incorporation (April 6, 2022) to December 31, 2022. Attached as **Exhibit "F"** is a copy of GPCM's Interim Condensed Consolidated Financial Statements for the six months ended June 30, 2023. These financial statements are the Griffon Entities' most recent annual and quarterly financial statements.

22. Attached as **Exhibit "G"** are Alberta Personal Property Security Registry searches for each of the Applicants.

(a) Assets

23. As of June 30, 2023, the Griffon Entities had total assets having a book value of approximately \$69 million CAD, broken down as follows:

Current Assets: \$6.2 million	
Cash	\$452,000
Inventories	\$152,000
Accounts Receivables	\$2,004,000
Prepaid Expenses & Deposits	\$1,246,000
Derivative Financial Instruments	\$2,365,000
Non-Current Assets: \$62.2 million	
Derivative Financial Instruments	\$269,000
Property, Plant & Equipment	\$61,902,000

(b) Liabilities

24. As of June 30, 2023, the Griffon Entities had total liabilities of approximately \$75 million CAD, broken down as follows:

Current Liabilities: \$47 million	
Accounts Payable	\$3,538,000
Decommissioning Obligations	\$294,000
Senior Secured Term Loan	\$43,150,000
Non-Current Liabilities: \$28.4 million	
Promissory Note	\$22,279,000
Decommissioning Obligations	\$6,060,000

(c) Shareholder Equity

25. As at June 30, 2023, the shareholders equity in the Griffon Entities held by GPCM was valued at negative \$6.93 million CAD.

(d) Secured Debt of the Griffon Entities

i. Amended Credit Agreement

26. GPOC (as borrower), GPCM and GPHC (as guarantors), the Lenders, the Collateral Agent and the Administrative Agent are party to the Amended Credit Agreement. A copy of the Amended Credit Agreement is attached hereto as **Exhibit “H”**.

27. Pursuant to the Amended Credit Agreement, the Lenders made a non-revolving, single advance, term loan facility in the maximum principal amount of US\$35,869,565.21 available to GPOC to fund a portion of the acquisition of the Tamarack assets. Borrowings under the Amended Credit Agreement bear interest at a rate of prime plus 9.5% per annum. The Amended Credit Agreement requires, among other things, that GPOC pay on the first day of each month commencing on October 1, 2022, a monthly installment of outstanding principal equal to the amount set forth in the “Amortization Schedule” to the Amended Credit Agreement, and all interest accrued on the outstanding principal then unpaid.

28. All obligations under the Amended Credit Agreement are secured against all present and after-acquired personal property of the Griffon Entities pursuant to the terms of Fixed and Floating Charge Debentures, dated July 21, 2022 between each of GPCM, GPHC, and GPOC and the Collateral Agent (as amended by the First Amending Agreement, dated August 31, 2022, and as may be further amended, restated, supplemented, or otherwise modified from time to time, the “**Debentures**”), and Guarantees, dated July 21, 2022 between each of GPCM, GPHC and the Collateral Agent (as amended by the First Amending Agreement, dated August 31, 2022, and as may be further amended, restated, supplemented, or otherwise modified from time to time, the “**Guarantees**”). Copies of the Debentures and Guarantees are attached hereto as **Exhibits “I”** and **“J”**.

29. In addition to the Debentures and Guarantees:

- (a) GPCM and GPHC executed Securities Pledge Agreements in favour of the Collateral Agent, as amended by the First Amending Agreement to the GPCM Securities Pledge Agreement, dated August 31, 2022, copies of which are attached hereto as **Exhibit “K”**;
- (b) the Shareholder Corporations executed a Limited Recourse Guarantee and Securities Pledge Agreement, dated July 21, 2022, in favour of the Collateral Agent which, pursuant to the terms thereof, is limited to the securities held by each in the capital of GPCM, all substitutions and replacements of such securities, and all proceeds derived directly or indirectly from dealing with such securities. A copy of the Shareholder Corporations’ Limited Recourse Guarantee and Securities Pledge Agreement is attached hereto as **Exhibit “L”**; and
- (c) Spicelo executed a Limited Recourse Guarantee and Securities Pledge Agreement, dated July 21, 2022, in favour of the Collateral Agent which, pursuant to the terms thereof, is limited to the securities held by Spicelo in the capital of Greenfire, all substitutions and replacements of such securities, all proceeds derived directly or indirectly from dealing with such securities, and all present and after acquired rights of Spicelo in a specified collateral account. A copy of Spicelo’s Limited Recourse Guarantee and Securities Pledge Agreement is attached hereto as **Exhibit “M”**.

30. As of August 16, 2023, USD \$37,938,054.69 (inclusive of the “MOIC Amount”, as defined in the Amended Credit Agreement) or approximately CAD \$51,600,000 is outstanding under the Amended Credit Agreement.

ii. Subordinated Tamarack Note

31. GPOC is indebted to Tamarack pursuant to the Subordinated Tamarack Note issued July 21, 2022 in the amount of \$20 million CAD. The Subordinated Tamarack Note is secured against the property of GPOC, including all real and immovable property, all present and after-acquired personal property, and all proceeds derived from GPOC's personal property. The Subordinated Tamarack Note bears interest at a rate of 12% per annum payable semi-annually in arrears on June 30th and December 31st of each calendar year, commencing on December 31, 2022 and continuing to the maturity date (July 21, 2025). Any interest under the Subordinated Tamarack Note that is not paid when due bears interest at the interest rates plus 2% per annum during the period in arrears. A copy of the Subordinated Tamarack Note is attached hereto as **Exhibit "N"**.

32. As of August 16, 2023, \$22,654,400.93 is outstanding under the Subordinated Tamarack Note.

iii. Tamarack Intercreditor Agreement

33. GPOC, Tamarack, and the Collateral Agent are party to an Intercreditor Agreement, dated July 21, 2022 pursuant to which Tamarack agreed to subordinate all security interests granted with respect to the Subordinated Tamarack Note to all senior loan obligations outstanding under the Amended Credit Agreement and any swap obligations outstanding at any given time to Trafigura (all of which were terminated and unwound in July 2023). A copy of the Intercreditor Agreement is attached hereto as **Exhibit "O"**.

(e) Unsecured Debt

34. As at August 25, 2023, the Griffon Entities had liabilities of \$2,255,686.84 due and owing to unsecured trade creditors and intercompany obligations as between various of the Applicants as

follows: (a) \$629,660 owing by GPCM to GPOC; (b) \$20,972.95 owing by GPHC to GPOC; and (c) \$15,273.91 owing by Stellion to Spicelo.

35. As at the date of this Affidavit, the Griffon Entities are current on all royalty, rental, and other regulatory obligations to Alberta Energy, the Saskatchewan Ministry of Energy and Resources, and the Alberta Energy Regulator (“AER”). Royalties owing by the Griffon Entities for July 2023 will come due and owing on September 15, 2023.

D. Events Leading to the Applicants’ Insolvency

(a) Acquisition of the Tamarack Assets and Drilling Program Issues

36. As noted above, the Griffon Entities’ current portfolio of oil and gas assets is comprised entirely of the Viking assets purchased by GPOC from Tamarack in 2022. The acquisition of the Tamarack assets by GPOC in 2022 was part of a larger business plan prepared by the Griffon Entities in the Fall of 2022 to acquire oil and gas assets across Western Canada capable of generating production volumes of 15,000 to 20,000 boe/d, or more. The transaction with Tamarack was expected to add approximately 2,000 boe/d (50% oil and natural gas liquids) of production to the Griffon Entities’ portfolio and to be accretive, and fit within a broader acquisition strategy, to develop economies of scale and greater production volumes. At the time of the Tamarack transaction, the Griffon Entities had three other potential transactions subject to letters of intent and ongoing negotiation. Tamarack was the smallest of the four intended transactions.

37. Throughout the late summer and early fall of 2022, the Griffon Entities continued to negotiate the remaining three transactions, however for various reasons, two of the transactions failed to proceed and no binding agreements were ever finalized. Negotiation of the third

transaction took significantly longer than expected and, as discussed further below, a Share Purchase and Sale Agreement was only signed by GPCM and the proposed vendor on May 30, 2023. That transaction remains subject to various closing conditions including, most importantly, approval by the AER of all applicable license transfers.

38. The foregoing left the Griffon Entities in a difficult position as the viability of their business plan now depended on a more significant production base than that offered by the Tamarack assets alone. The Griffon Entities' Proved Developed Producing ("**PDP**") forecast indicated that within a reasonable range of commodity prices, production from the Tamarack assets alone would be insufficient for the Griffon Entities to meet their go forward obligations under the Amended Credit Agreement. The Griffon Entities accordingly developed a drilling program to be implemented during winter 2022 to increase production volumes and, in turn, right-size their financial outlook. Unfortunately, this drilling program encountered a number of unforeseeable challenges as described below.

39. In November 2022, GPOC drilled two wells in accordance with the Griffon Entities' drilling program. While drilling and initial completion results for both wells initially appeared positive, GPOC subsequently discovered that the first well had an unidentified obstruction in the horizontal section of the wellbore which limited access to approximately 82% of the wellbore and resulted in production volumes being reduced by approximately 88% (30 boe/d instead of the expected 240 boe/d).

40. In response to the issues encountered in the first well, GPOC adjusted the final completion operation of the second well to avoid similar results. Following the drilling of the second well, GPOC left all 40 sliding sleeves open after frac'ing each stage to avoid having to re-open them.

The added exposure time to the completion operations resulted in reduction of the oil relative permeability which impacted 80% of its production capacity. The second well ultimately only produced 30 boe/d or 12% of its expected production volumes.

41. In addition to significantly constrained production capacities, both wells also experienced significant cost overruns (caused largely by weather conditions, inflated labor and material costs and global supply chain issues) of approximately 40%. Immediately upon commencement of the equipment movement for the drilling operations, the Kindersley area of Saskatchewan where the wells are located experienced unprecedented levels of snowfall (the highest in more than 12 years) which resulted in reduced access to the drilling sites, standby costs, delay costs and an inability of GPOC to source the necessary snow removal equipment because of unprecedented demand caused by the snowfall. The unprecedented winter weather conditions only functioned to exacerbate the already high costs of equipment and materials existing in November 2022 as a result of global supply chain issues.

42. In addition to increased drilling costs, the unprecedented winter weather and resulting lack of access to the well sites caused shut in production at 40% of the operated wells for significant periods of time throughout the winter. The shut in of these wells further reduced production levels by approximately 350 boe/d.

43. The combination of increased drilling costs and severely constrained commodity production volumes significantly impacted the Griffon Entities' available cash flow, causing an already difficult PDP forecast to become dire. As a direct result of the foregoing causes, GPOC failed to make the required payment of principal to the Lenders under the Amended Credit Agreement in November and December 2022.

(b) The Griffon Entities Canvass the Market for Capital

44. While the Lenders waived GPOC's payment defaults in November and December 2022, a copy of which is attached hereto as **Exhibit "P"**, it was clear to the Griffon Entities that a longer-term solution was required. Accordingly, in January 2023, the Griffon Entities consulted with Houlihan Lokey and retained Imperial Capital ("**Imperial**") and ARCO Capital Partners ("**ARCO**") to assist them in canvassing the market for a sale, investment, or other solution to refinance and/or restructure the Griffon Entities' current debt and cash flow issues. Solutions explored by the Griffon Entities, ARCO and Imperial included a sale of a potential manufactured royalty, a debt refinancing, a bridge loan, an infrastructure sale and leaseback, a farm-in arrangement, or a sale of certain non-core properties.

45. Importantly, at the time, the Griffon Entities did not explore any refinancing or takeout of the Lenders. The Griffon Entities have only now, within the context of these proposal proceedings, retained the Refinancing Advisor to assist them to locate, negotiate and finalize a transaction to right size the Applicants' current capital structure and refinance their obligations to the Lenders.

46. Imperial and ARCO contacted 54 third parties which were identified as strategically likely to have an interest predominantly in a royalty transaction with the Griffon Entities. Of these 54 entities, two entities were contacted with respect to a potential debt refinancing and three entities were contacted regarding a potential sale transaction. While numerous confidentiality agreements were signed and due diligence was undertaken by certain third parties with respect to a potential royalty transaction, none resulted in an executable transaction for the Griffon Entities. Such efforts were accordingly terminated in or about June 2023.

47. Throughout this period, the Griffon Entities undertook extensive discussions with the Lenders regarding potential options for resolving GPOC's ongoing payment defaults under the Amended Credit Agreement, however no consensual resolution was reached.

48. Since November 2022, GPOC had been unable to make required monthly principal payments under the Amended Credit Agreement, but had successfully remitted all monthly interest payments to the Lenders as and when such interest became due. However, in July 2023, as a result of declining commodity prices, narrowing hedges, and continuing constraints to the Griffon Entities' cash flows, GPOC paid only a portion (64%) of the required monthly interest payment to the Lenders. While GPOC suggested various cash sweep arrangements and partial payment options to the Lenders, none of the proposals were accepted and, on August 16, 2023, the Lenders served each of the Applicants with Demands for Payment ("**Demands**") and Notices of Intention to Enforce Security pursuant to s. 244 of the BIA ("**Notices of Intention to Enforce Security**"). Attached as **Exhibit "Q"** are copies of the Demands and Notices of Intention to Enforce Security.

49. In response to the Demands and Notices of Intention to Enforce Security, the Applicants each filed an NOI on August 25, 2023.

(c) The Griffon Entities' Business is Viable and the Lenders are Over Collateralized

i. Value of the Griffon Entities' Business

50. The Applicants commenced the within proceedings to preserve the value of the business and the available security for the benefit of all stakeholders. As discussed further above, the Griffon Entities' business has significant value both currently and on a go-forward basis. Currently, GPOC's oil and gas assets have total proved reserves of approximately 5.75 MBOE and

total proved plus probable reserves of approximately 9.40 MBOE, based on forecast prices and costs. The net present value of future net revenue before taxes discounted at a rate of 10% of such proved reserves is approximately \$70.7 million and proved plus probable reserves is \$119.3 million.

51. The enterprise value of the Griffon Entities was, as at August 2023, estimated by ARCO as part of its efforts to refinance and/or restructure the Griffon Entities' current debt and cash flow issues to be between \$25 million and \$30 million, assuming net operating income of \$12 million over a 12-month period and a multiple of between 2.0x and 2.5x. Importantly, the Griffon Entities have, since their purchase of the Tamarack assets in 2022, actively managed all associated abandonment and reclamation obligations and, as a result, currently have licensed assets with significant value and minimal regulatory obligations.

ii. Anticipated Closing of the Transactions under the Share Purchase and Sale Agreement

52. In addition, both of the foregoing value analyses are based on the Griffon Entities' current asset portfolio. As discussed further above, on May 30, 2023, GPCM signed a Share Purchase and Sale Agreement which had been under negotiation for the past approximately one year, and which is expected, upon closing, to increase the Griffon Entities' commodity production by 9,500 boe/d. The only material condition to the closing of the transaction under the Share Purchase and Sale Agreement is approval by the AER of the applicable license transfers. A response from the AER regarding the license transfer applications submitted earlier this summer is expected in the coming months.

53. In the event the license transfers are approved by the AER and the transaction closes in accordance with the Share Purchase and Sale Agreement, the production capacity of the Griffon

Entities' asset portfolio will fall squarely within the 15,000 to 20,000 boe/d business plan discussed above. At such production levels, and based on a reasonable range of commodity prices and operating conditions, the Griffon Entities' assets are expected to be cash flow positive and generate significant revenue for the benefit of the Griffon Entities and their stakeholders. Such production levels have always formed the basis of the Griffon Entities' business plan, and continue to do so. The Griffon Entities' current debt and cash flow issues is reflective not of the value of the assets, but of the lack of required production levels caused by the failure of numerous previous transactions to close, difficulties encountered during the drilling program, unprecedented winter weather conditions limiting well access and necessitating the shut-in of existing production, and significant cost overruns caused by global supply chain issues and the unprecedented winter weather.

54. Importantly, the closing of the transaction under the Share Purchase and Sale Agreement will have an effective date of January 1, 2022, meaning that two years of existing cash flow will be available to offset most, if not all, of the purchase price payable by GPCM to the vendor. Little, if any, cash outlay will be required from the Griffon Entities in the immediate future to close the transaction and obtain the benefits thereof.

iii. Greenfire Business Combination and IPO

55. In addition to the business of the Griffon Entities, and as noted above, the collateral package held by the Lenders includes a pledge by Spicelo of the Greenfire Shares. The following is my understanding of Greenfire, the Greenfire Shares, and an upcoming Business Combination (as defined below) involving the Greenfire Shares. My information is based on: (a) my review of the Affidavits of David Phung, sworn June 30 and August 22, 2023 (the "**Phung Affidavits**") and

filed by Greenfire in Alberta Court of King's Bench Action No. 2301-08584 in support of its application for an interim order and final order approving an arrangement pursuant to section 193 of the Alberta *Business Corporations Act* ("ABCA"); (b) my review of other publicly available information; and (c) the advice of Mr. Jonathan Klesch. Copies of the Phung Affidavits (without exhibits) are attached hereto as **Exhibits "R"** and **"S"**.

56. Greenfire is a corporation incorporated pursuant to the laws of Alberta with a head office in Calgary, Alberta, and that Greenfire's share registry is in Calgary, Alberta.

57. Greenfire is engaged in, and focused on, the sustainable production and development of upstream energy resources from the oil sands in the Athabasca region of Alberta, using in-situ thermal oil production extraction techniques such as SAGD at facilities located approximately 30 miles southwest of Fort McMurray, Alberta.

58. In 2022, the average daily gross production accruing to Greenfire's working interest was approximately 20,500 bbls/d net to Greenfire's working interest of bitumen and the average daily gross production from the Hangingstone Demonstration Facility was approximately 3,700 bbls/d of bitumen.

59. Greenfire is currently a private company and is not a "reporting issuer" or similarly designated entity in any jurisdiction of Canada. In addition, none of its securities are listed on any stock exchange nor are any of its securities registered under United States securities laws.

60. Certain of Greenfire's shareholders, including Spicelo, are party to a Shareholders Agreement, dated August 5, 2021 (the "**Shareholders Agreement**") which, among other things, restricts the ability of shareholders to directly or indirectly sell, transfer or otherwise dispose of

their securities in Greenfire other than to a “Permitted Transferee”.¹ If a shareholder wishes to directly or indirectly sell, transfer or otherwise dispose of their securities in Greenfire other than to a “Permitted Transferee”, such disposition is subject to a right of first refusal (“**ROFR**”) by every other applicable Greenfire shareholders. Pursuant to the Shareholders Agreement:

- (a) upon receipt of a *bona fide* offer to purchase, the applicable shareholder must provide written notice of its intention to transfer its shares, and the terms and conditions of such intended transfer, to all other shareholders party to the Shareholders Agreement;
- (b) upon receipt of the written notice, each shareholder has 30 days to accept the offer and exercise its ROFR to purchase its pro rata shares of the offered Greenfire shares;
- (c) in the event one or more shareholders declines to exercise its ROFR, all other shareholders are entitled to purchase their pro rata portion of such remaining shares up to a maximum quantity specified by each electing shareholder; and
- (d) any purported transfer of Greenfire shares in violation of the Shareholders Agreement is null, void and invalid and will not be registered either by Greenfire or any transfer agent on the securities register of Greenfire.

¹ “Permitted Transferee” is defined in the Shareholders Agreement as “an Affiliate or Immediate Family Member of such Shareholder, or, in the case of a Corporate Shareholder, to Persons who Control a Corporate Shareholder, Immediate Family Members or Affiliates of such Persons” (as each of those terms is defined in the Shareholders Agreement).

61. The Limited Recourse Guarantee and Securities Pledge Agreement executed by Spicelo with respect to its Greenfire Shares expressly incorporates the transfer restrictions and ROFR rights from the Shareholders Agreement. In particular, section 32 of the Limited Recourse Guarantee and Securities Pledge Agreement provides:

Notwithstanding the other provisions of this Agreement, the Collateral Agent and the Secured Parties agree with the Chargor that any enforcement of or the realization by the Collateral Agent or any receiver or agent appointed by the Collateral Agent pursuant to this Agreement over the Collateral, including the transfer by the Chargor, the Collateral Agent or the Collateral Agent's nominee to any third party or parties in connection with such enforcement or realization, shall be subject to the terms and conditions of the Shareholders Agreement, including the right of first refusal set forth in Section 3.3 of the Shareholders Agreement (in this Section 32, the "ROFR")....

A copy of the Limited Recourse Guarantee and Securities Pledge Agreement is attached hereto as **Exhibit "M"**. The Limited Recourse Guarantee and Securities Pledge Agreement attaches relevant portions of the Shareholders Agreement as Schedule "A".

62. The Board of Directors of Greenfire approved the Limited Recourse Guarantee and Securities Pledge Agreement prior to execution by Spicelo in July 2022 on the basis that, among other things, it expressly preserved all transfer restrictions and ROFR rights under the Shareholders Agreement and made any exercise by the secured parties and/or the Collateral Agent of their security over the Greenfire Shares subject to the applicable terms of the Shareholders Agreement (including the 30-day ROFR period). Absent the approval of the Greenfire Board of Directors, any encumbering of the Greenfire Shares would have contravened the Shareholders Agreement and, as a result, been null and void.

63. As at September 12, 2023, there are 8,937,518 Greenfire shares and 3,965,722 Greenfire warrants issued and outstanding. Greenfire's shares are owned by two different groups of

shareholders: (i) the founders of Greenfire, which consist of four different entities (including Spicelo), all of which are organized under the laws of jurisdictions outside of Canada; and (ii) certain officers and employees of Greenfire. Spicelo is the holder of 1,125,002 issued and outstanding Greenfire shares.

64. On December 15, 2022, Greenfire and M3-Brigade Acquisition III Corp. (NYSE: MBSC), a New York Stock Exchange (“NYSE”) listed special purpose acquisition company (“MBSC”), announced that they had entered into a definitive Business Combination Agreement and certain ancillary agreements to affect a business combination (the “**Business Combination**”) that values Greenfire at US\$950 million. The Business Combination will proceed by first completing an arrangement by way of a Court approved Plan of Arrangement pursuant to the provisions of the ABCA, followed by a merger with MBSC pursuant to the laws of the state of Delaware. The press release announcing and describing this Business Combination is attached hereto at **Exhibit “T”**.

65. At a very high level, pursuant to the Business Combination:

- (a) the common shares of a new corporation incorporated under the laws of Alberta on December 9, 2022 for purposes of effecting the transactions (“**New Greenfire**”) will be listed on the NYSE;
- (b) certain amalgamations/mergers of current Greenfire and current MBSC will be completed under the ABCA and the laws of the state of Delaware, following which the surviving Greenfire and MBSC will become direct, wholly-owned subsidiaries of New Greenfire; and

- (c) the holders of the Greenfire Shares and certain other Greenfire performance warrants and bond warrants will exchange a portion of such securities for their pro rata share of US\$75,000,000 in cash with the balance of such securities exchanged for securities of New Greenfire, all as determined in accordance with the Plan of Arrangement and other applicable transaction documents.

66. The Business Combination is subject to, among other things, approval by the NYSE of New Greenfire's application to list thereon, approval by the required majorities of Greenfire's securityholders of the Plan of Arrangement and approval by the Court of King's Bench of Alberta of the Plan of Arrangement. As at the date of this Affidavit, all of the foregoing approvals have been obtained. Attached as **Exhibit "U"** is a copy of the Final Order granted by the Honourable Justice Romaine on August 31, 2023 approving the Plan of Arrangement.

67. In accordance with the Plan of Arrangement and other transaction documents, the Business Combination is scheduled to close during the week of September 18, 2023. The common shares of New Greenfire will be listed on the NYSE during the week of September 18, 2023. Importantly, at closing, certain Greenfire shareholders (including Spicelo) will become bound by a Lock-Up Agreement with New Greenfire pursuant to which, among other things, each of the Greenfire shareholders has agreed not to sell any equity securities of New Greenfire until the earliest of (i) the date that is 180 days after the closing date, (ii) the date that certain New Greenfire common share closing price targets are achieved, and (iii) the date that New Greenfire completes a specified corporate transaction.

68. As part of the closing of the Business Combination, the Shareholders Agreement between Greenfire and certain shareholders (including Spicelo) will be terminated.

69. With respect to Spicelo, in particular, the impact of the Business Combination on its shareholdings in Greenfire is as follows:

- (a) upon surrender to the depository of the share certificates representing its Greenfire Shares, Spicelo will receive its proportionate share of US\$75 million, for a total pre-tax payment to Spicelo of US\$6.6 million;
- (b) Spicelo will become the owner of approximately 5.5 million common shares of New Greenfire (out of a total of 72.3 million New Greenfire shares outstanding) which, in accordance with the Lock-Up Agreement, will be subject to a 180-day hold period (or such further or other date as the required price targets may be achieved or a specified corporate transaction may occur); and
- (c) the initial listing price for the New Greenfire shares on the NYSE will be US\$10.10.

70. Importantly, the Greenfire Share certificates are currently in the possession of the Collateral Agent pursuant to the terms of the Limited Recourse Guarantee and Securities Pledge Agreement. As such, Spicelo does not have the ability to deposit the Greenfire Share certificates to the depository. I am advised by Andrea Whyte of Osler, Hoskin & Harcourt LLP (“**Osler**”), that under Section 5.1(d) of the Plan of Arrangement, any certificate representing the Greenfire Shares that is not deposited, together with all other documents required in connection with such deposit before the third anniversary of the closing date of the Business Combination shall terminate and be deemed to be surrendered and forfeited to Greenfire for no consideration and shall be deemed to be cancelled. I understand that Osler (as counsel to the Applicants) has been, and remains, in discussions with Lenders’ counsel regarding a consensual tendering of the Greenfire Share certificates. Such discussions remain ongoing and require additional time to conclude.

iv. The Lenders are Over Collateralized

71. In short, the Lenders are over collateralized. The New Greenfire shares alone should be sufficient to satisfy all obligations due and owing both to the Lenders and Tamarack without even considering the significant value of the Griffon Entities' current licensed assets and production or the value of the additional 9,500 boe/d of production should the Share Purchase and Sale Agreement close. The Lenders acknowledged their overly collateralized position and lack of market risk based only on the Greenfire Shares in an email dated August 11, 2023 (just five days prior to the issuance of the Demands and Notices of Intention to Enforce Security): "The lenders already have 1st lien security over 100% of Spicelo's Greenfire shares. We bear very limited market risk on the value of these shares because of the over-collateralized nature of the security pledge." [Emphasis added] A copy of the email from Mr. Gallagher of Signal to me, Mr. Klesch and others is attached hereto as **Exhibit "V"**.

72. The Applicants agree with the Lenders on this point. Indeed, it is clear that permitting the Lenders to enforce their security now - particularly given that the Greenfire Business Combination is on the eve of closing – would simply destroy value which would otherwise accrue to other creditors and stakeholders, including Tamarack. Lenders' counsel has already confirmed that the Lenders' intention is simply to take the Greenfire Shares in kind so as to retain the imminent upside of the business combination and initial public offering to their sole benefit and to the detriment of all other stakeholders of the Applicants. The Lenders are not entitled to this windfall. Attached as **Exhibit "W"** is an email from Lenders' counsel dated August 31, 2023 advising the Proposal Trustee that, "the obligation to my clients can be fully satisfied by transfer of those shares – there is no need for them to be liquidated in order to respond to my client's demands."

73. Accordingly, the Applicants filed the NOIs to preserve the value of the business and the security for the benefit of all stakeholders – not just the Lenders. The Applicants have also engaged the Refinancing Advisor to assist them in canvassing the market for a refinancing transaction to right size their balance sheet and take out the Lenders. The Refinancing Advisor's efforts are in their early stages and additional time is required for the market to be canvassed, potential transactions to be identified and negotiated, and a proposal to be finalized for consideration by the Applicants' creditors.

E. Requirement for an Extension of the Time for Filing of a Proposal

74. The Applicants require an extension of time for them to file a proposal to November 8, 2023. Both the Griffon Entities and Greenfire are at critical junctures. The Griffon Entities are poised to acquire an additional 9,500 boe/d for very little, if any, immediate capital output, thereby putting them into the position of having an implementable, cash flow positive business plan. The Griffon Entities have engaged the Refinancing Advisor. Greenfire is days away from implementing a significant and complex business combination approved by its securityholders and the Alberta Court of King's Bench and from an initial public offering on the NYSE. Both processes are expected to generate significant value that will repay all obligations due and owing to the Lenders under the Amended Credit Agreement prior to the final January 2025 payment date, and must, therefore, be given time to complete.

75. The Lenders are, by their own admission, over collateralized and face little to no risk. Any downside of an immediate security enforcement will be borne by all other stakeholders of the Applicants. If the Applicants were to cease operations and liquidate, it is likely that significant value would be lost. First, any immediate realization by the Lenders against the Greenfire Shares

would result in a windfall to either the Lenders or the other Greenfire shareholders (following exercise of their ROFR rights under the Shareholders Agreement) because of the significant and immediate increase in the value of the Greenfire Shares upon completion of the Business Combination. Such windfall to either the Lenders or the other Greenfire shareholders would be to the detriment of all other stakeholders of the Griffon Entities.

76. Second, the appointment of a Receiver would be highly disruptive and value destructive to the long term going concern value of the Griffon Entities' business following closing of the Share Purchase and Sale Agreement and implementation of the Griffon Entities' business plan.

77. The requested extension is being sought to protect the Applicants' business and operations while the Applicants work to develop a viable proposal for the benefit of stakeholders. I believe that preserving the value of the business in the proposed manner will achieve a better result for the Applicants' stakeholders than would a liquidation. I believe that the requested extension to November 8, 2023 will allow:

- (a) the Griffon Entities to work towards closing the transaction under the Share Purchase and Sale Agreement, subject to receipt of AER approval of the license transfers;
- (b) the Business Combination to be completed and a consensual path forward reached with the Collateral Agent to permit the Greenfire Shares to be exchanged for applicable cash consideration and New Greenfire shares;
- (c) the Refinancing Advisor to canvass the market for potential refinancing transactions; and

- (d) the Applicants to continue formulating a viable proposal for the benefit of all creditors.

78. The Applicants have acted, and continue to act, in good faith and with due diligence since filing the NOIs on August 25, 2022. Since the filing of the NOIs, the Applicants have taken the following steps, among others:

- (a) prepared and analyzed lists of creditors and identified issues specific to certain creditors;
- (b) provided the Proposal Trustee with access to their books and records;
- (c) engaged the Refinancing Advisor;
- (d) worked with the Proposal Trustee on the preparation of the Cash Flow Projections and weekly monitoring for the Applicants;
- (e) communicated with stakeholders regarding the proposal process;
- (f) worked with counsel and other professional advisers in beginning to develop a proposal; and
- (g) reviewed operating expenses, pursued the collection of accounts receivable and took other steps to ensure the Applicants remain financially viable during these proceedings.

79. The Applicants believe that an extension of the time period for them to file a proposal is necessary and appropriate in the circumstances.

F. Requirement for Administration Charge

80. The requested relief contains a first ranking administration charge against the Applicants' property as security for professional fees and disbursements incurred by their counsel, the Proposal Trustee and the Proposal Trustee's counsel both prior to and after the filing of the NOI. The Applicant has provided a \$150,000 retainer to its counsel, a \$100,000 retainer to the Proposal Trustee, and a \$50,000 retainer to Proposal Trustee's counsel.

81. The Applicants require the services of their counsel, the Proposal Trustee and the Proposal Trustee's counsel to develop a viable proposal. I believe that the Administration Charge is reasonable and appropriate in the circumstances and critical to the success of the Applicants' proposal proceedings.

G. Requirement for a D&O Charge

82. The requested relief contains a second ranking charge against the Applicants' property as security for any obligations and liabilities the Applicants' directors and officers may incur in their roles as directors and officers after August 25, 2023, up to the maximum amount of \$250,000.

83. GPCM held D&O insurance with Travelers Insurance Company of Canada (the "**D&O Policy**") with aggregate coverage of \$5 million for all claims. Coverage under the D&O Policy expired on September 1, 2023. While GPCM continues to work on renewing the D&O Policy or securing alternate coverage, such efforts remain ongoing. As a result, the Applicants have not yet been able to secure ongoing insurance coverage for their directors and officers.

84. The Applicants require the services of their directors and officers to develop a viable proposal. The Applicants' directors and officers have the technical and institutional knowledge,

experience, and relationships necessary to preserve the value of the Griffon Entities' operations and business for the benefit of all stakeholders. The Applicants' chances to implement a successful restructuring are maximized by the continued involvement of their directors and officers.

H. Approval of the Retainer Agreement

85. In order to maximize the value of the Applicants for the benefit of their stakeholders, the Applicants are seeking Court approval of the engagement of the Refinancing Advisor in accordance with the terms of an Engagement Letter dated September 11, 2023 (the "**Engagement Letter**") to assist them in canvassing the market for, and assessing, potential refinancing transaction alternatives. Attached hereto as **Exhibit "X"** is a copy of the Engagement Letter with the professional fee rates charged by the Refinancing Advisor redacted. An unredacted copy of the Engagement Letter is attached hereto as **Confidential Exhibit "Y"**.

86. The Refinancing Advisor is a leading middle-market corporate finance & investment banking boutique in Canada and the United States, specializing in assisting both healthy and distressed companies raise the necessary funds throughout their capital structure. The Refinancing Advisor has significant experience across a range of insolvency-related transactions under both Canadian legislation and the U.S. Bankruptcy Code, including both out-of-Court and Court supervised restructurings, asset sales and corporate reorganizations/refinancings.

87. The Refinancing Advisor was accordingly selected by the Applicants to assist them in locating, negotiating and finalizing a transaction to right size the Applicants' current capital structure and refinance their debt obligations. As noted above, the mandate of the Refinancing Advisor is different from the previous marketing process undertaken by ARCO and Imperial which

focused only on raising funds for the Griffon Entities' ongoing operations. The mandate of the Refinancing Advisor is to identify and finalize a refinancing to takeout the Lenders in full.

88. The Applicants concluded that the Refinancing Advisor's services are necessary to maximize their opportunity to identify and negotiate a value-maximizing transaction, and that the Refinancing Advisor is qualified and capable of performing the required tasks.

I. Restricted Court Access

89. The Engagement Letter contains confidential information relating to the professional fee rates charged by the Refinancing Advisor for its services. Specifically, on page 6 of the Engagement Letter, the Refinancing Advisor provides the hourly rates of its Directors, Analysts, and Associates. Such information, if made public, could negatively affect the Refinancing Advisor's competitive position in the market, its relationship with third parties, and future commercial negotiations.

90. The Applicants are proposing in the Order that the Engagement Letter be sealed on the Court file and not form part of the public record. In doing so, the Applicants believe that:

- (a) the Restricted Court Access Order is as narrow as possible and only seeks to maintain the confidentiality of the Refinancing Advisor's rates;
- (b) the scope of the proposed Order is proportionate and restricted only to what is necessary to protect the important competitive and commercial interests of the Refinancing Advisor;

- (c) there are no reasonable alternatives to a Restricted Court Access Order that will prevent the risks of disclosure; and
- (d) the benefits of the requested Restricted Court Access Order outweigh the risks.

J. Payments During the Proceedings

91. Since the filing of the NOIs on August 25, 2023, the Applicants have, and intend to continue, making payments for goods and services supplied to them in the ordinary course, as set out in the cash flow projections filed by each Applicant. If these payments cease as a result of these proceedings, certain critical third parties may be reluctant to continue their business relationship with GPOC, thereby resulting in potential deterioration of the value of the business, operations, and collateral. It may also lead to safety and/or environmental concerns.

92. The Applicants are proposing in the Order that they be authorized, but not required, and in all cases with the consent of the Proposal Trustee, to make payments for goods or services actually supplied to them prior to the filing of the NOIs by third-party suppliers or service providers up to a maximum aggregate amount of \$1,000,000 if, in the opinion of the Applicants, the supplier or service provider is critical to the Applicants' restructuring efforts.

SWORN BEFORE ME this 14th day of
September, 2023 in the City of Calgary, in the
Province of Alberta.



Commissioner for Taking Affidavits in and for
the Province of Alberta



Daryl Stepanic

JULIE LAURA TRELEAVEN
Commissioner for Oaths
in and for
the Province of Alberta

This is **Exhibit "B"** to the Affidavit of Daryl Stepanic
sworn before me this 4th day of December 2023.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

COURT FILE NUMBER 25-2979721
25-2979725
25-2979732
25-2979735
25-2979736
25-2979737
25-2979738
25-2979739



ig

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

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

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF GRIFFON PARTNERS OPERATION CORPORATION, GRIFFON PARTNERS HOLDING CORPORATION, GRIFFON PARTNERS CAPITAL MANAGEMENT LTD., STELLION LIMITED, 2437801 ALBERTA LTD., 2437799 ALBERTA LTD., 2437815 ALBERTA LTD., and SPICELO LIMITED

APPLICANTS GRIFFON PARTNERS OPERATION CORPORATION, GRIFFON PARTNERS HOLDING CORPORATION, GRIFFON PARTNERS CAPITAL MANAGEMENT LTD., STELLION LIMITED, 2437801 ALBERTA LTD., 2437799 ALBERTA LTD., 2437815 ALBERTA LTD., and SPICELO LIMITED

DOCUMENT **ORDER**

ADDRESS FOR **OSLER, HOSKIN & HARCOURT LLP**

SERVICE AND Suite 2700, Brookfield Place
CONTACT 255 – 6th Avenue SW
INFORMATION OF Calgary, AB T2P 1N2

PARTY FILING THIS
DOCUMENT

Solicitors: Randal Van de Mosselaer / Emily Paplawski

Phone: 403.260.7000 / 7071

Email: rvandemosselaer@osler.com / epaplawski@osler.com

Matter: 1247318

DATE ON WHICH ORDER WAS PRONOUNCED: September 22, 2023

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

JUSTICE WHO MADE THIS ORDER: The Honourable Justice B. Johnston

UPON THE APPLICATION of Griffon Partners Operation Corporation (“**GPOC**”), Griffon Partners Holding Corporation (“**GPHC**”), Griffon Partners Capital Management Ltd. (“**GPCM**”), Stellion Limited (“**Stellion**”), 2437801 Alberta Ltd. (“**2437801**”), 2437799 Alberta Ltd. (“**2437799**”), 2437815 Alberta Ltd. (“**2437815**”), and Spicelo Limited (“**Spicelo**”) (collectively, the “**Applicants**”); **AND UPON** reviewing the Affidavit of Daryl Stepanic, sworn September 14, 2023 (the “**Stepanic Affidavit**”); **AND UPON** reviewing the First Report of Alvarez & Marsal Canada Inc. in its capacity as proposal trustee of the Applicants (in such capacity, the “**Proposal Trustee**”); **AND UPON** noting that each of the Applicants filed a Notice of Intention to Make a Proposal under subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “**BIA**”) on August 25, 2023 (the “**Filing Date**”); **AND UPON** hearing submissions by counsel for the Applicants, counsel for the Proposal Trustee and any other counsel or other interested parties present;

IT IS HEREBY ORDERED THAT:

SERVICE

1. The time for service of the application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today, and no other than those persons served is entitled to service of the application.

PROCEDURAL CONSOLIDATION

2. The bankruptcy estates of the Applicants GPOC (Estate No. 25-2979735), GPHC (Estate No. 25-2979736), GPCM (Estate No. 25-2979737), Stellion (Estate No. 25-2979739), 2437801 (Estate No. 25-2979725), 2437799 (Estate No. 25-2979721), 2437815 (Estate No. 25-2979732), and Spicelo (Estate No. 25-2979738) (each individually an “**Estate**”) shall, subject to further order of the Court, be procedurally consolidated into one estate (the

“Consolidated Estate”) and shall continue under Estate No. 25-2979735 (with the proceeding in respect thereof being the **“Consolidated Proposal Proceeding”**).

3. Without limiting the generality of the foregoing, the Proposal Trustee is hereby authorized and directed to administer the Consolidated Estates on a consolidated basis for all purposes in carrying out its administrative duties and other responsibilities as proposal trustee under the BIA as if the Consolidated Estate were a single estate and the Consolidated Proposal Proceeding were a single proceeding under the BIA, including without limitation:
 - (a) the meeting of creditors of the Applicants may be convened and conducted jointly, and the votes of creditors (for procedural purposes) at such meeting shall be calculated on a consolidated basis;
 - (b) the Proposal Trustee is authorized to issue consolidated reports in respect of the Applicants; and
 - (c) the Proposal Trustee is authorized to deal with all filings and notices relating to the proposal proceedings of the Applicants, each as required under the BIA, on a consolidated basis.
4. Any pleadings or other documents served or filed in the Consolidated Proposal Proceeding by any party shall be deemed to have been served or filed in each of the proceedings comprising the Consolidated Proposal Proceeding.
5. A copy of this Order shall be filed by the Applicants in the Court file for each of the Estates but any subsequent document required to be filed will be hereafter only be required to be filed in the Consolidated Estate (Estate No. 25-2979735).
6. The procedural consolidation of the Estates pursuant to this Order shall not:
 - (a) affect the legal status or corporate structure of the Applicants; or
 - (b) cause any Applicant to be liable for any claim for which it is otherwise not liable or cause any Applicant to have an interest in an asset to which it otherwise would not have.

7. The Estates are not substantively consolidated, and nothing in this Order shall be construed to that effect.
8. The Proposal Trustee may apply to this Court for advice and directions with respect to the implementation of this Order or with respect to any other matter relating to the procedural consolidation of the Consolidated Estate.

ADMINISTRATION CHARGE

9. Legal counsel to the Applicants, the Proposal Trustee and legal counsel for the Proposal Trustee, and the Refinancing Advisor (as that term is defined below), as security for their respective professional fees and disbursements incurred in preparing for and during these Consolidated Proposal Proceedings, and both before and after the granting of this Order, shall be entitled to the benefit of, and are hereby granted, a security and charge (the “**Administration Charge**”) on all of the Applicants’ present and after-acquired assets, property and undertakings (the “**Property**”), which charge shall not exceed \$500,000.

D&O INDEMNIFICATION AND CHARGE

10. The Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers after the Filing Date, except to the extent that, with respect to any director or officer, the obligation or liability was incurred as a result of the director or officer’s gross negligence or willful misconduct.
11. The Applicants application for a charge in favour of the Applicants’ Directors and Officers (the “**D&O Charge**”) is dismissed, with leave to the Applicants to reapply on further evidence.

PRIORITY OF CHARGE

12. The filing, registration or perfection of the Administration Charge (the “**Charge**”) shall not be required, and the Charge shall be enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent

to the Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

13. The Charge shall constitute a security and charge on the Property and such Charge shall rank in priority to all other security interests, trusts, liens, charge, encumbrances and claims of secured creditors, statutory or otherwise in favour of any person (collectively, the “**Encumbrances**”).
14. Except as otherwise provided herein, or as may be approved by this Honourable Court, the Applicants shall not grant any Encumbrances over the Property that rank in priority to, or *pari passu* with, any of the Charge, unless the Applicants obtain the prior written consent of the beneficiaries of the Charge (the “**Chargees**”) or further order of this Court.
15. The Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees thereunder shall not otherwise be limited or impaired in any way by:
 - (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
 - (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications;
 - (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
 - (d) the provisions of any federal or provincial statutes; or
 - (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) that binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charge nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, shall

create or be deemed to constitute a new breach by the Applicants of any Agreement to which they, or any one of them, is a party;

- (ii) none of the Chargees shall have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charge; and
- (iii) the payments made by the Applicants pursuant to this Order and the granting of the Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

EXTENSION OF TIME TO FILE A PROPOSAL

16. The time within which the Applicants are required to file a proposal to their creditors with the Official Receiver under section 50.4(9) of the BIA is hereby extended to November 8, 2023.

APPROVAL OF THE RETAINER AGREEMENT

17. The Engagement Letter between Alvarez & Marsal Canada Securities ULC (the “**Refinancing Advisor**”) and GPOC, dated September 11, 2023, and attached at Exhibit “X” to the Stepanic Affidavit (the “**Engagement Letter**”), and the transactions contemplated thereunder, are hereby approved and authorized, and the execution of the Engagement Letter by GPOC is hereby approved and authorized with such minor amendments as GPOC, with the consent of the Proposal Trustee, and the Refinancing Advisor may agree. The Applicants are authorized and directed to take any and all actions as may be necessary or desirable to implement the Engagement Letter and each of the transactions contemplated therein.

PAYMENTS DURING THE PROCEEDINGS

18. The Applicants are entitled, *nunc pro tunc*, with the consent of the Proposal Trustee, but not required, to make payments up to a maximum aggregate amount of \$700,000 of obligations for goods or services supplied to the Applicants prior to the Filing Date if, in

the opinion of the Applicants, and after consultation with the Proposal Trustee, the supplier or vendor of such goods or services is determined by the Applicants to be necessary to its ongoing operations and/or restructuring efforts.

MISCELLANEOUS

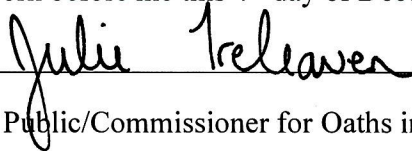
19. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

BB Johnston

Justice of the Court of King's Bench of Alberta

This is **Exhibit "C"** to the Affidavit of Daryl Stepanic

sworn before me this 4th day of December 2023.

A handwritten signature in cursive script, reading "Julie Treleaven", is written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

Action No. B201-979721
E-File Name: CVK232437799
Appeal No.: _____

IN THE COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF CALGARY

IN THE MATTER OF THE BANKRUPTCY AND
INSOLVENCY ACT, RSC 1985, c B-3, AS AMENDED

AND IN THE MATTER OF THE PROPOSAL OF BANKRUPTCY OF
2437799 ALBERTA LTD.

AND:

Action No. B201-979725

IN THE MATTER OF THE PROPOSAL OF BANKRUPTCY OF
2437801 ALBERTA LTD.

AND:

Action No. B201-979732

IN THE MATTER OF THE PROPOSAL OF BANKRUPTCY OF
2437815 ALBERTA LTD.

AND:

Action No. B201-979735

IN THE MATTER OF THE PROPOSAL OF BANKRUPTCY OF
GRIFFON PARTNERS OPERATION CORP.

AND:

Action No. B201-979736

IN THE MATTER OF THE PROPOSAL OF BANKRUPTCY OF
GRIFFON PARTNERS HOLDING CORP.

AND:

Action No. B201-979737

IN THE MATTER OF THE PROPOSAL OF BANKRUPTCY OF
GRIFFON PARTNERS CAPITAL MANAGEMENT LTD.

AND:

Action No. B201-979738

IN THE MATTER OF THE BANKRUPTCY OF
SPICELO LIMITED

AND:

Action No. B201-979739

IN THE MATTER OF THE PROPOSAL OF BANKRUPTCY OF
STELLION LIMITED

P R O C E E D I N G S

Calgary, Alberta
September 22, 2023

Transcript Management Services
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1 Proceedings taken in the Court of King's Bench of Alberta, Courthouse, Calgary,
2 Alberta

5 September 22, 2023 Afternoon Session

7 The Honourable Court of King's Bench of Alberta
8 Justice Johnston (remote appearance)

10 R. Van de Mosselaer (remote appearance)	For Griffon Partners Operation Corporation
11 E. Paplawski (remote appearance)	For Griffon Partners Operation Corporation
12 J. Treleaven (remote appearance)	For Griffon Partners Operation Corporation
13 K. Kashuba (remote appearance)	For Alvarez & Marsal Canada Inc.
14 P. Chiswell (remote appearance)	For Greenfire Resources
15 M. Lemmens (remote appearance)	For Tamarack Valley Energy
16 K. Fellowes, KC (remote appearance)	For Trafigura Canada and Signal Alpha
17 J. Thom, KC (remote appearance)	For Two Shareholder Corporations
18 D. Stethem (remote appearance)	For Harvest Operations Corp.
19 (Student-At-Law)	
20 S. Poitras (remote appearance)	For Alberta Energy Regulator
21 Z. Bodi	Court Clerk

24 (PORTION OF PROCEEDINGS OMITTED BY REQUEST)

26 **Decision**

28 THE COURT: The applicants apply to this Court for an
29 extension of the time to file a proposal to their creditors under Section 50.4(1) of the
30 *Bankruptcy and Insolvency Act* to November 8th, 2023. They further seek a charge of
31 \$500,000 for adminis (WEBEX AUDIO INTERRUPTED) --

33 THE COURT CLERK: Sorry, you are cutting out.

35 THE COURT: -- charges the approval of -- sorry. Maybe we
36 can start again. Is -- it looks like not all the parties are on mute. Madam clerk, let's start
37 there.

39 THE COURT CLERK: Let me check who is not on ...

41 THE COURT: Can -- are you still getting feedback? Madam

1 clerk?

2
3 THE COURT CLERK:

I am hearing like a phone call on the --

4
5 THE COURT:

Okay, yes, it's on mine.

6
7 THE COURT CLERK:

-- phone number 26. Let me mute that number.

8 Okay, it should be okay now.

9
10 THE COURT:

All right, let's try again. I'm going to start over

11 if that's okay.

12
13 The applicants apply to this Court for an extension of the time to file a proposal to their
14 creditors under section 50.4(1) of the *Bankruptcy and Insolvency Act* until November 8th,
15 2023. They further seek a charge of \$500,000 for administrative charges, 250,000 for
16 director and officer charges, the approval of the engagement letter relating to the
17 refinancing, and authorization of payments nunc pro tunc of up to \$700,000 for critical
18 goods and services supplied prior to the filing date. They also seek consolidation of the
19 proceedings and two sealing orders.

20
21 Greenfire supports the applicant's position and opposes the relief sought by the cross-
22 applicant and raises concerns related to public market confidence in their shares, given
23 their recent listings on the New York Stock Exchange only yesterday. The respondents
24 Trafigura Canada and Signal (WEBEX AUDIO INTERRUPTED) the application for an
25 extension and consolidation as it relates to Spicelo. They further oppose the charges.
26 They have no objection to the sealing order sought as it relates to professional fees, but
27 they do have concerns as it relates to the valuation of the Greenfire shares pre-IPO.

28
29 The respondents cross-apply to terminate the NOI proceedings against Spicelo, seek to
30 have the Court appoint KPMG as the Receiver over Spicelo. Tamarack opposes the
31 applicants' application related to the extension of the stay with respect to Spicelo, they
32 also raise concerns with the proposed charges and they support the appointment of a
33 receiver.

34
35 Should an extension be granted to November 8, 2023?

36
37 I note there is no objection to the stay as it relates to the applicants other than Spicelo;
38 however, I will consider the test as it relates to all parties.

39
40 All parties agree that pursuant to section 50.4(a) of the *BIA*, the applicants must satisfy a
41 three-part test. I will consider this test.

1
2 First, the Court must consider if the stay is required in order for the applicants to prepare
3 and finalize a proposal for the benefit of their stakeholders. This is a low threshold to
4 satisfy this branch of the test. See *Enirgi Group v. Andover Mining*, 2013 BCSC 1833, at
5 para 66, 74, and 75. The Court must take a broad (WEBEX AUDIO INTERRUPTED)
6 face of objecting secured creditors. All that's required at this stage is that the applicant
7 must establish that a viable proposal might happen and there is some path forward.

8
9 I acknowledge the arguments of the respondents that the applicants have previously failed
10 in this regard and their submission that the lender has lost confidence in the management
11 of the company. However, even in the face of a suggestion of a potential veto of any
12 proposal, a Court may still grant an extension. *Enirgi* at para 75.

13
14 In this case I accept that what the applicants are proposing this time is different and
15 includes engaging a refinancing advisor, which could have the impact of repaying the
16 lender in full. Indeed, the proposal (WEBEX AUDIO INTERRUPTED) is indeed to pay
17 all of the creditors in full. I also note that the proposal provides an opportunity for the
18 business to continue to operate and the stay would provide an opportunity for the
19 applicants to attempt to restructure on a going concern basis. I've also considered that the
20 market conditions are improved and that any proposal will be with the full oversight of
21 the proposal trustee. I find this part of the test has been satisfied.

22
23 Are the applicants acting in good faith and have they exercised due diligence?
24

25 I again find the applicants have satisfied this part of the test. I accept that the applicants,
26 including Spicelo, are insolvent. I accept the argument of the applicants that Spicelo is
27 insolvent but on a balance sheet basis. I note that the proposal trustee has confirmed that
28 in their view the applicants have and are acting in good faith and with appropriate due
29 diligence. I also note or find that the applicants have been taking concrete steps since the
30 NOIs were filed, as more particularly set out in the affidavit filed by the applicants,
31 including, without limitation, bringing this application, identifying and analyzing
32 creditors, providing the proposal trustee with records and books, engaging a refinancing
33 advisor, communications with stakeholders, and other steps to ensure their operations
34 continue to be viable.

35
36 I reject the respondents' assertions that the applicants filed the NOIs in bad faith. The
37 evidence is clear that the applicants were unable to pay their lenders but they continued to
38 generate cash flow to allow them to operate their business to preserve value for all
39 stakeholders.

40
41 I also accept the position of the applicants that Spicelo is an important part of their

1 restructuring equation, as without the security of the Greenfire shares they may not be
2 able to secure funding to pay out the secured creditor and this may jeopardize the
3 restructuring. Indeed, the Greenfire shares were required to be pledged as security to
4 obtain financing from the (WEBEX AUDIO INTERRUPTED). It would therefore be
5 reasonable to assume that a new lender would expect the same collateral package.

6
7 Therefore, as I said, I accept that the second branch of the test has been satisfied.

8
9 Three. Will any creditor be materially prejudiced by the stay extension?

10
11 I accept that the respondents may be prejudiced by the stay, but I am not satisfied they
12 will be materially prejudiced. First, as the respondents acknowledge in their own
13 evidence, prior to the shares of Greenfire being listed on the New York Stock Exchange,
14 the estimated value of the shares was approximated at over 60 million US dollars. In
15 addition, the respondents have security over the assets of GPOC. The total amount of
16 their security is therefore well in excess of their loan, which is approximately 35 million
17 US dollars.

18
19 I accept there is now additional risk associated with the shares being publicly listed as
20 share prices can fluctuate dramatically. Indeed, there's evidence that within the first day
21 of listing, the share prices decreased. However, any uncertainty in the collateral has
22 already occurred as the shares did begin public trading as of yesterday.

23
24 Further, there is an argument that the shares are in any event subject to a lock-up
25 agreement that may limit their sale for up to six months. The proposal trustee has
26 confirmed it's their view that the lock-up agreement is valid and is in place. This Court
27 makes no determination on the merits of that argument, but it is clear that there is at least
28 some risk that the lender may not be able to sell the shares for up to six months.

29
30 Further, as acknowledged by counsel for the respondent, GPOC continues to have cash
31 flow and continues to operate as a going concern.

32
33 I note the concerns of the respondent that production may be declining and the value of
34 GPOC deteriorating. Nevertheless, there's no evidence that any further deterioration is
35 imminent or that it will further deteriorate within the 45-day stay period sought by the
36 applicants. To the contrary, the proposal trustee confirm (WEBEX AUDIO
37 INTERRUPTED) and the price per barrel has increased. Therefore the market conditions
38 have improved.

39
40 Further, in the event the AER approves the transaction that is pending approval, there
41 could be an increase in GPOC's production. I accept this is not a foregone conclusion,

1 but the potential is there.

2
3 I therefore find that although there may be some prejudice to the respondents, it is not
4 material. I therefore grant the stay.

5
6 Are the administrative and D&O (WEBEX AUDIO INTERRUPTED) -- 2023 for 45
7 days. Are the administrative and D&O charges appropriate?

8
9 I am prepared to approve the administrative fee charges given the proposal trustee has
10 advised this Court that \$500,000 is fair and reasonable under the circumstances.
11 However, I decline to approve the D&O amounts as I do not believe that this Court has
12 sufficient explanation related to that matter.

13
14 Should the A&M engagement letter be approved? I am prepared to approve the
15 engagement letter.

16
17 Sealing orders. I also accept the application to seal the -- sorry, that the applicants'
18 application for a sealing order meets the test as set out in the *Sherman Estate* by the
19 Supreme Court of Canada. The only concern raised regarding the sealing orders was with
20 respect to the pre-IPO valuation of the Greenfire shares. I accept the position of the
21 proposal trustee that the information was prepared for Court eye only and that there are
22 underlying assumptions that are relied on that could prejudice the parties. I further note
23 that the proposal trustee has agreed to make the information available to the respondents
24 provided they sign the appropriate NDA. Finally, I accept the submissions of Greenfire
25 that such information could impact the public market or the shares if disclosed.

26
27 I therefore grant the orders.

28
29 Should the nunc pro tunc payments be approved?

30
31 Based on the submissions of the proposal trustee I accept that the amount of \$700,000 is
32 reasonable given Steel Reef and Sproule are critical suppliers. They've demonstrated why
33 these funds may be necessary. However I note that any amounts to be paid are subject to
34 approval by the proposal trustee.

35
36 UNIDENTIFIED SPEAKER: (INDISCERNIBLE)

37
38 THE COURT: Consolidation.

39
40 UNIDENTIFIED SPEAKER: (INDISCERNIBLE)

41

1 THE COURT CLERK: (INDISCERNIBLE) voice --

2

3 THE COURT: Procedural consolidation.

4

5 Procedural consolidation is appropriate where the debtors affairs are sufficiently related
6 and where consolidation would serve the goals of a just and expeditious determination of
7 claims. Consolidation proceedings under Part 3 of the *BIA* avoids a multiplicity of
8 proceedings and costs associated with serving and filing separate sets of largely identical
9 materials with this Court at each juncture of the proceedings.

10

11 I also agree that procedural consolidation should be granted. I accept the proposal
12 trustee's position that such consolidation would be appropriate given the applicants are
13 sufficiently related and there would be administrative efficiencies and costs savings in
14 doing so.

15

16 That is my decision. Is there anything else the parties wish to speak to?

17

18 MR. VAN DE MOSSELAER: I'll wait to see if anybody else has any
19 comments, My Lady, but then we can have a conversation about how to deal with the
20 signed form of order.

21

22 THE COURT: Yes, that was going to be -- I gather there's
23 some real urgency.

24

25 MS. FELLOWES: Yeah. My Lady, I only have one very short
26 comment and that is I would like to make a submission to note that we may bring -- be
27 bringing another application to terminate the stay before 45 days if --

28

29 THE COURT: All right.

30

31 MS. FELLOWES: -- if events so -- so come to light. So I wouldn't
32 want to foreclose that opportunity.

33

34 THE COURT: All right, your comments are noted.

35

36 MS. FELLOWES: Thank you.

37

38 MR. VAN DE MOSSELAER: I guess my question, My Lady, is with respect
39 to the D&O charge. If I understand correctly, you've not granted that charge? You
40 weren't satisfied with the evidence before you. I wonder if there would be opportunity --
41 leave to reapply on further (INDISCERNIBLE).

1
2 THE COURT: Yes, absolutely. Yes, I wasn't foreclosing it, I
3 was just saying on the evidence before me I -- I wasn't satisfied that you'd established it
4 was required.
5
6 Okay, so with that, I know that the stay expires on (WEBEX AUDIO INTERRUPTED).
7 Mr. Van de Mosselaer, I gather you will draft the form of order?
8
9 MR. VAN DE MOSSELAER: You should have a form of order. We sent them
10 over to your assistant for this morning and --
11
12 THE COURT: A lot was sent to my assistant and a lot was
13 very last minute and I --
14
15 MR. VAN DE MOSSELAER: Yeah.
16
17 THE COURT: -- and I am going to admit that I haven't had
18 time to probably go through, and I suspect the form of order has changed in light of my
19 ruling.
20
21 MR. VAN DE MOSSELAER: It -- it has. So we can easily just make --
22
23 THE COURT: Yes.
24
25 MR. VAN DE MOSSELAER: -- you know, send you a clean copy. How do
26 you think would be best to get it into your hands --
27
28 THE COURT: Well, I mean are you going to be able to get
29 counsel to sign it?
30
31 MR. VAN DE MOSSELAER: Um --
32
33 THE COURT: I think it's appropriate that counsel sign it. I
34 understand the urgency of it. I was going to -- it -- I guess -- when do you need it by?
35
36 MR. VAN DE MOSSELAER: Well --
37
38 THE COURT: I know it expires Sunday, so you need it, what,
39 in 45 minutes or an hour?
40
41 MR. VAN DE MOSSELAER: That's a good question. I think it's a question

1 for the proposal trustee. Does the official Receiver's office need to see a copy of the
2 order today?

3
4 MR. KASHUBA: I think it is today that it's required.

5
6 THE COURT: Okay, well, I'm not sure you're going to get it
7 filed. I know that the commercial coordinator is still there until 4:00. But I am prepared --
8 I don't want to give my email to everybody on the call but I certainly can provide it to
9 counsel if -- or perhaps, madam clerk, is there a way to chat, to do a private chat with
10 maybe just Mr. Van de Mosselaer? Or do you know my email already?

11
12 THE COURT CLERK: I can do (INDISCERNIBLE).

13
14 MR. VAN DE MOSSELAER: I don't unfortunately.

15
16 THE COURT: Okay, can you give it to him in private chat. I'm
17 happy for you to share it with counsel.

18
19 THE COURT CLERK: Yes.

20
21 THE COURT: I just don't want it to go out to other parties.

22
23 MR. VAN DE MOSSELAER: So --

24
25 THE COURT: And what I was going to propose is if you can
26 send me the order I will sign it the second I get it. I will stand by.

27
28 MR. VAN DE MOSSELAER: Good (INDISCERNIBLE) --

29
30 THE COURT: But I just need to know when it's coming so I
31 am not sitting here all night waiting.

32
33 MR. VAN DE MOSSELAER: These changes won't take much time.

34
35 THE COURT: Okay.

36
37 MR. VAN DE MOSSELAER: So I think we can get it to you within the --
38 within 15 minutes I would guess. Just so I'm clear though, are you suggesting that other
39 counsel need to -- need to sign off, approve it because will take time.

40
41 THE COURT: Well, I think -- well, I guess that's my only

1 comment. Counsel, other counsel, given the time sensitivities are you okay with not
2 signing off on it? But if Mr. Van de Mosselaer copies you when it comes to my attention
3 I will sign it given the urgency of it and if it needs to be amended I'm more than happy to
4 amend it after the fact. Does that work? (WEBEX AUDIO INTERRUPTED) effective
5 and efficient as possible under the circumstances.

6
7 MS. LEMMENS: From my perspective, it's Matti Lemmens
8 speaking, I would say that that would actually be normal course that we wouldn't all sign
9 it.

10
11 MR. KASHUBA: Yeah.

12
13 THE COURT: Okay, all right.

14
15 MR. KASHUBA: Agree.

16
17 MS. FELLOWES: Yeah, I agree.

18
19 THE COURT: Okay, all right, the (WEBEX AUDIO
20 INTERRUPTED) Van de Mosselaer, the clerk will give you my email.

21
22 MR. VAN DE MOSSELAER: (INDISCERNIBLE)

23
24 THE COURT: And I will expect probably to get it, when, in
25 the next 15 minutes or so?

26
27 MR. VAN DE MOSSELAER: I've got it here now. We'll -- we'll get going on
28 it right now. I -- just so you know, I think the only thing we need to do is in place of the
29 paragraph --

30
31 THE COURT: Yes, well, I'm going to let you fuss about it --

32
33 MR. VAN DE MOSSELAER: Okay.

34
35 THE COURT: -- because I'm not going -- I'm not going to
36 fuss --

37
38 MR. VAN DE MOSSELAER: (INDISCERNIBLE)

39
40 THE COURT: -- because I don't have it in front of me.

41

1 MR. VAN DE MOSSELAER: Okay, fair enough.

2

3 THE COURT: So you send it to me and I will sign it and get it
4 back to you forthwith.

5

6 MR. VAN DE MOSSELAER: We'll (INDISCERNIBLE) --

7

8 THE COURT: Before I go, I know we're rushed, I just want to
9 tell everybody, all counsel and parties, thank you very much for a very thorough written
10 and oral submission, it was a pleasure always to have such prepared and excellent
11 counsel in front of me. Thank you.

12

13 MR. KASHUBA: And, My Lady, the proposal trustee's order,
14 we'll get the email address from Mr. Van de Mosselaer as well and we'll send that to you
15 in the next five minutes.

16

17 THE COURT: Yeah, is that the -- for the sealing order, right?

18

19 MR. KASHUBA: That's correct, yes.

20

21 THE COURT: Okay. Is there urgency on that one as well?

22

23 MR. KASHUBA: There is not.

24

25 THE COURT: Okay, well, you can just send that to
26 commercial coordinator in due course and I'll sign it when he -- next week if that
27 (WEBEX AUDIO INTERRUPTED).

28

29 MR. KASHUBA: Very well, thank you, My Lady.

30

31 THE COURT: Okay, all right, thank you everyone.

32

33 MR. VAN DE MOSSELAER: Thank you, My Lady.

34

35

36

37 PROCEEDINGS CONCLUDED

38

39

40

41

1 Certificate of Record

2
3 I, Zsuzsa Bodi, certify that this audio is the record made during the proceeding held in
4 courtroom 1702, at the Court of King's Bench in Calgary, Alberta, on the 22nd of
5 September, 2023, and that I was the court official in charge of the sound-recording machine
6 during the proceedings.
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1 **Certificate of Transcript**

2

3 I, Dianne Beland, certify that

4

5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the
6 best of my skill and ability and the foregoing pages are a complete and accurate transcript of
7 the contents of the record, and

8

9 (b) the Certificate of Record for these proceedings was included orally on the record and
10 is transcribed in this transcript.

11

12

13 Dianne Beland, Transcriber

14 Order Number: TDS-1041795

15 Dated: September 27, 2023

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This is **Exhibit “D”** to the Affidavit of Daryl Stepanic

sworn before me this 4th day of December 2023.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

B201-979735

COURT FILE NUMBER 25-2979735
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



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

AND IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF GRIFFON PARTNERS OPERATION
CORPORATION, GRIFFON PARTNERS HOLDING
CORPORATION, GRIFFON PARTNERS CAPITAL
MANAGEMENT LTD., STELLION LIMITED, 2437801
ALBERTA LTD., 2437799 ALBERTA LTD., 2437815
ALBERTA LTD., and SPICELO LIMITED

APPLICANTS GRIFFON PARTNERS OPERATION CORPORATION,
GRIFFON PARTNERS HOLDING CORPORATION, GRIFFON
PARTNERS CAPITAL MANAGEMENT LTD.,
STELLION LIMITED, 2437801 ALBERTA LTD., 2437799
ALBERTA LTD., 2437815 ALBERTA LTD., and SPICELO
LIMITED

DOCUMENT **ORDER**
(Sales and Investment Solicitation Process)

ADDRESS FOR SERVICE **OSLER, HOSKIN & HARCOURT LLP**
AND CONTACT Suite 2700, Brookfield Place
INFORMATION OF 255 – 6th Avenue SW
PARTY FILING THIS Calgary, AB T2P 1N2
DOCUMENT

Solicitors: Randal Van de Mosselaer / Emily Paplawski
Phone: 403.260.7000 / 7071
Email: rvandemosselaer@osler.com / epaplawski@osler.com
Matter: 1247318

DATE ON WHICH ORDER WAS PRONOUNCED: October 18, 2023

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice Dunlop

UPON THE APPLICATION of Griffon Partners Operation Corporation, Griffon
Partners Holding Corporation, Griffon Partners Capital Management Ltd., Stellion Limited,

2437801 Alberta Ltd., 2437799 Alberta Ltd., 2437815 Alberta Ltd., and Spicelo Limited (collectively, the “**Applicants**”) for an order, among other things, approving the Sales and Investment Solicitation Process (“**SISP**”) attached as **Appendix “A”** hereto; **AND UPON** having reviewed the Affidavit of Daryl Stepanic, sworn October 10, 2023, and the Second Report of Alvarez & Marsal Canada Inc. in its capacity as proposal trustee of the Applicants (the “**Proposal Trustee**”) under the Notices of Intention to Make a Proposal of the Applicants, filed August 25, 2023; **AND UPON** hearing the submissions of counsel for the Applicants, counsel for the Proposal Trustee and any other counsel or other interested parties present; **AND UPON** noting that capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the SISP;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Service of notice of this Application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this Application, and time for service of this Application is abridged to that actually given.
2. The SISP (subject to any amendments thereto that may be made in accordance therewith and with this Order) is hereby approved, and the Applicants, the Proposal Trustee, and Alvarez & Marsal Canada Securities ULC (the “**Transaction Agent**”) are hereby authorized and directed to implement the SISP in accordance with the terms thereof and do all things as may be reasonably necessary to conduct and give full effect to the SISP and implement and carry out the terms thereof.
3. The Proposal Trustee and the Transaction Agent (and their respective affiliates, partners, directors, employees, agents, consultants, advisors, experts, accountants, counsel and controlling persons) shall have no liability whatsoever for any and all losses, claims, damages or liabilities, of any nature or kind to any person or party for any act or omission related to the SISP, except to the extent such act or omission is the result of gross negligence or wilful misconduct of the Proposal Trustee or the Transaction Agent.
4. The Applicants shall serve by courier, fax transmission, email transmission or ordinary post, a copy of this Order on all parties present at this Application and on all parties who

are presently on the service list established in these proceedings and such service shall be deemed good and sufficient for all purposes.

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Justice of the Court of King's Bench of Alberta

Appendix “A”

Sales and Investment Solicitation Process

SALE AND INVESTMENT SOLICITATION PROCESS

Introduction

Griffon Partners Operation Corp. (“**GPOC**”), Griffon Partners Holding Corp. (“**GPHC**”), Griffon Partners Capital Management Ltd. (“**GPCM**”, and together with GPOC and GPHC, the “**Griffon Entities**”), Spicelo Limited (“**Spicelo**”), Stellion Limited, 2437799 Alberta Ltd., 2437801 Alberta Ltd. and 2437815 Alberta Ltd. (collectively with the Griffon Entities, the “**Debtors**”) filed Notices of Intention to Make a Proposal (the “**NOI Proceedings**”) with the Office of the Superintendent of Bankruptcy Canada pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) on August 25, 2023. Alvarez and Marsal Canada Inc. was appointed as the trustee under the proposal (the “**Proposal Trustee**”) of the Debtors.

On September 22, 2023, the Alberta Court of King’s Bench (the “**Court**”) granted an Order, among other things, approving of the Debtors’ engagement of Alvarez & Marsal Canada Securities ULC (the “**Transaction Agent**”).

On October 18, 2023, the Court granted an Order (the “**SISP Order**”) approving the sale and investment solicitation procedures set forth herein (the “**SISP Procedures**”). The SISP Order and these SISP Procedures shall exclusively govern the sale and investment solicitation process (the “**SISP**”) for soliciting and selecting bids for the sale of shares or assets of the Griffon Entities (or any one of them), or of a refinancing, reorganization, recapitalization, restructuring or other business transaction involving the Debtors, or any one of them.

SISP Procedures

These SISP Procedures describe, among other things: (a) the manner and timelines by which any interested party may gain access to due diligence materials concerning the Debtors and their business; (b) the manner and timelines by which potential bidders may submit an offer for an investment in the Debtors or an offer to purchase some or all of the Griffon Entities’ assets, property, undertakings and/or shares; (c) the manner in which potential bidders and bids become Qualified Bidders and Qualified Bids (as defined below), respectively; (d) the receipt and negotiation of bids received; and (e) the ultimate selection of one or more bids, and the approval thereof by the Court.

The Debtors and the Proposal Trustee, with the assistance of the Transaction Agent, shall implement these SISP Procedures in accordance with the terms hereof and the SISP Order. Interested parties who wish to have their bids considered shall participate in the SISP in accordance with these SISP Procedures.

In the event that there is a disagreement or a clarification is required as to the interpretation or application of these SISP Procedures or the responsibilities of any person hereunder, the Court will have the jurisdiction to resolve such dispute or provide such clarification, and provide any advice

or directions as are necessary, upon application of the Debtors, the Proposal Trustee or any other interested person.

In the event of the conversion of the NOI Proceedings to other insolvency or restructuring proceedings, the SISP will continue under those proceeding, subject to any changes proposed to and confirmed by the Court.

Opportunity

The SISP Procedures are intended to solicit interest in, and opportunities for: (a) the purchase of some or all of the assets of the Griffon Entities (each, an “**Asset Transaction**”); (b) an investment in the Griffon Entities, including through the purchase or acquisition of the shares of some or all of the Griffon Entities (each, a “**Share Transaction**”); (c) a refinancing of the Debtors through the provision of take out or additional financing in the Debtors (each, a “**Refinancing Transaction**”), or some combination thereof (each, a “**Transaction**”). All interested parties are encouraged to submit a Non-Binding LOI (as defined below) and a Qualified Bid based on any configuration they wish, provided, however, that in no cases shall an Asset Transaction or a Share Transaction include the shares or assets of Spicelo. In all cases, the shares and/or assets of Spicelo shall be limited in this SISP to a Refinancing Transaction.

SISP Timeline

The SISP shall be conducted subject to the terms hereof and the following key milestones:

Milestone	Date	Date
Transaction Agent shall advertise SISP and distribute Teaser and NDA	Within 7 calendar days of SISP Order	October 25, 2023
Due diligence period (NDAs signed, access to VDR granted and site visits organized)	12 calendar days after SISP Order until Final Bid Deadline	October 30, 2023 – January 8, 2024
Non-Binding LOI Deadline	56 calendar days after SISP Order	December 12, 2023
Final Bid Deadline	End of due diligence period	January 8, 2024
Bid assessment	Within 5 business days of Final Bid Deadline	January 15, 2024
Notification of Auction Date (if applicable)	Within 5 business days of completion of bid assessment	January 22, 2024
Auction Date (if applicable)	2 business days after notification of Auction Date	January 24, 2024

Milestone	Date	Date
Period of time to finalize definitive documents for Successful Bid (if applicable)	Within 10 calendar days of acceptance of the Successful Bid	~January 26, 2024 (if no Auction) ~February 5, 2024 (if Auction)
Court approval of Successful Bid (if applicable)	Within 14 calendar days of acceptance of the Successful Bid (subject to Court availability)	~January 30, 2024 (if no Auction) ~February 9, 2024 (if Auction)

The Debtor and the Proposal Trustee, with the assistance of the Transaction Agent, will use reasonable efforts to complete the SISP Procedures in accordance with the foregoing. The Proposal Trustee may make such adjustments to the timeline that it determines are reasonably necessary in order to accommodate unforeseen circumstances and/or best facilitate the SISP to maximize the value of the Debtors for the benefit of stakeholders, in all cases upon notice to all interested parties actively participating in the SISP at the applicable time.

“As Is, Where Is”

Any Asset Transaction or Share Transaction completed hereunder will be on an “as is, where is” basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Debtors, or any one of them, or their respective agents, except to the extent set forth in the Definitive Agreement (as defined below) with the Successful Bidder (as defined below).

Neither the Proposal Trustee, the Transaction Agent, the Debtors, nor any of their respective affiliates, advisors, agents or representatives makes any representation or warranty as to title, description, fitness for purpose, merchantability, quantity, conditions or quality of any of the property or the accuracy or completeness of the information contained in any of the Teaser, Confidential Information Memorandum or in the VDR, except to the extent otherwise provided by the Debtors under a Definitive Agreement (as defined below) with a Successful Bidder executed and delivered by the Debtors. The Debtors are not required to inspect or count, or provide any inspection or counting, of the property or any part thereof and each Qualified Bidder shall be deemed, at its own expense, to have relied entirely on its own inspection and investigation with respect to the property. It shall be the Successful Bidder’s sole responsibility to obtain, at its own expense, any consents to such transfer and any further documents or assurances which are necessary or desirable in the circumstances.

Free of Any and All Claims and Interests

All of the right, title and interest of the Griffon Entities in and to any assets sold or transferred within the SISP will, at the time of such sale or transfer, be sold or transferred free and clear of

any security, charge or other restriction (collectively, the “**Claims and Interests**”) pursuant to any approval and vesting order(s) or reverse vesting order(s) made by the Court and section 65.13 of the BIA. Contemporaneous with such approval and vesting order(s) or reverse vesting order(s) being made, all such Claims and Interests shall attach to the net proceeds of the sale of such assets (without prejudice to any claims or causes of action regarding the priority, validity or enforceability thereof), except to the extent otherwise set forth in the Definitive Agreement with the Successful Bidder (each as defined below) and as approved by the Court.

Solicitation of Interest

As soon as reasonably practicable after the granting of the SISP Order, the Transaction Agent, in consultation with the Debtors and the Proposal Trustee, will prepare:

- a) a list of prospective bidders. Such list will include both strategic and financial parties who, in the reasonable business judgment of the Transaction Agent and the Debtors, and in consultation with the Proposal Trustee, may be interested in and have the financial capacity to make a Qualified Bid (“**Prospective Bidders**”); and
- b) an initial offering summary (the “**Teaser**”) describing and outlining the SISP and inviting Prospective Bidders to make a Qualified Bid.

Within 7 calendar days of the issuance of the SISP Order, the Transaction Agent shall, in consultation with the Debtors and the Proposal Trustee:

- a) cause a notice regarding the SISP and such other relevant information which the Transaction Agent, in consultation with the Debtors and the Proposal Trustee, considers appropriate to be published in the BOE Report / Daily Oil Bulletin, and Globe & Mail; and
- b) distribute to Prospective Bidders the Teaser and a draft confidentiality and nondisclosure agreement (the “**NDA**”) in a form satisfactory to the Debtors, in consultation with the Proposal Trustee.

Participation Requirements and Due Diligence

Unless otherwise ordered by the Court, any Prospective Bidder or other interested party who wishes to participate in the SISP must deliver the following to the Transaction Agent prior to the distribution of any confidential information by the Debtors and/or the Transaction Agent to such Prospective Bidder or interested party (including access to the confidential virtual data room (the “**VDR**”)):

- a) an executed NDA; and
- b) an executed letter acknowledging receipt of a copy of the SISP Order (including these SISP Procedures) and agreeing to accept and be bound by the provisions contained therein and herein.

A Prospective Bidder or other interested party that has complied with each of the foregoing requirements, and who the Transaction Agent, in consultation with the Debtors and the Proposal Trustee, determines has a reasonable prospect of completing an Asset Transaction, a Sale Transaction or a Refinancing Transaction contemplated herein, will be deemed a “**Qualified Bidder**” and will be promptly notified of such classification by the Transaction Agent. For greater certainty, a “Qualified Bidder” will only continue to be deemed a “Qualified Bidder” for purposes of this SISP after the Non-Binding LOI Deadline if the Qualified Bidder submits a Non-Binding LOI in accordance with these SISP Procedures.

The Transaction Agent shall provide any person deemed to be a Qualified Bidder with access to the VDR. Each Qualified Bidder shall have such access in the VDR to materials and financial and other information relating to the shares, the assets, the property and the business of the Debtors as the Debtors, in their reasonable business judgment and in consultation with the Proposal Trustee and the Transaction Agent, deem appropriate for Qualified Bidders to conduct their due diligence.

At the discretion of the Debtors, in consultation with the Proposal Trustee and the Transaction Agent, due diligence access may also include presentations by the Debtors, or any one of them, access to on-site inspections and such other items as a Qualified Bidder may reasonably request. None of the Debtors, the Proposal Trustee, nor the Transaction Agent, or any of their respective professionals and advisors are responsible for, or have any liability with respect to, any information obtained by any Qualified Bidder. None of the Debtors, Proposal Trustee or the Transaction Agent or their respective professionals and advisors make any representations or warranties whatsoever as to the information or the materials provided, including as to the accuracy of same.

Submission of Non-Binding LOI and Qualified Bid

A Qualified Bidder that desires to propose a Transaction must:

- a) deliver a non-binding letter of intent that identifies the potential purchaser(s)/financier(s) and a general description of the assets, business and/or refinancing terms that would be the intended subject of a Qualified Bid (each, a “**Non-Binding LOI**”) to the Proposal Trustee at the address specified herein (including by email transmission) so as to be actually received by the Proposal Trustee not later than 4:00 p.m. (Calgary time) on December 12, 2023, or such later date as may be agreed by the Debtors and the Proposal Trustee, and communicated in writing to all Qualified Bidders (the “**Non-Binding LOI Deadline**”).
- b) deliver a final, written, binding offer (each, a “**Final Bid**”) to the Proposal Trustee at the address specified herein (including by email transmission) so as to be actually received by the Proposal Trustee not later than 4:00 p.m. (Calgary time) on January 8, 2024, or such later date as may be agreed by the Debtors and the Proposal Trustee, and communicated in writing to all Qualified Bidders (the “**Final Bid Deadline**”).

Requirements for Qualified Bid

A Final Bid will only be considered a Qualified Bid if it is submitted by a Qualified Bidder and complies with the following conditions (each, a “**Qualified Bid**”):

- a) it has been received by the Proposal Trustee by the Final Bid Deadline;
- b) it includes either:
 - a. a fully binding and definitive agreement, duly authorized and executed, setting out the terms and conditions of the proposed Transaction, including the aggregate amount of the proposed equity and/or debt investment, assumption of debt, if any, and details of the proposed financing (a “**Definitive Refinancing Agreement**”); or,
 - b. a fully binding and definitive purchase and sale agreement, substantially in the form provided for in the VDR, duly authorized and executed, together with all exhibits and schedules thereto, and such ancillary agreements as may be required with all exhibits and schedules thereto (a “**Definitive Purchase Agreement**”); or
 - c. some combination of a Definitive Refinancing Agreement and a Definitive Purchase Agreement, provided that such agreement is a fully binding definitive agreement that is duly authorized and executed (a “**Definitive Hybrid Agreement**”),(each a “**Definitive Agreement**”);
- c) it includes:
 - a. a statement that the Final Bid is submitted in good faith, is binding and is irrevocable until there is a Successful Bid; provided, however, that if such bid is selected as the Successful Bid, it shall remain irrevocable until the closing of the Successful Bid;
 - b. a statement that the Qualified Bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
 - c. full disclosure regarding the identity of each person that is bidding or that will otherwise be sponsoring or participating in the Qualified Bid, including the identification of the Qualified Bidder’s direct and indirect owners and their principals and the full and complete terms of any such participation;
- d) it provides evidence, in form and substance reasonably satisfactory to the Debtors and the Proposal Trustee, of compliance or anticipated compliance with any and all applicable

regulatory approvals, the anticipated time frame for such compliance and any anticipated impediments for obtaining such approvals;

- e) it provides evidence, satisfactory to the Debtors and the Proposal Trustee, of a firm, irrevocable financial commitment for all required funding or financing or evidence of the Qualified Bidder's financial wherewithal to close the bid using unencumbered funds on hand;
- f) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment and is not conditional upon:
 - a. approval from the Qualified Bidder's board of directors (or comparable governing body) or equityholder(s);
 - b. the outcome of unperformed due diligence by the Qualified Bidder; and/or
 - c. the bidder obtaining financing;
- g) it includes an acknowledgement and representation that the Qualified Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its Qualified Bid; (ii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, including by the Proposal Trustee or the Transaction Agent, or any of their advisors, except as expressly stated in the Definitive Agreement; (iii) is a sophisticated party capable of making its own assessments in respect of making its Qualified Bid; and (iv) has had the benefit of independent legal advice in connection with its Qualified Bid;
- h) it is accompanied by a refundable deposit (the "**Deposit**") in the form of a wire transfer (to a trust account specified by the Proposal Trustee), payable to the Proposal Trustee, in trust, in an amount equal to ten percent (10%) of the cash consideration or other consideration to be paid pursuant to the Qualified Bid, to be held and dealt with in accordance with these SISP Procedures; and
- i) provides such further or other information as may be reasonably requested by the Debtors and/or the Proposal Trustee.

The Proposal Trustee may, in its reasonable discretion, and in consultation with the Debtors, waive compliance with any one or more of the Non-Binding LOI and/or Qualified Bid requirements specified herein, and deem such non-compliant letter of intent or bid to be a Non-Binding LOI or Qualified Bid, as applicable, in accordance with these SISP Procedures.

If the Proposal Trustee is not satisfied with the number or terms of the Non-Binding LOIs or Qualified Bids, the Proposal Trustee, in consultation with the Debtors, may extend the Non-Binding LOI Deadline or Final Bid Deadline, as applicable, without Court approval and, unless otherwise provided for by the Proposal Trustee, all subsequent deadlines provided in these SISP Procedures shall be extended by the same time period.

Assessment of Qualified Bids

The Proposal Trustee and the Debtors will assess the Qualified Bids received, if any, and will determine whether it is likely that the transactions contemplated by such Qualified Bids are likely to be consummated. Such assessments will be made as promptly as practicable but no later than five (5) business days after the Final Bid Deadline.

If the Debtors and the Proposal Trustee determine in their reasonable discretion that one or more Qualified Bids were received and it is likely that the transactions contemplated by one or more of such Qualified Bids will be consummated:

- a) the Proposal Trustee, with the consent of the Debtors, may advise all Qualified Bidders that an auction (the “**Auction**”) will be held and that such Qualified Bidders are entitled to participate in the Auction; or
- b) the Debtors, in consultation with the Proposal Trustee, may select the superior Qualified Bid (the “**Successful Bid**” and the bidder thereof, the “**Successful Bidder**”) and file an application to the Court to approve such Successful Bid within ten (10) calendar days of acceptance thereof, and seek a hearing of such application as soon as practicable thereafter.

To the extent that Trafigura Canada Limited and/or Signal Alpha C4 Limited (together, the “**Lenders**” and each, a “**Lender**”) either: (a) provide written confirmation to the Proposal Trustee that the Lenders or a specific Lender will not participate in the SISP as a Qualified Bidder or submit a Non-Binding LOI, Final Bid or a Qualified Bid within the SISP, or (b) fail to submit a Final Bid which has been deemed a Qualified Bid, from and after such date, the Proposal Trustee may consult with such Lenders or Lender, as applicable, as to developments in the SISP and/or selection of a Successful Bid.

Auction

If an Auction is to be held, the Proposal Trustee will conduct the Auction commencing at 10:00 a.m. (Calgary time) on January 24, 2024 (the “**Auction Date**”) at the offices of the Proposal Trustee’s legal counsel, Torys LLP, Calgary, AB, or such other location as shall be timely communicated to all entities entitled to attend at the Auction, subject to such adjournments as the Proposal Trustee may consider appropriate.

The Auction shall run in accordance with the following procedures:

- c) prior to 4:00 p.m. (Calgary time) on January 22, 2024, each Qualified Bidder that has made a Qualified Bid must inform the Proposal Trustee whether it intends to participate in the Auction (the parties who so inform the Proposal Trustee that they intend to participate are hereinafter referred to as the “**Auction Bidders**”);
- d) the identity of each Auction Bidder participating in the Auction will be disclosed, on a confidential basis, to each other Auction Bidder participating in the Auction;
- e) only representatives of the Auction Bidders, the Proposal Trustee, the Transaction Agent, the Debtors and such other persons as permitted by the Proposal Trustee, and the advisors to each of the foregoing entities, are entitled to attend the Auction in person (and the Proposal Trustee shall have the discretion to allow such persons to attend by video- or tele-conference);
- f) the Proposal Trustee may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction provided that such rules are (i) not inconsistent with these SISP Procedures or general practice in insolvency proceedings, and (ii) disclosed to each Auction Bidder at the Auction;
- g) all Auction Bidders must have at least one individual representative with authority to bind such Auction Bidder present in person at the Auction;
- h) the Proposal Trustee shall arrange to have a court reporter attend at the Auction;
- i) each Auction Bidder participating in the Auction must confirm on the record, at the commencement of the Auction and again at the conclusion of the Auction, that it has not engaged in any collusion with any other person regarding the SISP without the express written consent of the Proposal Trustee and on disclosure to all other Auction Bidders;
- j) prior to the Auction, the Proposal Trustee will provide unredacted copies of the Qualified Bid(s) which the Proposal Trustee believes are the highest or otherwise best Qualified Bid(s) (the “**Starting Bid**”) to all Qualified Bidders that have made a Qualified Bid;
- k) prior to the Auction, the Proposal Trustee and the Transaction Agent shall develop a financial comparison model (the “**Comparison Model**”) which will be used to compare the Starting Bid and all Subsequent Bids (as defined herein) submitted during the Auction, if applicable;
- l) prior to the Auction, the Proposal Trustee and the Transaction Agent shall make themselves available to meet with each of the Auction Bidders to review the procedures for the Auction, the mechanics of the Comparison Model, and the manner by which Subsequent Bids (as defined below) shall be evaluated during the Auction;

- m) bidding at the Auction will begin with the Starting Bid and continue, in one or more rounds of bidding, so long as during each round at least one subsequent bid is submitted by an Auction Bidder (a “**Subsequent Bid**”) that the Proposal Trustee, utilizing the Comparison Model, determines is (i) for the first round, a higher or otherwise better offer than the Starting Bid, and (ii) for subsequent rounds, a higher or otherwise better offer than the then current highest and best bid (the “**Leading Bid**”), in each case by at least CAD\$250,000, or such amount as may be determined by the Proposal Trustee prior to, and announced at, the Auction;
- n) to the extent not previously provided (which shall be determined by the Proposal Trustee), an Auction Bidder submitting a Subsequent Bid must submit, at the Proposal Trustee’s discretion, as part of its Subsequent Bid, written evidence (in the form of financial disclosure or credit- quality support information or enhancement reasonably acceptable to the Proposal Trustee), demonstrating such Auction Bidder’s ability to close the transaction proposed by the Subsequent Bid;
- o) only the Auction Bidders will be entitled to make a Subsequent Bid at the Auction; provided, however, that in the event that any Qualified Bidder elects not to attend and/or participate in the Auction, such Qualified Bidder’s Qualified Bid shall nevertheless remain fully enforceable against such Qualified Bidder if it is selected as the Successful Bid;
- p) all Auction Bidders shall have the right to, at any time, request that the Proposal Trustee announce the then-current Leading Bid and, to the extent requested by any Auction Bidder, use reasonable efforts to clarify any and all questions such Auction Bidder may have regarding the Leading Bid;
- q) the Proposal Trustee reserves the right, in its reasonable business judgment, to make one or more adjournments in the Auction to, among other things (i) facilitate discussions between the Proposal Trustee and the Auction Bidders; (ii) allow the individual Auction Bidders to consider how they wish to proceed; (iii) consider and determine the current highest and best offer at any given time in the Auction; and (iv) give Auction Bidders the opportunity to provide the Proposal Trustee with such additional evidence as the Proposal Trustee, in its reasonable business judgment, may require that that Auction Bidder has sufficient internal resources to consummate the proposed transaction at the prevailing overbid amount;
- r) if, in any round of bidding, no new Subsequent Bid is made, the Auction shall be closed; and
- s) no bids (from Qualified Bidders or otherwise) shall be considered after the conclusion of the Auction.

At the end of the Auction, the Proposal Trustee shall announce the Successful Bid and the Successful Bidder. Upon selection of a Successful Bidder, the Successful Bidder shall deliver as

soon as practicable and, in any event, by no later than five (5) calendar days, an executed Definitive Agreement, which reflects its Successful Bid and any other modifications submitted and agreed to during the Auction, prior to the filing of the application material for the hearing to consider the Approval Application (as defined below).

If an Auction is conducted, the Auction Bidder and/or Qualified Bidder, as applicable, with the next highest or otherwise best Qualified Bid at the Auction or, if such Qualified Bidder did not participate in the Auction, submitted in this SISP, as determined by the Debtors and the Proposal Trustee, will be designated as the backup bidder (the “**Backup Bidder**”). The Backup Bidder shall be required to keep its Qualified Bid (or if the Backup Bidder submitted one or more overbids at the Auction, the Backup Bidder’s final overbid) (the “**Backup Bid**”) open until the earlier of (a) two (2) business days after the date of closing of the Successful Bid; and (b) February 16, 2024 (the “**Outside Date**”).

The Debtors, in consultation with the Proposal Trustee, shall have selected the final Successful Bid(s) and the Backup Bid(s) as soon as reasonably practicable after the Auction Date and the Definitive Agreement finalized and executed by no later than February 5, 2024, which Definitive Agreement shall be conditional only upon the receipt of the Approval Order (as defined below) and the express conditions set out therein and shall provide that the Successful Bidder shall use all reasonable efforts to close the Successful Bid by no later than February 9, 2024, or such longer period as may be agreed to in writing by the Proposal Trustee. In any event, the Successful Bid must be closed by no later than the Outside Date, or such other date as may be agreed to in writing by the Proposal Trustee.

Approval of Successful Bid

All Qualified Bids and Subsequent Bids, including the Successful Bid and/or the Backup Bid, may be submitted by the Proposal Trustee to the Alberta Energy Regulator (“**AER**”) and/or the Saskatchewan Ministry of Energy and Resources (“**MER**”), on appropriate confidentiality undertakings, for review and approval by the AER and/or the MER.

The Debtors shall apply to the Court (the “**Approval Application**”) for an order approving the Successful Bid and the Backup Bid (as applicable) and/or the mechanics to authorize the Debtors to complete the transactions contemplated thereby, as applicable, and authorizing the Debtors to (i) enter into any and all necessary agreements and related documentation with respect to the Successful Bid, (ii) undertake such other actions as may be necessary to give effect to such Successful Bid, and (iii) implement the transaction(s) contemplated in such Successful Bid (the “**Approval Order**”).

The Approval Application will be held on a date to be scheduled by the Debtors and confirmed by the Court. The Debtors shall use best efforts to schedule the Approval Application on or before February 9, 2024 subject to Court availability. The Approval Application may be adjourned or rescheduled by the Debtors on notice to the service list prior to the Approval Application. The

Debtors shall consult with the Successful Bidder and the Backup Bidder regarding the application material to be filed by the Debtors for the Approval Application, which material shall be acceptable to the Successful Bidder, acting reasonably.

If, following approval of the Successful Bid by the Court, the Successful Bidder fails to consummate the transaction for any reason, then such Successful Bidder will forfeit its Deposit and the Backup Bid, if there is one, will be deemed to be the Successful Bid hereunder and the Debtors shall effectuate a transaction with the Backup Bidder subject to the terms of the Backup Bid, without further order of the Court.

All Qualified Bids (other than the Successful Bid) shall be deemed rejected on and as of the date of the closing of the Successful Bid.

Deposits

All Deposits shall be retained by the Proposal Trustee in a bank account specified by the Proposal Trustee. If there is a Successful Bid, the Deposit paid by the Successful Bidder whose bid is approved at the Approval Application shall be applied to the purchase price to be paid by the Successful Bidder upon closing of the approved transaction and will be non-refundable. The Deposit paid by the Backup Bidder shall be retained by the Proposal Trustee until two (2) business days after the date of closing of the Successful Bid or the Outside Date, whichever is later, or, if the Backup Bid becomes the Successful Bid, shall be released by the Proposal Trustee and applied to the purchase price to be paid upon closing of the Backup Bid.

All Deposits of all Qualified Bidders not selected as the Successful Bidder or Backup Bidder shall be returned to such bidders within five (5) business days of the date upon which the Successful Bid and any Backup Bid is approved by the Court. If the Auction does not take place or these SISP Procedures are terminated in accordance with the provisions hereof, all Deposits shall be returned within five (5) business days of the date upon which it is determined that the Auction will not take place or these SISP Procedures are terminated, as applicable.

If an entity selected as the Successful Bidder or Backup Bidder breaches its obligations to close the applicable transaction, it shall forfeit its Deposit to the Debtors; provided, however, that the forfeit of such Deposit shall be in addition to, and not in lieu of, any other rights in law or equity that the Debtors have against such breaching entity.

Approvals and Reservation of Rights

For greater certainty, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by any other statute or are otherwise required at law in order to implement a Successful Bid or Backup Bid, as the case may be.

The Debtors may, at any time, and in consultation with the Proposal Trustee, reject or choose not to accept any Transaction, Non-Binding LOI, Final Bid, Qualified Bid or Successful Bid. In the

event the Proposal Trustee disagrees with the Debtors' rejection or choice not to accept a Transaction, Non-Binding LOI, Final Bid, Qualified Bid or Successful Bid, the Proposal Trustee may file an application to the Court and upon two days' notice seek such relief as the Proposal Trustee may deem necessary.

These SISP Procedures do not, and shall not be interpreted to, create any contractual or other legal relationship between the Debtors, Proposal Trustee, the Transaction Agent and any potential bidder, Qualified Bidder, Auction Bidder, Successful Bidder or Backup Bidder, other than as specifically set forth in any Definitive Agreement.

Notice

The addresses used for delivering documents to the Debtors and the Proposal Trustee as required by the terms and conditions of these SISP Procedures are set out below.

To the Debtors:

Osler, Hoskin & Harcourt LLP
Suite 2700, Brookfield Place
225 – 6th Avenue S.W.
Calgary AB T2P 1N2

Attention: Randal Van de Mosselaer / Emily Paplawski
Phone: (403) 260-7060 / (403) 260-7071
Email: Rvandemosselaer@osler.com / Epaplawski@osler.com

To the Transaction Agent:

Alvarez & Marsal Canada Securities ULC
Bow Valley Square IV
Suite 1110, 250 – 6th Avenue SW
Calgary, AB T2P 3H7

Attention: Scott Asplund / Chad Ellison
Phone: (403) 538-7530 / (403) 538-7540
Email: sasplund@alvarezandmarsal.com / cellison@alvarezandmarsal.com

To the Proposal Trustee:

Alvarez & Marsal Canada Inc.
Bow Valley Square IV
Suite 1110, 250 – 6th Avenue SW
Calgary, AB T2P 3H7

Attention: Orest Konowalchuk / Duncan MacRae
Phone: (403) 538-4736 / (403) 538-7514
Email: okonowalchuk@alvarezandmarsal.com / dmacrae@alvarezandmarsal.com

with a copy to:

Torys LLP
525 – 8th Avenue SW, 46th Floor, Eighth Avenue Place East
Calgary, AB T2P 1G1

Attention: Kyle Kashuba
Phone: (403) 403-776-3744
Email: kkashuba@torys.com

No Amendment

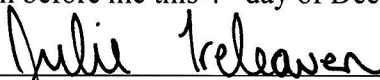
There shall be no amendments to these SISP Procedures without the prior written consent of the Proposal Trustee, or further order of the Court obtained on reasonable notice to the Debtors and the Proposal Trustee.

Further Orders

At any time during the SISP, the Debtors and/or Proposal Trustee may apply to the Court for advice and directions with respect to the discharge of its powers and duties hereunder.

This is **Exhibit “E”** to the Affidavit of Daryl Stepanic

sworn before me this 4th day of December 2023.

A handwritten signature in cursive script, reading "Julie Troleaven", written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Troleaven
Barrister & Solicitor

Action No.: B201-979735
E-File Name: EVK23GRIFFON
Appeal No.:_____

IN THE COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF EDMONTON

IN THE MATTER OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF GRIFFON PARTNERS OPERATION
CORPORATION, GRIFFON PARTNERS HOLDING CORPORATION,
GRIFFON PARTNERS CAPITAL MANAGEMENT LTD., STELLION
LIMITED, 2437801 ALBERTA LTD., 2437799 ALBERTA LTD.,
2437815 ALBERTA LTD., and SPICELO LIMITED

GRIFFON PARTNERS OPERATION CORPORATION, GRIFFON
PARTNERS HOLDING CORPORATION, GRIFFON PARTNERS
CAPITAL MANAGEMENT LTD., STELLION LIMITED, 2437801
ALBERTA LTD., 2437799 ALBERTA LTD., 2437815 ALBERTA
LTD. and SPICELO LIMITED

P R O C E E D I N G S

Edmonton, Alberta
October 18, 2023

Transcript Management Services
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1 Proceedings taken in the Court of King's Bench of Alberta, Courthouse, Edmonton, Alberta

2

3 October 18, 2023

Afternoon Session

4

5 The Honourable

Court of King's Bench

6 Justice Dunlop

of Alberta

7

8 R. Van de Mosselaer

For Griffon Partners Operation Corporation,

9

Griffon Partners Holding Corporation, Griffon

10

Partners Capital Management Ltd., Spicelo

11

Limited, Stellion Limited, 2437799 Alberta Ltd.,

12

2437801 Alberta Ltd. and 2437815 Alberta Ltd.

13 E. Paplawski

For Griffon Partners Operation Corporation,

14

Griffon Partners Holding Corporation, Griffon

15

Partners Capital Management Ltd., Spicelo

16

Limited, Stellion Limited, 2437799 Alberta Ltd.,

17

2437801 Alberta Ltd. and 2437815 Alberta Ltd.

18 J. Treleaven

For Griffon Partners Operation Corporation,

19

Griffon Partners Holding Corporation, Griffon

20

Partners Capital Management Ltd., Spicelo

21

Limited, Stellion Limited, 2437799 Alberta Ltd.,

22

2437801 Alberta Ltd. and 2437815 Alberta Ltd.

23 K. Fellowes, KC

For Trafigura and/or Signal Alpha C4

24 N. Doelman

For Trafigura and/or Signal Alpha C4

25 K. Kashuba

For Alvarez & Marsal Canada Inc.

26 O. Konowalchuk

For Proposal Trustee

27 C. Ellison

For Proposal Trustee

28 K. Young

For Proposal Trustee

29 H. Gorman, KC

For Steel Reef Infrastructure

30 J. Thom, KC

For 2437799 Alberta Ltd. and 2437801 Alberta

31

Ltd.

32 J. Maslowski

For Tamarack Valley Energy Ltd.

33 M. Tajoo

Court Clerk

34

35

36 THE COURT:

Good afternoon, Mr. Clerk. It is Justice Dunlop

37 speaking. Can you hear me?

38

39 THE COURT CLERK:

Yes, Sir.

40

41 THE COURT:

All right. So, we are here on the Griffon Partners

1 and other related entities' proposal. I see Ms. Fellowes, Mr. Kashuba, Mr. Van de
2 Mosselaer on the screen. It is Mr. Van de Mosselaer's clients' application.

3
4 I think what I would like to do is, first of all, deal with service. Mr. Van de Mosselaer, I
5 have seen one affidavit of service that had to do with the trustee's second report, but I do
6 not think I have seen another affidavit of service, so perhaps you could simply address
7 service first.

8
9 MR. VAN DE MOSSELAER: Sure, I'd be happy to. I can advise the court that
10 our unfiled materials were served on the service list by email on October the 10th with
11 proof of service provided thereafter. We have not provided an affidavit of service but
12 we -- I would be happy to undertake to do so if you would like.

13
14 THE COURT: That is fine. And with that, based on that
15 representation, I am satisfied that service has been affected. I just -- then next thing on my
16 agenda is I do not think I have received any bench briefs, and so, Mr. Van de Mosselaer,
17 you did not submit one, did you?

18
19 MR. VAN DE MOSSELAER: I did not.

20
21 THE COURT: Nor, did you, Ms. Fellowes?

22
23 MS. FELLOWES: I did not, Sir.

24
25 THE COURT: Or Mr. Kashuba?

26
27 MR. KASHUBA: No, My Lord.

28
29 THE COURT: Okay. Perhaps, Mr. Van de Mosselaer, you could
30 just simply introduce the people who are present in the virtual courtroom this afternoon so
31 we know where -- I know where they all fit in.

32
33 MR. VAN DE MOSSELAER: Sure, I would be happy to, and I may not
34 introduce everyone because, quite honestly, there are some names that I'm not sure who
35 they -- who they act for or who they are, so I'll do my best to get most of the people on the
36 bingo card on my screen.

37
38 So, from Osler acting for the applicants, the debtors/applicants, in addition to myself we
39 have Ms. Paplawski and Ms. Treleaven from Osler.

40
41 We have Ms. Fellowes as you identified and I believe -- she will correct me if I'm wrong,

1 but I believe Ms. Doelman is her associate also at Stickman Elliott.

2
3 MS. FELLOWES: Yes, that's correct. Thank you, Mr. Van de
4 Mosselaer.

5
6 MR. VAN DE MOSSELAER: And from the proposal trustee, we have Mr.
7 Kashuba from the Torys firm acting for the proposal trustee and representing the proposal
8 trustee is Mr. Konowalchuk from A & M. I note as well that Mr. Ellison and -- things are
9 moving around on my screen. Mr. Ellison and Mr. Young are with A & M Corporate
10 Finances. It's not the correct term but it's the -- the restructuring advisor who would be
11 running the SISP. They are present this afternoon.

12
13 And I see that we have Mr. Gorman, who is with the Norton Rose firm who acts for, I
14 believe, a creditor by the name of Steel Reef, and finally in terms of the people I will be
15 introducing is Mr. Thom with the McLeod law firm in Calgary, who represents a couple of
16 the shareholders and a couple of the applicants who are shareholders of the GPOC entities.

17
18 So, I know that I have missed a couple of people but I don't think anybody else will be
19 making any other -- making any submissions.

20
21 THE COURT: Okay. So, that is helpful, Mr. Van de Mosselaer.
22 Is there anyone else that Mr. Van de Mosselaer did not mention who is present in the
23 courtroom who is hoping to make submissions this afternoon?

24
25 MR. MASLOWSKI: Yes, good afternoon, Sir, Jacub Maslowski, also
26 Stikeman Elliott. I'm here for Tamarack Valley Energy Ltd., which is a secured creditor of
27 the debtors, and I may make some brief submissions on the -- the length of the SISP process
28 later on during the proceedings this afternoon.

29
30 THE COURT: Okay, thank you, Mr. Maslowski. Is there
31 anyone else?

32
33 MS. FELLOWES: My Lord, I simply -- oh, sorry, it's Karen
34 Fellowes. I'm counsel for the secured lenders, and I simply want to note that one of my
35 clients is appearing in the courtroom as an observer but, of course, will not be making any
36 submissions, and that is Mr. Dave Gallagher. He is the deponent of our responding
37 affidavit.

38
39 THE COURT: Okay. Thank you, Ms. Fellowes. And so, I
40 think -- oh, I will just tell you that I have read the application, the proposed order, the
41 second trustee's report, Daryl Stepanic affidavit sworn October 10, Dave Gallagher

1 affidavit sworn October 17, Justice Johnston's order granted September 22nd and filed
2 September 25th, the transcript of Justice Johnston's reasons given orally on September
3 22nd, and I have reviewed in a cursory way Dave Gallagher's affidavit sworn September
4 19th but not read it in any detail, and in many cases I have not looked at the tabs or exhibits
5 to affidavits.

6
7 I think what I am proposing to do -- what I would like to do is go to Ms. Fellowes first so
8 I can be clear on the position that her client -- and there is probably a short-version way to
9 refer your client as -- sometimes it is called "senior lenders" or "the lenders" or something
10 like that. Anyway, Ms. Fellowes, you act for Trafigura and Signal Alpha. Can you -- can
11 you --

12
13 MS. FELLOWES: That's right.

14
15 THE COURT: -- just give us a very short description of what
16 your client's position is on this application.

17
18 MS. FELLOWES: Sure, and I'm happy to do that. Thank you so
19 much for inviting me to do so and I hope that by doing so we'll be able to focus our
20 submissions.

21
22 So, my client, as you correctly identified, is the senior secured lender and is owed over \$51
23 million Canadian as a -- as part of these proceedings. They recognize, My Lord, that the
24 GPOC entity, which is a small oil and gas company, needs to go through some sort of sales
25 process in order to realize on their security and in order to complete a restructuring process
26 that will, in part, see my client paid out.

27
28 So, it's important to note that my client did not -- although they are not happy about these
29 NOI proceedings and I think you can probably guess that they have some significant
30 concerns about the proceedings themselves, they recognize that the GPOC assets
31 themselves will have to go through some sort of sales process.

32
33 What they're concerned about is the length of that process. They feel that it is too lengthy.
34 They feel that their position is at risk and deteriorating due to the length of the process,
35 and, frankly, they feel that their concerns are not being properly considered or listened to
36 as part of these proceedings.

37
38 Not only are they concerned about the value of the collateral deteriorating, but they are
39 seeing, you know, professional fees of over \$500,000 in professional fees have already
40 been incurred on this file in only 5 weeks. That's \$100,000 a month in professional fees,
41 and so they have extreme concerns about seeing this process extended out back in -- out

1 into January or February, which we're talking another 13, 15 weeks. At this rate, that's a
2 big burn rate for the professional fees and, of course, the underlying value of their security.

3
4 THE COURT: So, you will be submitting that I should do what
5 today?

6
7 MS. FELLOWES: That we should amend the proposed SISP, My
8 Lord, to shorten the timelines and to make other minor amendments to the SISP itself.

9
10 THE COURT: Okay. That is helpful. And let me just quickly go
11 to Tamarack's counsel, who is -- I had that here somewhere. Mr. Lemetz (phonetic).

12
13 MR. MASLOWSKI: That would be me, Sir. So --

14
15 THE COURT: Oh, Mr. Maslowski, yes.

16
17 MR. MASLOWSKI: Yes.

18
19 THE COURT: And just briefly the same question to you.

20
21 MR. MASLOWSKI: And similar concerns as the senior secured
22 lender on this file, so Tamarack is the second secured lender. Just concerned about the
23 length of the SISP process and, again, the fees that will likely be incurred throughout this
24 process, and we also note -- and I believe it was referenced in Mr. Gallagher's affidavit that
25 there's already been previous attempts to market these assets. This isn't necessarily a new
26 process and so we feel like the -- the SISP that is being proposed could be shortened and
27 we'd like to see that the timeline for bids be before the holiday season, so by kind of mid-
28 December.

29
30 THE COURT: Okay. So, I appreciate you guys giving us a
31 heads-up as to where your clients are coming from. So, let us then revert back to the usual
32 order of things and I'll ask Mr. Van de Mosselaer for his submissions as to why I should
33 grant the order as it is or maybe he is -- I doubt it but maybe his client is prepared to modify
34 the timelines right now but, Mr. Van de Mosselaer, hopefully those comments will help
35 focus your submissions.

36
37 MR. VAN DE MOSSELAER: Thank you, Sir. And, yes, those comments really
38 come as no surprise to me.

39
40 Let me begin -- first of all, thank you for running through what you had already reviewed.
41 You saved me the trouble of going through that myself, but one thing that I want to be sure

1 that you did receive is just this morning we provided a revised form of SISP --

2

3 THE COURT: Oh, yeah.

4

5 MR. VAN DE MOSSELAER: -- and provided you with a form of order with the
6 revised form of SISP. I think we also provided the BlackLine and we sent it to the service
7 list last night, so I just wanted to see if you received that.

8

9 THE COURT: Give me a second.

10

11 MR. VAN DE MOSSELAER: We were told it was uploaded into whatever the
12 system was.

13

14 THE COURT: What is today?

15

16 MR. VAN DE MOSSELAER: Today is the 18th.

17

18 THE COURT: I am not sure. Like, I have -- I made some notes
19 on this one so that is misleading me a little bit. Just a second here. Form of order. I just
20 have to look somewhere else to make sure. I have a form of order. I am just not sure I got
21 it this morning, so just hang on a sec.

22

23 MR. VAN DE MOSSELAER: We can identify it's the right one pretty easily.

24

25 THE COURT: Sure, go ahead.

26

27 MR. VAN DE MOSSELAER: So, if you look at the form of order that you have
28 in front of you, if you go to schedule A, which -- is sorry, Appendix A, which is the SISP.

29

30 THE COURT: Yeah. It is -- it is not bookmarked in this copy so
31 just a second.

32

33 MR. VAN DE MOSSELAER: It's only a few pages in.

34

35 THE COURT: Yeah. I went to the end, which is probably a
36 mistake. Okay. So, I am on the SISP introduction.

37

38 MR. VAN DE MOSSELAER: Okay. Look at the next page.

39

40 THE COURT: All right. I am there.

41

1 MR. VAN DE MOSSELAER: Right. And you see at the bottom of that page 2
2 there is a table with some dates and some descriptions.
3
4 THE COURT: Yes.
5
6 MR. VAN DE MOSSELAER: And if it's the right one, the third line should say
7 "Non-binding LOI deadline" and a December 12th date?
8
9 THE COURT: No. No.
10
11 MR. VAN DE MOSSELAER: Okay.
12
13 THE COURT: I have the wrong one.
14
15 MR. VAN DE MOSSELAER: You have got (INDISCERNIBLE).
16
17 THE COURT: Let me just check my mail to make sure it has not
18 come in recently. No, it has not made its way to me. You sent it to the commercial
19 coordinator?
20
21 MR. VAN DE MOSSELAER: I -- my assistant sent it to somebody who said it
22 had been uploaded into the system.
23
24 THE COURT: Okay. So, to explain why I cannot get there right
25 now, I was having a whole bunch of video trouble this morning so I disconnected from the
26 server so I could get there, but the fastest way for you to get this to me is can you just have
27 your assistant email it to my assistant?
28
29 MR. VAN DE MOSSELAER: I certainly can, yes.
30
31 THE COURT: My assistant's name is Tammy. Do you have that
32 email address already?
33
34 MR. VAN DE MOSSELAER: I'm pretty sure she's been communicating
35 directly with Tammy.
36
37 THE COURT: Yeah. Somebody asked about whether we could
38 go past 3. Was that your assistant?
39
40 MR. VAN DE MOSSELAER: That was, yeah.
41

1 THE COURT: Yeah. So, she has got my assistant Tammy's
2 email. It's a very -- lots of consonants in the last name so if she has it I will not try to spell
3 it out.

4
5 MR. VAN DE MOSSELAER: Okay.

6
7 THE COURT: I will just quickly email Tammy and say, Please
8 send this to me right away, and you can carry on and I will let you know when I get it.

9
10 MR. VAN DE MOSSELAER: All right. Can I -- can I just take a minute to go
11 and advise my assistant to send that to Tammy?

12
13 THE COURT: Sure, sure.

14
15 MR. VAN DE MOSSELAER: All right. I'll back just in a moment.

16
17 All right. I'm advised that that is on its way to Tammy, so hopefully you'll receive it shortly.

18
19 THE COURT: Thank you. I am just -- I am email -- and -- okay,
20 now you have my full attention again, Mr. Van de Mosselaer.

21
22 **Submissions by Mr. Van de Mosselaer**

23
24 MR. VAN DE MOSSELAER: All right. Let me -- let me begin then by noting
25 that part of the problem in terms of the -- the concerns that have been expressed by the
26 lenders' counsel and Tamarack's counsel is that this is not -- the SISP we are proposing is
27 not a simple sales SISP. Ms. Fellowes suggested that this is just an oil and gas company
28 and we can easily sell the assets and we want it done by early December, and the problem
29 is that is simply unworkable, and the lenders and Tamarack have been told that that's
30 unworkable.

31
32 And it's unworkable for a number of reasons, and that is that this is not a simple sale of oil
33 and gas assets. This SISP, as you will know from having reviewed it, is -- proposes one of
34 two or perhaps three things. It proposes either a sale of oil and gas assets or a refinancing
35 of the enterprise. And it is that refinancing piece -- or I should say, a sale of the assets or a
36 refinancing of the enterprise or some combination of those two things. And it is that
37 refinancing piece that the lenders have been told doesn't work with a 30-day due diligence
38 period. It's simply impossible to complete that process by early December.

39
40 In response to Mr. Maslowski's comment that this has been all done before and that they're
41 just repeating the process, that is clearly not the case. This was -- this very issue was argued

1 before Justice Johnston on September the 22nd, and she made a specific comment on that
2 that I think I'd like to take Your Lordship to, if you would have the transcript of her
3 decision.

4
5 THE COURT: I have just got to -- I read it but I just have to pull
6 it up again. Just a second. Okay. I am there.

7
8 MR. VAN DE MOSSELAER: If you look at page 3 -- actually while -- while
9 we are here, I'll take you to this. Page 3 of the transcript, Justice Johnston says this -- and
10 this is in direct response to this very allegation that this is simply a redux of the marketing
11 process that was done before, and the evidence before Justice Johnston and the evidence
12 before Your Lordship is that this is something different from what was done before, and I
13 can take you to that evidence if you'd like, but clearly the evidence from Mr. Stepanic in
14 paragraph 45 of his September 17th affidavit is that what we are doing now is not what
15 was done earlier this year, and Ms. -- and Justice Johnston agreed with that, and on page
16 3, beginning at line 14, she says: (as read)

17
18 In this case, I accept that what the applicants are proposing this
19 time is different and includes engaging a financing advisor, which
20 could have the impact of repaying the lender in full.

21
22 And then you go to the bottom of that paragraph and she says: (as read)

23
24 I have also considered that the market conditions are improved and
25 that any proposal will be with the full oversight of the proposal
26 trustee.

27
28 So, what we are proposing in this SISP is not simply a do-over of what was done before.
29 We are looking at opportunities which were not explored previously. So, I just want to be
30 clear on that point because it goes directly to the issue that Tamarack's counsel raised.

31
32 You will note, Sir, that on September the 22nd, we brought our application -- or Justice
33 Johnston for an extension of the stay under section 50.4(8) of the *BIA*, and she -- after
34 listening to argument for nearly a full day, including basically the same issues as were
35 raised in Mr. Gallagher's affidavit sworn yesterday, granted our application in the full, with
36 the exception only of the D&O charge where she wasn't satisfied on the basis of the
37 evidentiary record. That extension was opposed and the lenders cross applied for the
38 appointment of a receiver, and she granted our application in full, with the exception of the
39 D&O charge, and you have seen a copy of that order.

40
41 So, let's now consider what this SISP is proposing and why the December -- early

1 December date simply is unworkable and why we -- we actually did consult -- to be clear,
2 we consulted with the lenders down at Tamarack when we were developing this SISP. We
3 provided them with a draft of the SISP without dates but with -- with the draft of the -- the
4 body of the SISP, the substance of the SISP, we provided that to them in October the 2nd.
5 We provided the dates, the proposed dates, on October the 5th, and the lenders then took
6 no issue with the substance of the SISP. The only issue they took was with the dates. To
7 the extent possible, we accommodated some of their comments. We changed some of the
8 dates at their request, but their main ask was that this process be wrapped up by the -- by
9 early December, and the proposal trustee and the refinancing advisor, who are the experts
10 in these matters, said, That is simply unworkable. We cannot do that. And that -- there's an
11 email exchange attached to Mr. Stepanic's affidavit that I'll take you to in a bit, where there
12 is an exchange between the proposal trustee and lenders' counsel explaining why that was
13 not possible.

14
15 Sorry, I am just looking at an email, Sir, which has something to do with the matter we
16 were discussing earlier. It looks like that email has been received by Tammy so you should
17 have it -- have that --

18
19 THE COURT: Yeah, I have -- while you have been talking, I
20 pulled it up and they are now on my screen but, of course I have not read them.

21
22 MR. VAN DE MOSSELAER: Yeah, no, fair enough, and I'll walk you through
23 it.

24
25 In fact, I'll just tell you now, the only difference -- the only substantive difference between
26 that amended SISP attached to the order you've just received and what was attached to our
27 initial application materials was the insertion of a December 12th date, and I'll -- and I'll
28 come to that. I don't want to jump around too much. I'll come to that and explain
29 what -- what that is all about and why we wanted to add that. And it's, in part, an attempt
30 to placate the concerns from the lenders and Tamarack.

31
32 So, what's telling is that the lenders want the SISP to be completed by early December, but
33 it's noteworthy that in their materials they don't actually provide a schedule for how we get
34 from here to there, and the reason for that is because it's just impossible. The proposal
35 trustee and restructuring advisor have advised the lenders that's simply not feasible.

36
37 So, what we have done, hopefully as a way of a compromise -- and what we would like to
38 do is insert that December 12th date in the SISP for prospective bidders to provide a non-
39 binding LOI by December the 12th. So, by December the 12th, we will be able to
40 demonstrate progress in this process. Other dates in the SISP are unchanged, including the
41 need to provide final bids by January the 8th.

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THE COURT: I am just going to -- just going to interrupt you.
The concept would be if you do not file -- if you do not submit a non-binding letter of intent, you cannot bid.

MR. VAN DE MOSSELAER: Right.

THE COURT: Got it.

MR. VAN DE MOSSELAER: That's exactly right. I mean, it's all -- no, there is -- I'll -- to be clear, there is -- the proposal trustee and the restructuring advisor have discretion under the SISP to do whatever needs to be done to make sure that the process is run efficiently and that there are bids that are available. So, if something unforeseen happens or if some bid comes out of the blue, which is fantastic, they have the overriding discretion to make those changes but, you're right, that's the way the SISP is drafted, that you have to provide a non-binding LOI by December the 12th and only then would you have the ability to make a final bid by January the 8th.

THE COURT: And the same deadline would apply to the -- to the creditors if they wanted to make a credit bid?

MR. VAN DE MOSSELAER: Right.

THE COURT: Okay.

MR. VAN DE MOSSELAER: Yeah.

THE COURT: I understand.

MR. VAN DE MOSSELAER: So, I'd like to walk you through the highlights of the Stepanic affidavit and the form of SISP we are seeking to have approved today, and provide an explanation for why legally that the court ought to grant this order.

So, I have the -- I'm looking at the October 10th affidavit of Mr. Stepanic.

THE COURT: Yeah, I have it.

MR. VAN DE MOSSELAER: And I would like to begin at paragraph 7. I won't -- I'm not going to walk you through this in a great deal of detail but just touch on the high -- highlights.

1 So, paragraph 7, Mr. Stepanic says that A & M Corporate Finance was -- was engaged, and
2 that this is a different process from the process that was -- had been run by the company
3 earlier this year. Now, I took you to the excerpt from Justice Johnston's decision on
4 September the 22nd, and that's reproduced at paragraph 7 of Mr. Stepanic's October 10th
5 affidavit.

6
7 What I would also like to take you to, just so we're all clear on what the evidence is on this
8 point -- because apparently it's a -- it's an important point. Exhibit A to Mr. Stepanic's
9 October 10th affidavit is the body of his September -- what's the date? September 14th
10 affidavit. Are you able to find Exhibit A to the October 10th affidavit, Sir?

11
12 THE COURT: Yeah, I am there. It is just it has so many filing
13 pages I am trying to get down to --

14
15 MR. VAN DE MOSSELAER: Yeah, I know --

16
17 THE COURT: -- the (INDISCERNIBLE).

18
19 MR. VAN DE MOSSELAER: -- I know. We are looking for paragraph 45.

20
21 THE COURT: Okay. So, I have the affidavit and I will try to get
22 to paragraph 45 here. This is something I did not read before.

23
24 MR. VAN DE MOSSELAER: That's fine. I think this is the only paragraph
25 we're going to be looking at.

26
27 THE COURT: Okay, I am there.

28
29 MR. VAN DE MOSSELAER: So, this is the evidence before Justice Johnston
30 with respect to the very issue that Mr. Maslowski raised, which is, this has all been done
31 before so let's not waste our time. And Mr. Stepanic, at the September 22nd
32 application -- this is his evidence: (as read)

33
34 Importantly, at the time --

35
36 This is earlier in 2023 when Imperial and ARCO (INDISCERNIBLE) have engaged: (as
37 read)

38
39 At the time, the Griffon entities did not explore any refinancing or
40 takeout of the lenders. The Griffon entities have only now, within
41 the context of these proposal proceedings, retained the refinancing

1 advisor to assist them to locate, negotiate and finalize a transaction
2 to right size the applicant's current capital structure and refinance
3 their obligations to the lenders.
4

5 So, this is a new process that we're talking about, and that's what Justice Johnston found
6 on September the 22nd.
7

8 Now, if we can go back to the -- sorry.
9

10 THE COURT: Sorry. What was it they did before this? Just try
11 to sell the assets?
12

13 MR. VAN DE MOSSELAER: They were looking for other -- other sources of
14 capital but none that would take out the lenders. They were -- and that was actually the
15 problem, is that nobody wanted to come in behind the lenders.
16

17 THE COURT: I see, okay.
18

19 MR. VAN DE MOSSELAER: Now, if we can go back to the main body of the
20 October 10th affidavit, paragraphs 8 and 9, Mr. Stepanic talks about how the transaction
21 agent, A & M Corporate Finance, was engaged and that the SISP was developed in
22 consultation with A & M and that they will solicit an asset transaction or a refinancing
23 transaction or some combination of those two.
24

25 Paragraph 11 is the -- sets out the schedule that we are proposing for this SISP. The only
26 difference now, as we discussed a moment ago, is the insertion of a December 12th date as
27 the date for non-binding LOIs. That will allow the company and the transaction agent to
28 demonstrate progress at that date.
29

30 The process is to kick off one week from today. You can see October 25, one week from
31 today is when the SISP will kick off, and that will give the transaction agent time to prepare
32 the marketing materials and the teaser that needs to get sent out.
33

34 Paragraphs 13 and 14, Mr. Stepanic says that there would be a list of prospective bidders
35 which will be developed and a teaser sent out with publications in the appropriate
36 publications.
37

38 And paragraphs 14, 15 and 16 describes how non-disclosure agreements will be provided.
39 Parties who execute those will be given access to the data room. So, that's all going to
40 happen over the next week. That's a lot of work to do in a week and, in fact, that's one of
41 the dates that we accepted the lenders' pushback on. We initially had that date as November

1 the 1st because there's a lot of work to do. We moved that at their request to October 25th.
2 And then once the parties have accessed the virtual data room, they would have until
3 December 12 to provide their non-binding LOIs with final bids by January the 8th.
4

5 Now, let's talk about some practical realities here because we live in the real world. The
6 practical reality is that October 25th, one week from now -- what the -- what the lenders
7 were proposing, the 30-day due diligence period after that time, which takes us squarely
8 into US Thanksgiving. US Thanksgiving is at the end of November. And that impacts our
9 teaming as does, of course, the Christmas break in December.
10

11 And that's why we're saying that, as Mr. Stepanic says at paragraph 20 of his affidavit : (as
12 read)
13

14 Qualified bids which need to be received by January the 8th after
15 the Christmas break will be assessed, compared and either a
16 superior bid selected or a (INDISCERNIBLE) auction will be held
17 by January the 24th and then subject to court approval its
18 successful bid will be selected and an application brought to court
19 for approval late January or early February with closing to happen
20 as soon as possible thereafter.
21

22 Paragraphs 24 and 25 of Mr. Stepanic's affidavit notes that the SISP timelines that we've
23 just run through, and which are set out in that table, have been developed in close
24 connection with the transaction agent and the proposal trustee, the parties who have the
25 expertise in these matters. As I noted, a draft of the SISP was provided to the lenders and
26 to Tamarack on October the 2nd. We received no comments back.
27

28 Dates, proposed dates, were provided on October the 5th. The lenders said they wanted
29 some of the dates abridged. We accommodated to some extent, to the extent we were able.
30 It's simply not possible to complete this SISP by early December as they have requested.
31

32 Now, let's look at paragraph 26 of Mr. Stepanic's affidavit, Sir, because this really, I think,
33 is the nub of the issue, and I think his evidence bears noting at paragraph 26 if you have
34 that in front of you.
35

36 THE COURT: Yeah.

37
38 MR. VAN DE MOSSELAER: Mr. Stepanic says the following: (as read)
39

40 The applicants are of the view that the timelines set out in the SISP
41 are appropriate and will allow interested parties to participate in

1 the SISP in a fulsome manner. The timelines in the SISP were
2 developed with the advice of the transaction agent regarding the
3 time it needed to properly develop the teaser and establish the
4 VDR, and the time that third parties would require to due diligence
5 the various potential transaction structures permitted by the SISP.
6 I have been advised by the transaction agent that the due diligence
7 process for a refinancing transaction is typically more extensive
8 and lengthier than the due diligence process for an asset
9 transaction --

10
11 That's the point I made earlier: (as read)

12
13 -- or a share transaction and, as a result, must be reflected in the
14 timelines established under the SISP. The transaction agent has
15 advised the applicants that a more abbreviated timeline would risk
16 compromising the process and eliminating some parties who
17 might otherwise be interested in making a bid under the SISP.

18
19 If I can ask you to turn to -- to find Exhibit D to Mr. Stepanic's affidavit --

20
21 THE COURT: Yeah, I am there.

22
23 MR. VAN DE MOSSELAER: -- this is the email I mentioned earlier. This was
24 the email exchange between lenders' counsel and the proposal trustee. So, we had a call on
25 October the 5th I believe -- it might have been the 6th but I think it was the 5th. And the
26 next day, Ms. Fellowes provided this email, circulated this email to a group of people, and
27 then the proposal trustee responded.

28
29 And amongst the things that they have -- if you look at the second page of that exhibit and
30 hopefully you -- yours should be in colour. You'll note that the black text is Ms. Fellowes'
31 email, the red text is the response from the proposal trustee.

32
33 So, point number 1, you'll see right at the bottom of that red block there's a reference to the
34 October 25, 2023 date. So, that's what I said earlier. We -- we actually compromised on
35 that date, and we said, Fine, we'll move that date from November 1 to October 25.

36
37 But then at paragraph 2 of that email, Ms. Fellowes asked that the due diligence period
38 should be 30 days maximum, and the last half of that response from the proposal trustee,
39 if you see a phrase that starts with "setting on NDA terms".

40
41 THE COURT: Settling.

1
2 MR. VAN DE MOSSELAER: Settling, thank you.

3
4 THE COURT: I got it.

5
6 MR. VAN DE MOSSELAER: Take -- takes time with the point, and they go on.
7 They explain why 30 days just doesn't work. Thirty days will simply set this process up for
8 failure, which, by the way, is completely what the lenders are hoping to achieve here, and
9 I'll come back to that if you'd like. But that's -- that's the problem. It simply sets the process
10 up for failure. It wouldn't give prospective lenders enough time to do due diligence. It
11 wouldn't give them an opportunity to go to their credit committees, and it would simply
12 provide a massive disincentive to anyone to participate, especially -- let's look at these
13 dates. Especially because 30 days takes us right to US Thanksgiving. So, they're saying,
14 Let's have 30 days, which takes us from October the 25th to November the 24th, US
15 Thanksgiving weekend, and then to close -- to finish this process by early December, we're
16 supposed to get final bids, get court approval, complete definitive documents, get
17 regulatory approval and close the transaction all in 2 weeks. It's -- it's just not workable
18 obviously. And -- which is why the lenders happen -- in their materials provided a schedule
19 because they know it's unworkable.

20
21 So, the only option here is the one that we are proposing, which is, provide sufficient time
22 for due diligence for participants, work around the Thanksgiving and Christmas holidays,
23 and have final bids by January the 8th, first thing in the New Year.

24
25 Now, let me address some of the issues raised in Mr. Gallagher's affidavit, which he swore
26 yesterday, and, quite honestly, I -- -- his affidavit is really irrelevant to this application. I
27 think it's all really set up to address our stay extension application, which is scheduled for
28 November the 8th, but I don't want to make it seem like we haven't taken issue with what
29 he's saying in his affidavit. If you have that affidavit available to you, Sir?

30
31 THE COURT: Yes, I have it in front of me.

32
33 MR. VAN DE MOSSELAER: Thank you.

34
35 THE COURT: I am just thinking to myself if you have a date of
36 November 8th, you might be back with me, I think.

37
38 MR. VAN DE MOSSELAER: No, I think we're -- well, we're booked in Calgary
39 on November the 8th.

40
41 THE COURT: Oh, okay. Okay, that is fine.

1

2 MR. VAN DE MOSSELAER: So, paragraphs 14 to 17 -- this is the point we
3 touched on earlier but Mr. Gallagher raises it again in his affidavit. Paragraphs 14 to 17
4 Mr. Gallagher discusses the previous Imperial and ARCO refinancing efforts, which we've
5 already seen. Justice Johnston specifically found were a different process from the one that
6 we're proposing now, and we've already looked at Mr. Stepanic's evidence on that point.
7 It's a different -- it's a different process that we're proposing today, with a different
8 objective.

9

10 Paragraph -- paragraphs 20 -- this is -- this is an interesting point. Paragraphs 20 to 35 of
11 Mr. Gallagher's affidavit talks a lot about the valuation of their collateral and the issue here,
12 in a nutshell, is that the lenders are massively overcollateralized and that's really the -- the
13 nub of this problem and why they want this process to fail, because they know they're going
14 to get their money back and they don't really care about anybody else. I don't blame them.
15 I mean, if I was in their shoes I would not care about anybody else either. But that's this
16 jobs -- this court's job.

17

18 And the problem that they have is that they've actually made a mathematical calculation
19 error. They -- they, first of all, point to the average trading price of the Greenfire shares on
20 the New York Stock Exchange and say that they only have a value of \$28 million. Well,
21 they'd have to do some pretty interesting arithmetic to get to that number, but --

22

23 THE COURT: I am not sure where you are right now.

24

25 MR. VAN DE MOSSELAER: Okay.

26

27 THE COURT: Paragraph?

28

29 MR. VAN DE MOSSELAER: Paragraph -- paragraph 28. Sorry, 27 actually.

30

31 THE COURT: Okay. I see 506, okay.

32

33 MR. VAN DE MOSSELAER: So, they say that based on the average -- you
34 have that in front of you, 27?

35

36 THE COURT: Yeah.

37

38 MR. VAN DE MOSSELAER: (as read)

39

40 Based on the average price of the new Greenfire shares of 5.06
41 USD per share, the pledged securities are currently worth only

1 approximately \$28 million US.

2
3 Well, I'll just point out that the Greenfire shares closed at over \$6 today but let's set that
4 aside for a moment. Let's assume that we agree with their numbers - we don't, but let's
5 assume we do - so \$28 million US for the Greenfire shares, based on their interesting
6 mathematics. Paragraph 28 they say the GPOC assets over which they first charged security
7 over \$13 million US. Mr. Stepanic, in his evidence, says they're worth 25 to \$30 Canadian,
8 so we have a currency conversion issue here, but let's assume -- let's assume we agree with
9 that number. We don't. That's worth \$13 million US dollars, about 18 million Canadian. I
10 did the math earlier.

11
12 So, they say, Well, look, that's only \$41 million so we have very little cover. But what they
13 forget is there's a -- and they actually mention it in their own affidavit at paragraph 23 that
14 in addition to the Greenfire shares and the GPOC assets, Spicelo is entitled to a \$6.6 million
15 US dividend. So, all in, their collateral, based on their numbers, is \$47.6 million, and they're
16 owed 38.

17
18 THE COURT: And 38 is in Canadian dollars?

19
20 MR. VAN DE MOSSELAER: No, 38 US -- \$38 million US.

21
22 THE COURT: Okay.

23
24 MR. VAN DE MOSSELAER: And then they go on at paragraphs 30 to 32 to
25 rely on a bunch of third-party hearsay evidence about the volatility of energy markets and
26 information from some mysterious potential purchaser about damage to the GPOC assets,
27 all in an effort to undermine the value of their own collateral, which is an interesting
28 approach, particularly when we are on the -- hopefully on the eve of a sales process.

29
30 But my -- my point, Sir, is that this evidence should be entirely disregarded. It's really got
31 nothing to do with today's application. We have a serious bust in their own evidence
32 because, on their own numbers, their collateral is worth \$48 million and they're owed 38
33 million. So, there's probably some interesting fodder here for the November 8th stay
34 application, but it has no bearing, I submit, on the approval of the SISP that we're seeking
35 today.

36
37 Unless you have any questions about any of that, Sir, I'm going to just touch very quickly
38 on the law around this, and -- and then make some concluding comments. We haven't
39 provided a brief because the law on this is pretty -- pretty clear and I'm sure well known to
40 Your Lordship.

41

1 The -- it's clear that the courts have jurisdiction under section 65.13 of the *BIA* to approve
2 a sales process. That section, like the equivalent section in the *CCAA*, is the sale approval
3 section. Now, we're not here today seeking approval of a sale. We're here today seeking
4 approval of a sales process, but the courts have said, if we have the ability to approve a
5 sale, surely we have the ability to approve a sales process. So, there's your jurisdiction.

6
7 The *Danier Leather* case, the cite for which is 2016 ONSC 1044, the court confirms that it
8 has the jurisdiction under the *BIA* under section 65.13 to approve a sales process. Now, that
9 case was a stalking horse bid. Ours is not. So, in that case they were actually looking to -- or
10 they were actually considering approval of an actual sale, the stalking horse sale. But the
11 important point for today's purposes, Sir, is that in that case, the court says the following,
12 for the reasons why it approves the sales process: (as read)

13
14 The SISP is reasonable in the circumstances as it is designed to be
15 flexible --

16
17 I should have added this is at paragraph -- starting at paragraph 36: (as read)

18
19 The SISP is reasonable in the circumstances as it is designed to be
20 flexible and allows parties to submit an offer for some or all of
21 Danier's assets, make an investment in Danier or acquire the
22 business as a going concern. This is all with the goal of improving
23 upon the terms of the stalking horse agreement.

24
25 We don't have we don't have a stalking horse agreement. (as read)

26
27 The SISP also gives Danier and the proposal trustee the right to
28 extend or amend the SISP to better promote a robust sales process.

29
30 That's exactly our situation with the exception of the stalking horse portion. (as read)

31
32 The proposal trustee and the financial advisor support the SISP
33 and view it as reasonable and appropriate in the circumstances.

34
35 That is also our situation. (as read)

36
37 The duration of the SISP is reasonable and appropriate in the
38 circumstances having regard to Danier's financial situation, the
39 seasonal nature of its business and the fact that many potentially
40 interested parties are familiar with Danier and its business given
41 their participation in the 2015 solicitation process ...

1
2 So, I submit, Sir, that the same can be said of our process. It is not a lengthy process. We're
3 looking at final bids January the 8th and we are now in mid-October. That is not that far
4 away and we have to navigate two major holidays in the process.
5

6 In conclusion, Sir, I'll just make a few final observations. The stay was extended on
7 September the 22nd by Justice Johnston to permit the company to run a SISP. One of the
8 things that she did on September the 22nd was approve the engagement letter that the
9 company entered into with the restructuring advisor. The proposed SISP was developed in
10 conjunction with the proposal trustee and with A & M Corporate Finance, who are the
11 parties who have the expertise in these matters.
12

13 We consulted with the lenders and with Tamarack in the development of the SISP. The
14 only meaningful feedback we received was to -- was to complete the process by early
15 December, which, for the reasons I have explained, A & M has said is simply impossible.
16 We received no feedback, zero, on the substance of the SISP. The SISP establishes a
17 flexible process and the timeline proposed will see final bids by January the 8th with the
18 process completed by early February is a timeline that has been developed with -- with the
19 experts in this field and with this court's officer. It is reasonable and calculated to be
20 successful, while the process proposed by the lenders is intended to scuttle the process so
21 that they can then swoop in, enforce against their collateral, and in the process destroy
22 millions of dollars of value, which would otherwise accrue to other stakeholders.
23

24 Finally, the process SISP is supported by this court's officer who is recommending that the
25 SISP be approved and implemented and it -- at paragraph 27 of the proposal trustee's
26 report -- I won't take you there because I'm sure the proposal trustee's counsel will do so.
27 They -- the proposal trustee sets out a number of reasons why it is supporting the SISP and
28 recommending that it be approved and implemented.
29

30 Those are all of my comments, Sir, unless you have any questions.
31

32 THE COURT: Well, my question, which I will likely ask of
33 everybody, or at least invite submissions from everybody, is, do I have the jurisdiction to
34 modify the SISP? That is what is on my mind. I recognize that the deadlines being proposed
35 by the lenders are not ones which are recommended by the trustee and so that would be a
36 factor for sure, but will I -- do I even have the jurisdiction to approve the SISP as put
37 forward by the company and its trustee but change the dates? Or --
38

39 MR. VAN DE MOSSELAER: Yeah.
40

41 THE COURT: -- I just have a "yes" or "no" question. I

1 approve --

2

3 MR. VAN DE MOSSELAER: (INDISCERNIBLE).

4

5 THE COURT: -- what is put before me or I do not. I am curious.

6 I cannot -- I can totally imagine all of your -- I think I have heard your submissions about
7 why I should not change the dates, but can I? That is what I am wondering about.

8

9 MR. VAN DE MOSSELAER: You know, I'm -- I'm always loathe to tell a court
10 that it cannot do something. I suspect you have broad discretion. I would strongly urge the
11 court not to do that for a host of reasons, including the ones I mentioned, but also because
12 we may end up, you know, if Your Lordship were to start picking other dates, we may just
13 end up in a situation where it's just -- it's unworkable. I mean, these dates are not just picked
14 out of thin air. They -- they're picked for a reason. So, I -- I suspect you have the jurisdiction
15 to do that, but it may create serious difficulties on our end trying to implement it.

16

17 THE COURT: Okay. All right, thank you. So, then anyone else
18 who wishes to speak in favour of the SISP, and that might be Mr. Kashuba first but I am
19 happy to hear from anybody in any order. What happened to Mr. Kashuba? Oh, there he
20 is.

21

22 MR. KASHUBA: Good afternoon, My Lord. And, yes, Kyle
23 Kashuba of Torys. We're counsel to the proposal trustee. We are supportive of the SISP
24 and the submissions that were advanced by Mr. Van de Mosselaer. We can get into the
25 second reporting proposal trustee now or we can wait until after all parties have been able
26 to put their positions on the record. I'm in the court's hands as to which direction you'd like
27 to go in, Sir.

28

29 THE COURT: All right. Geez, I think you might as well do it
30 now but --

31

32 **Submissions by Mr. Kashuba**

33

34 MR. KASHUBA: Very well, Sir. Yes, so, the proposal trustee,
35 Alvarez & Marsal Canada Inc., since the September 22nd stay extension hearing has been
36 working very closely with companies and their legal counsel and advisors including A &
37 M Corporate Finance.

38

39 Now, the terms of the SISP and the timelines contained therein are -- they're not arbitrary
40 as Mr. Van de Mosselaer had mentioned, and they're not inconsequential. They were
41 carefully crafted based on the experience and acumen and past sales investments processes

1 that were undertaken by the restructuring advisor.

2
3 As Mr. Van de Mosselaer mentioned -- and I don't want to get into every detail of the SISP
4 but it is all in the materials set out before you, both in Mr. Stepanic's affidavit and the
5 proposal trustee's second report, but that SISP was provided to counsel to Signal, Trafigura
6 and Tamarack on October 2nd, and that was a SISP but without deadlines. On October 5th,
7 3 days later, the deadlines were also provided.

8
9 Our office attended on a video call with Ms. Fellowes, as well as Mr. Van de Mosselaer
10 and the proposal trustee, A & M Corporate Finance, the next day, October 6th. We went
11 over why the proposal trustee was supportive of those deadlines, the timelines, and we
12 invited further commentary. There was a proposal trustee here. We are the court's officer.
13 They're here to listen to input from any interested stakeholder. The secured lenders are
14 obviously very important in this process so their commentary and suggestions were
15 considered carefully.

16
17 We heard from Tamarack's counsel last Friday - that's October 13th - that there was a
18 (INDISCERNIBLE) email. There was no call with our office but I did discuss this with the
19 proposal trustee. They asked for a December 1st bid due date, which allowed for a court
20 appearance in early January.

21
22 We considered that the proposal trustee through its counsel and advisors and with the
23 consultation with A & M Corporate Finance, and it was determined that, unfortunately, as
24 much as we'd like these processes to be quicker, to be faster, that would not adequately
25 canvass the market and would potentially dissuade interested investors or purchasers from
26 participating in the process.

27
28 It's the proposal trustee's position, as a consequence, that it's in the best interests of the
29 companies and their stakeholders, including lenders, tend to take the restructuring process,
30 as well as the SISP, on the terms that are being proposed today. The SISP -- that has
31 provided the greatest flexibility and opportunity for companies to solicit, select and
32 institute a transaction, and that could be a refinancing transaction, a reorganization
33 transaction, a recap or any other form of restructuring.

34
35 So, to answer My Lord's question about whether the court has the ability to amend those
36 deadlines, it -- I -- I have seen it done. It's not oftenly done. It's -- I believe some of the
37 concern would be, Well, are we writing a contract and, of course, there's
38 (INDISCERNIBLE) substantial case law about whether a court should, or when they
39 should intervene to rewrite a contract. This is not the same but -- this is a SISP but it does
40 have important, nonarbitrary and consequential dates that have been arrived at through
41 discussions with the court officer, as well as restructuring advisor with significant

1 background in these sorts of proceedings.

2
3 These timelines -- there'll never be a one-size-fits-all schedule. There will not be consensus.
4 There -- there's rarely even an agreement on best dates or timelines between any of the
5 parties. In this case, the proposal trustee wanted to seek inputs from all stakeholders, and
6 the proposal trustee is an impartial court officer, wanted to advise the court through its
7 report and our submissions today, what is the SISP that is most likely to be successful?
8 And it's our submission that this SISP is -- it's fair and it's transparent. It involves the least
9 prejudice to any party, and it's our submissions included in the conclusion to the proposal
10 trustee's report there is no material prejudice for any stakeholder. The restructuring advisor
11 has considerable experience and that is why they were engaged, why they were consulted
12 and why the deadlines that they propose were picked.

13
14 I -- I can give a little bit more colour to the first process that was undertaken by the company
15 prior to the NOI, if it pleases the court. So, I think there's a couple of important notes, so is
16 this a re -- a second kick at a can of the same marketing process? It is not, and that was the
17 submission that was accepted by Madam Justice Campbell at the most -- or Madam Justice
18 Sidnell that is, at the September 22nd hearing.

19
20 Re NOI, it's from the last 11, 12 months. The company was targeting a shorter list of capital
21 advisors that could provide incremental capital to assist with drilling, to fund growth, to
22 assist with possible equity or selling of a royalty or even a farm-in partner or some sale of
23 these (INDISCERNIBLE) transaction. This is a process conducted by Imperial. They're an
24 NY -- New York-based institution, as well as ARCO. It's a Calgary-based company. The
25 (INDISCERNIBLE) dozens of parties. I think there was nearly 50 that were approached.
26 In this case, the restructuring of (INDISCERNIBLE) service approaching -- and intends on
27 approaching upwards of 300 parties. It's a -- it's a broader testing of the market based on a
28 different list of prospective purchasers or investors.

29
30 What happened last time versus this time? Well, this time Spicelo transaction -- that's the
31 one that has to deal with the Greenfire shares. That -- that wasn't a part of the process
32 before. It is now. Previously the refinancing of the secured creditors was not on the table.
33 It -- it is now. So, it is a very different SISP that is being contemplated. It's more
34 comprehensive, in our submission, as it might involve an asset transaction, a share
35 transaction or a refinancing transaction, and those different transactions and the proposal
36 trustee's position and views are set out in paragraphs 17 to 27 of the second report.

37
38 What else is different? This time around there is a formal process. We're in a notice
39 intention proposal proceeding. We have the benefit of the court officer, Alvarez & Marsal,
40 the proposal trustee, and we also have a different market.

41

1 When the previous SISP was being undertaken to the sale process, it was in, I think,
2 November of last year. Today we're dealing with -- the WTI is around \$88, so it's a different
3 commodity pricing environment as well. So, it's -- it's very difficult to compare one SISP
4 to another. This is a very different set of circumstances under the auspices of the
5 *Bankruptcy and Insolvency Act* with different actors and potential investors involved.

6
7 So, Sir, those are the position and the submissions of the proposal trustee. I am happy to
8 answer any questions to address any further comments by my friends, or to provide some
9 further information if you like, Sir.

10
11 THE COURT: Okay. Thank you, Mr. Kashuba. Anyone else
12 present who would like to speak in favour of the proposed order?

13
14 **Submissions by Mr. Gorman**

15
16 MR. GORMAN: Your Honour, Howard Gorman here and I'm
17 speaking now on behalf of Steel Reef Infrastructure. I believe they were the largest
18 unsecured creditor with respect to the list provided by the proposal trustee. And I'm kind
19 of the meat in the sandwich here because I was afraid your next question was going to be,
20 Who opposes it? Steel Reef doesn't support it, nor oppose it, because what's in front of you
21 today still leaves uncertainty with respect to the Steel Reef. They're the processing facility
22 for virtually all of the Western Canada assets. That's everything other than the Greenfire
23 shares. The -- whoever acquires these assets needs our facility. It's just the physical reality
24 of it.

25
26 Quite frankly, the facility needs the input from these production assets as well, so while we
27 are not opposing the SISP process, what's unknown to us is what they purport to do with
28 our agreements, their long-term agreements, for significant amounts more than the million
29 four pre-filing amounts, so we -- we just want to have on the record that being silent with
30 respect to the SISP process doesn't mean we blindly accept how they purport to treat with
31 us with any purchaser, we will care who the counterparty is. We will care that they are
32 financially capable of supporting the assets going forward. We will care that the arrears are
33 cleaned up, et cetera. That's not for today, but our silence today doesn't mean we accept
34 whatever might be in the -- in the data room for whatever date the -- the LOIs come in.

35
36 THE COURT: Thank you, Mr. Gorman. So, you are neutral. But
37 I am still -- and I am happy to hear from you on that point, so why do I not open it up to,
38 say, anybody who wants to speak either in favour of or neutral to the proposed order, I
39 would be happy to hear from you.

40
41 Okay. Well, then I think -- oh, I think that takes us back to Ms. Fellowes probably. So, Ms.

1 Fellowes, I am happy to hear your submissions now.

2

3 MS. FELLOWES: Thank you, Justice Dunlop. I am mindful of the
4 time. I know this was originally booked for a 1 -hour application. How is the court's
5 availability?

6

7 THE COURT: I am fine the rest of the afternoon. I will take a
8 break at some point but perhaps not just yet.

9

10 MS. FELLOWES: All right. That -- that was going to be my next
11 question because I do have some submissions to make. I -- I hope they won't be more than
12 half an hour but I expect they will be around 30 minutes, so I'm in your hands if the court
13 wants to take a brief break.

14

15 THE COURT: Let me ask the clerk. Mr. Clerk, are you okay to
16 carry on for another 30 to 45 minutes?

17

18 THE COURT CLERK: Yes, Sir, I'm okay.

19

20 THE COURT: Thank you, okay. Go ahead, Ms. Fellowes.

21

22 **Submissions by Ms. Fellowes**

23

24 MS. FELLOWES: Excellent, thank you so much.

25

26 I'll begin with maybe just a little bit of a level setting here. It's important to note that the
27 court always has the jurisdiction and ability to control its own process, and I don't think
28 there's any doubt that the court has the ability to consider the draft SISP that is being
29 proposed and to make any changes to it as might be necessary in order to fit the court's
30 view of what is right in these circumstances.

31

32 I don't really understand Mr. Kashuba's reference to amending a contract. This is clearly a
33 document which is being put forward for approval by the court as a recommended process,
34 but the court always has the jurisdiction to control its own process.

35

36 In terms of interested parties and balancing the interests of parties, I also think it's important
37 to -- to level set here about who the parties are and their relative interests in these
38 proceedings. Mr. Van de Mosselaer made the surprising statement that my client is
39 interested in scuttling this whole process. My client is owed over \$51 million. The GPOC
40 assets, which is really what we're talking about here today, is a sales process for the GPOC
41 assets, at their best, are worth about \$40 million Canadian. My client thinks that they might

1 be worth much less and is very concerned about the value dropping during this extended
2 process.

3
4 So, even if the GPOC assets sold at its highest rate, it still doesn't solve my client's claim.
5 There's going to be -- it's just part of the bigger puzzle here. But my client definitely wants
6 these assets sold. They want them sold for a good price, but not at the expense of creating
7 a process where they sit by on the sidelines and see the value of their collateral substantially
8 prejudiced and deteriorated, and that's why I want to go through some of the evidence in
9 Mr. Gallagher's affidavit.

10
11 Now, a lot has been said both by counsel for the proposal trustee and counsel for the
12 applicants about these previous sale processes that were run and, indeed, I think that's an
13 important evidentiary point for the court to consider.

14
15 Mr. Van de Mosselaer spoke to a transcript of Mr. -- of, sorry, of Madam Johnston's
16 decision back on September 22nd. Now, keep in mind that application was simply for a
17 45-day extension of the stay period and for some court-ordered charges in -- in the way of
18 admin charges and D&O charges. The D&O charge was not allowed, the admin was, and
19 there was some provision made for payment to pre-final suppliers.

20
21 Mr. Van de Mosselaer pointed to a paragraph in Mr. Stepanic's affidavit wherein Mr.
22 Stepanic makes the statement that the previous sale processes that were undergone back in
23 early 2023 were very different than this one because this one that is contemplated includes
24 a debt refinancing and the previous sales processes only related to raising capital for
25 drilling expansion and other proposals.

26
27 Importantly, the actual sales process materials were not before the court back on September
28 22nd but today they are. So, I'm going to take you to Exhibit A to Mr. Gallagher's affidavit.

29
30 THE COURT: Yeah, I am there. It is a slide deck I think.

31
32 MS. FELLOWES: It is. There are two slide decks, in fact, My Lord.
33 The first one --

34
35 THE COURT: Oh, wait a minute. Sorry, sorry, sorry. I screwed
36 up here. I am in Mr. Stepanic's affidavit. I should have been in Mr. Gallagher's affidavit.

37
38 MS. FELLOWES: Yes.

39
40 THE COURT: Right. Okay, I am with you now.

41

1 MS. FELLOWES: Okay, thank you. There are actually two slide
2 decks in Exhibit A, and the first one is from March of 2023 from Imperial Capital, and it's
3 about 10 pages long, but you'll see there that there is -- if you just do a quick flip through,
4 you'll see that there is a standard description of the assets and the opportunity, including
5 the management team, some financial information and forecasts, et cetera, and economics.

6
7 So, that was the Imperial process but, more important, I think, is the one that was completed
8 one month later in April of 2023, and that is the process from ARCO, and that is located
9 at -- I'm going to take you actually to page 20 of Exhibit A, which is page 30 of the PDF
10 of Mr. Gallagher's affidavit. And you'll see there -- I hope you have the same page, Sir. It
11 is an executive overview.

12
13 THE COURT: Yeah.

14
15 MS. FELLOWES: And you will see there, there is a number of
16 approaches set out and the second approach that's mentioned is a debt refinancing, option
17 1, refinance the existing \$45 million term loan. That's my client's loan, in order to access
18 cheaper cost of capital and stretch (INDISCERNIBLE) to help fund a development plan.

19
20 So, Mr. Stepanic's affidavit that was before Justice Johnston on September 22nd did not
21 include reference to this particular material. He said there was no debt refinancing option
22 on the table back when ARCO did their sales process in April of 2023, and that's just
23 incorrect. The debt refinancing option was on the table, and if you, in fact, turn two pages
24 forward, you will see there's a separate page that specifically refers to the debt refinance or
25 new senior bridge option. And, interestingly, I think, as sort of in the middle of the -- or
26 the bottom of the left-hand side of the page, there's a column called "Timeline", and you'll
27 see at the bottom of that, there's a reference to 60 to 90 days in total from launch to close
28 of transaction. So, this is very different from the evidence you've heard that a debt
29 refinancing transaction was not on the table previously, and that a debt refinancing
30 transaction would take longer to complete than what is being -- than what the lenders were
31 proposing.

32
33 In fact, what's on the table before the court today, Justice Dunlop, is way longer than a 60
34 to 90-day term from launch to close of transaction. In fact, what's being proposed by the
35 debtors today is a -- almost a 3-month process which will only take us to court approval,
36 not, in fact, to closing of the transaction.

37
38 There is reference been made to consultation with the lenders, and I think this is an
39 important point. There's consultation and then there's meaningful consultation, and I think
40 when the proposal trustee says that in response to the concerns expressed by the lenders,
41 they agree to modify the dates. What they actually did was they agreed to move up the

1 deadline for distribution of the teaser from November 1st to October 25th. So, 5 days.

2
3 Now, it should be noted that the restructuring advisor has been engaged since September
4 22nd, so they've had several weeks already to prepare these materials and, of course,
5 they've had the benefit of the previous materials prepared by Imperial Oil and
6 ARCO -- sorry, Imperial and ARCO. So, that was the big session from the proposal trustee
7 and the applicants in response to the lenders' concerns. They agreed to move up the teaser
8 date by 5 days.

9
10 What they completely failed to take into account were any of the lenders' legitimate
11 concerns about an extended sales process as it relates to adverse effects of weather and as
12 it relates to adverse economic conditions relating to deterioration in the value of their
13 collateral. And I will take you through some of the points in that regard that are contained
14 in Mr. Gallagher's affidavit.

15
16 At paragraph 32 of Mr. Gallagher's affidavit there is reference to the fact that the lenders
17 were recently contacted by an interested purchaser of the GPOC assets where the purchaser
18 expressed concern about the pending sales process and extension into the winter months.
19 The evidence is apparently - and this was confirmed in the response from the proposal
20 trustee - that last winter these particular assets suffered some severe weather events which
21 resulted in the assets being shut in or inaccessible.

22
23 The lenders expressed this concern to the applicants and the proposal trustee, and this is
24 one of the reasons why we don't want this process and the due diligence period extended
25 all the way into January as we're trying to obviate some of the weather risks involved by
26 pushing this into the dead of winter. I take Mr. Van de Mosselaer's point about Christmas
27 holidays and Thanksgiving holidays but, frankly, in the face of my clients' position where
28 they're owed \$51 million on assets which are worth far less than the amount of their debt,
29 every penny counts and people can sharpen their pencils and work even over the holidays.

30
31 THE COURT: I seem to recall the trustee or somebody
32 responded to this point about bad weather and basically said it happens all the time and we
33 have built it in. I cannot put my finger on where that is but it is somewhere.

34
35 MS. FELLOWES: Yeah.

36
37 THE COURT: Okay.

38
39 MS. FELLOWES: I -- I think that's a fair summation of their
40 response, but the fact that these particular assets were so particularly affected just last year
41 I think is evidence that the applicants and the trustee should take into account.

1
2 Frankly, My Lord, our concern is that our -- our -- our voices are not being heard, and
3 because we have the most skin in the game here, we really do believe that the creditors'
4 concerns and -- and inputs should be properly evaluated and given weight. Creditor
5 protection in an NOI proceeding is something that allows the creditors to get breathing
6 room, but it shouldn't be a shield so that the competing stakeholders, including the most
7 crucial stakeholders, are effectively silenced and their concerns are dismissed, and that's
8 where my client feels that they are right now. And I'll take you to some of the concerns,
9 specific concerns of my client because it's not just an emotional response. There's -- there's
10 actually money concerns behind it and real financial data to underlie their concerns.

11
12 Okay. First item of financial concern relates to the Greenfire shares, and you will see in
13 Exhibit B to Mr. Gallagher's affidavit that the Greenfire shares initially opened for public
14 trading on September 20th at a deemed value of over \$10 US per share. In the last 3 1/2
15 weeks that price has fluctuated but has sort of settled into an -- there was a high, I think, of
16 \$7.80 and then it sort of settled into a band of trading between \$4.92 and \$5.98. So, it's
17 significantly below the \$10.10 opening value, which it was deemed to hold back on
18 September 20th. So, that's had a real impact on my client's financial position.

19
20 Mr. Van de Mosselaer notes that my client appears to be overcollateralized. Well, it
21 depends on how you crunch the numbers but they certainly are very concerned that if they
22 are overcollateralized it's very thinly, and they are concerned that they are now being
23 trapped in this 3-month extended process with no ability to control the financial risk if
24 there's further downward trending with respect to both oil and gas commodity prices and
25 also the value of the Greenfire shares.

26
27 My client also notes in Exhibit D of Mr. Gallagher's affidavit that with respect to the cash
28 flow situation of GPOC boasted 30 percent of the next 4 years' cash flow available for debt
29 servicing will be generated over the next 6 months, and my client has real concerns with
30 respect to cash flow for GPOC and the amount of professional fees that are being incurred
31 here, and the -- in essence, the priming of their collateral and interest.

32
33 I think in my opening statement I said that we were very surprised to see in the proposal
34 trustee's second report that in only 5 weeks the professional fees on this file have been
35 \$500,000. When we got the first 13-week cash flow prepared by the proposal trustee back
36 in August and it referenced an estimate of \$1.2 million over 13 weeks, we thought perhaps
37 that must have been an error but, in fact, they are exceeding their forecasted cash flow
38 requirements in terms of the professional fees being incurred.

39
40 We have a very real concern that if this is extended out another 12, 13, 14, 16 weeks here
41 there's going to be millions of dollars in professional fees and, frankly, I don't understand

1 how these professional fees are being -- being incurred. This is not a multimillion -- you
2 know, this is not a multinational major corporation. Small oil and gas company and a
3 number of holding companies. The oil and gas company has a small amount of assets and
4 I think 16 contractors who operate the assets on their behalf. In any event, my client has
5 real concerns about extending this process because as everyone in an insolvency file
6 knows, the longer the process goes on the greater the fees.

7
8 In paragraph 31 of Mr. Gallagher's affidavit, there is some evidence from the chief
9 economist, Mr. Saad Rahim, of Trafigura - and Trafigura is one of the world's leading oil
10 traders, oil and gas traders - noting volatility of the commodity markets in the oil and gas
11 prices. His comments were dated October 9th of 2023 but anyone who reads the papers
12 or -- or listens to economists lately knows how volatile oil and gas prices can be, and my
13 clients who are in the business of trading oil and gas are very concerned about potential
14 downward pressure on commodity pricing. In other words, delay is not in my client's
15 favour.

16
17 You've heard some submissions from counsel for the applicants that the scheduled
18 proposed by my client is simply unworkable or unreasonable. Well, there's really no
19 evidence of that other than the proposal trustee says, This is what they've done in the past
20 with other assets, but, with respect, the previous sales processes that have happened in this
21 case are completely relevant to whether a compressed sales process is appropriate here, and
22 that's because the sales agent is not reinventing the wheel.

23
24 They say they're going out to a broader group of constituents this time but really these
25 assets have been on the market since at least March of 2023, if not before that. They've
26 been shopped around. There is a potential universe of buyers. A compressed sales process
27 has been allowed by the court in previous circumstances where the assets have undergone
28 a pre-filing sales process, and that is what's happened here. Despite the comments that the
29 previous processes were not applicable because they didn't include a debt refinancing, well,
30 that's just incorrect, and I showed you the evidence in the ARCO transaction which shows
31 of the ARCO's pitch deck which showed that a debt refinancing was on the table and was
32 canvassed at that time.

33
34 I would briefly like to speak a little bit about the SISP itself and the fact that it does not
35 include probably the most valuable asset in this whole universe, which is the Greenfire
36 shares. If you look at page 2 of the SISP, under "Opportunity" --

37
38 THE COURT: Yeah.

39
40 MS. FELLOWES: -- you'll see the last sentence says: (as read)

41

1 In all cases, the shares and/or assets at Spicelo shall be limited in
2 this SISP to a refinancing transaction.

3
4 And in the -- the sentence prior to that says: (as read)

5
6 In no cases shall an asset transaction or a share transaction include
7 the shares or assets of Spicelo.

8
9 Now, it's important to note that my client is the only party who actually has a secured claim
10 on the Spicelo assets. The other creditors, including Tamarack Valley, do not have a claim
11 on the Spicelo assets or the Greenfire shares. The reason that this important body of assets
12 is not being included as part of a share transaction -- of, sorry, a share sales process is due
13 to a document that Spicelo entered into unilaterally called a "lock-up agreement" as part of
14 their arrangement to go public.

15
16 There are statements in the applicants' materials and in the proposal trustee's materials
17 stating that the lock-up agreement prohibits Spicelo from offering shares for sale for a
18 period of up to 6 months and, interestingly, the proposal trustee also says that that same
19 prohibition applies to the secured lenders. We take a very different view of the matter and
20 say that a secured lender cannot be prohibited from enforcing its security over assets as a
21 result of a unilateral third-party sales restriction that the debtor entered into and, in fact, a
22 copy of the lock-up agreement is included as part of the materials before you today, and
23 we've included --

24
25 THE COURT: Hold it, sorry, sorry. I am just thinking to myself,
26 so what? I mean, are you suggesting that I amend -- that I approve the sale -- the SISP, but
27 amend it with -- on this point?

28
29 MS. FELLOWES: No, this isn't before you today, My Lord.

30
31 THE COURT: Okay.

32
33 MS. FELLOWES: I think this is going to be another court
34 application because we do feel very strongly about our position on this, but it needs fulsome
35 legal argument. However --

36
37 THE COURT: Thank you.

38
39 MS. FELLOWES: -- I --

40
41 THE COURT: Because I was thinking, boy, I am not sure if I

1 can figure out the puts and takes of that argument.

2
3 MS. FELLOWES: Yeah, yeah, it is going to be -- it's going to be a
4 very interesting application and we look forward to it. However, the reason I'm -- I'm
5 pointing it out is I -- I would like to request an amendment to the SISP just very briefly.
6 On page 2, this last sentence that says: (as read)

7
8 In all cases, the shares and/or assets of Spicelo should be limited
9 in the SISP to a refinancing transaction.

10
11 I propose to add the following, Except upon further order of this court, because I anticipate
12 there will be a further court hearing and if the court finds that the Greenfire shares should
13 somehow either be folded into the SISP or be offered up for sale through a different
14 process, I want to make sure that that opportunity is still there.

15
16 THE COURT: Okay. Pause for a minute while I just make
17 myself a little note about that. So, you wanted me to add the words "except for" -- no,
18 "except" -- what was that again? "Except" --

19
20 MS. FELLOWES: "Except upon further order of this court."

21
22 THE COURT: Okay. I did not want to forget that. And I am
23 sorry to have interrupted you. I did read the stuff about the lock-up agreement and I really
24 can only say that I read it.

25
26 MS. FELLOWES: Right. Yeah, I think it's fair to say my clients and
27 both the applicants and the proposal trustee apparently have differing views of the legal
28 effect of that document on the secured lenders, but that will probably be a story for another
29 day.

30
31 THE COURT: Okay.

32
33 MS. FELLOWES: I just want to make sure that there's nothing in
34 the SISP that doesn't preclude a judge who hears that application from being able to even
35 modify the existing SISP or feel constrained to make any orders with respect to the sale of
36 the Greenfire shares.

37
38 Counsel for the applicants said that we have not proposed any alternate deadlines. We did
39 propose alternate deadlines. We proposed -- but we sort of set an end date and then
40 proposed to work backwards. We believe it's not unworkable or unreasonable, given my
41 clients' concerns about the deterioration of their position and the fact that these assets have

1 been subject to a pre-filing marketing process, that the due diligence could start on October
2 30th and we could have a deadline for bids on December 1st. I don't understand why that
3 was somehow -- now they're saying there could be expressions, non-binding letters of
4 intent by December 8th. And, by the way, the first I heard of this was when I received the
5 amended SISP from counsel for the applicants last night, so that's not like that was a
6 negotiated resolution, but our suggestion --

7
8 THE COURT: So, your bid deadline -- sorry, bid deadline
9 December 1 did you say?

10
11 MS. FELLOWES: Yeah, bid deadline --

12
13 THE COURT: Okay.

14
15 MS. FELLOWES: -- December 1. An auction the following week,
16 if necessary, a sale approval order by December 15th.

17
18 THE COURT: Oh, you've got to go slower. Auction the
19 following week, which -- I do not have a calendar really. Is December 1st --

20
21 MS. FELLOWES: December 8th --

22
23 THE COURT: -- a Monday? Okay. Auction --

24
25 MS. FELLOWES: -- is what I put down.

26
27 THE COURT: The week of December 8th (INDISCERNIBLE)
28 or by December --

29
30 MS. FELLOWES: No, December 1st is a Friday.

31
32 THE COURT: Okay.

33
34 MS. FELLOWES: So, the auction could be the following Friday,
35 December 8th.

36
37 THE COURT: Okay.

38
39 MS. FELLOWES: And then a court approval hearing before
40 Christmas.

41

1 THE COURT: Well, I am looking at the chart that is in the SISP
2 right now --
3
4 MS. FELLOWES: M-hm.
5
6 THE COURT: -- and trying to line up these dates. So --
7
8 MS. FELLOWES: Sure.
9
10 THE COURT: -- you are saying due diligence October 30th,
11 which is -- which is what is there, but obviously the final bid deadline would shorten the
12 due diligence period. So, a final bid -- and you do not really care about the non-binding
13 letter of intent. Final bid deadline December 1, bid assessment -- when does that happen or
14 does it?
15
16 MS. FELLOWES: Immediately.
17
18 THE COURT: Okay. On the same day?
19
20 MS. FELLOWES: Yeah.
21
22 THE COURT: Okay. Notification of auction date, you are not
23 addressing that. You are just saying auction date is December 8th.
24
25 MS. FELLOWES: Correct.
26
27 THE COURT: And you just take all -- take those other dates out
28 of there.
29
30 MS. FELLOWES: Yeah. I mean, there's probably going to be one or
31 two or maybe three people involved. It would be pretty easy to notify them of the auction.
32
33 THE COURT: Maybe. I just do not know how long these bids
34 would -- what would these bids look like? Presumably they are not a single-page paper.
35 Okay, I hear you.
36
37 MS. FELLOWES: That's -- that's -- that's why people are getting
38 paid the big bucks.
39
40 THE COURT: All right. All right, Ms. Fellowes. I have your
41 position on that.

1
2 MS. FELLOWES: Okay, thank you. Finally, Sir, there is a reference
3 in the SISP as well with respect to my client's involvement in the determination of the
4 winning bid and potentially making a credit bid. I just wanted to make it clear that my
5 client's reservation of rights with respect to making a credit bid shouldn't be obviated by
6 the fact that if there are no acceptable offers made, then my client reserves the right to make
7 a credit bid outside of this SISP process.

8
9 THE COURT: Where would that go?

10
11 MS. FELLOWES: Yeah. So, that's page 8 of the SISP under
12 "Assessment of qualified bids".

13
14 THE COURT: I am still getting there, sorry.

15
16 MS. FELLOWES: Sure.

17
18 THE COURT: Yeah, I am there.

19
20 MS. FELLOWES: So, this, as drafted, doesn't include the lenders'
21 input with respect to the qualified bids received, and at -- the bottom of that section says
22 that: (as read)

23
24 To the extent Trafigura Canada or Signal Alpha either provide
25 written confirmation that they will not participate in the SISP, or
26 fail to submit a final bid, which has been deemed a qualified bid,
27 then after such date the proposal trustee may consult with the
28 lender or lenders as to developments in the SISP or selection of the
29 successful bid.

30
31 And I just want to make sure that the wording of that section should not be determined to
32 mean that my clients would not have the ability to consult with a proposal trustee with
33 respect to the bids as they come in and as they are submitted.

34
35 THE COURT: So, what -- what words did you take out or put in
36 to accomplish that?

37
38 MS. FELLOWES: I would say either add a sentence at the end, say,
39 The lenders may credit bid outside of the SISP process if there are no acceptable offers.

40
41 THE COURT: Put that at the end?

1
2 MS. FELLOWES: Put that at the end, yeah, just to make it clear that
3 we have -- we expect to be consulted by the proposal trustee as the bids come in and we
4 should not be shut out of that process by the fact that we may make a credit bid in the future
5 outside of the SISP.

6
7 THE COURT: Okay.

8
9 MS. FELLOWES: One moment. I'm just looking at my notes. All
10 right. Those are my submissions.

11
12 THE COURT: Thank you, Ms. Fellowes. Mr. Maslowski, do
13 you wish to make any submissions?

14
15 **Submissions by Mr. Maslowski**

16
17 MR. MASLOWSKI: Nothing substantive, Sir. We simply support and
18 echo the comments made by Ms. Fellowes regarding the timeline of the SISP and believe
19 that it can be completed before the -- the holiday season that hits us, so we have no -- we
20 support about their alternate deadlines and having the auction date of December 8th.

21
22 THE COURT: Okay. So, anyone else -- I will -- I am going to
23 come back to Mr. Kashuba and Mr. Van de Mosselaer, but before I do that, is there anyone
24 else who wishes to speak in favour, against, neutral who has not spoken yet?

25
26 All right. So, I am going to take the afternoon break, come back at 10 to 4 and hear from
27 Mr. Van de Mosselaer and Mr. Kashuba in any order they choose. Perhaps they can figure
28 that out over the break. I will be back at 10 to 4, so I will adjourn now.

29
30 (ADJOURNMENT)

31
32 THE COURT: Good afternoon, again, Mr. Clerk. It is Justice
33 Dunlop speaking. Can you hear me?

34
35 THE COURT CLERK: Yes, Sir.

36
37 THE COURT: Okay. So, we are back after an adjournment on
38 the Griffon Partners matter, and so I am hoping, Mr. Van de Mosselaer and Mr. Kashuba,
39 you have worked out in what order you are going to respond to your friend's submissions,
40 so over to you, whichever of you is going first.

41

1 MR. KASHUBA: (INDISCERNIBLE), Sir, it's Kashuba, initial 'K'.
2 And Mr. Van de Mosselaer will begin and I will close the submissions on behalf of the
3 parties supporting.
4

5 THE COURT: Great, thanks. Go ahead, Mr. Van de Mosselaer.
6

7 MR. VAN DE MOSSELAER: Thank you, Sir.
8

9 **Submissions by Mr. Van de Mosselaer (Reply)**
10

11 MR. VAN DE MOSSELAER: I don't think I'll be too lengthy. There are really
12 three or four points I want to address from Ms. Fellowes' comments.
13

14 I want to begin with her comment that -- to the extent that her client is overcollateralized,
15 it is only thinly so and that they are at risk. That is simply untrue. And it is untrue on the
16 strength of their own evidence. I want to take you first, if you have Mr. Gallagher's affidavit
17 from September the 19th -- do you have that available to you?
18

19 THE COURT: It is certainly available. Whether it is up here
20 right now -- I think perhaps not. I will just grab it. Yeah, I have it now.
21

22 MR. VAN DE MOSSELAER: All right. If I can ask you to turn to paragraph 59
23 of that affidavit.
24

25 THE COURT: Yes.
26

27 MR. VAN DE MOSSELAER: So, bear in mind, this is Mr. Gallagher's affidavit.
28 This is Mr. Gallagher from Signal Alpha, the lender, and this affidavit was sworn on
29 September the 19th, less than a month ago. It was sworn for purposes of opposing our stay
30 extension application before Justice Johnston on September the 22nd, and at paragraph 59,
31 Mr. Gallagher says this: (as read)
32

33 The aggregate gross value of the consideration that Spicelo is to
34 receive at closing of the transaction by virtue of the special
35 dividend and the new Greenfire securities, is US \$62,200,000. The
36 lenders are owed a total of \$37,938,000, not including interest,
37 expenses or fees. When comparing the value of the Greenfire
38 securities of USD 55,000,600 to the remaining amount owing to
39 the lenders of 32 million, if the lenders are paid --
40

41 Et cetera, et cetera. (as read)

1
2 This implies a coverage ratio of 1.72 and it confirms the assets of
3 Spicelo --

4
5 Which is the guarantor who is owns the shares. (as read)

6
7 -- the assets of Spicelo are more than sufficient to repay the
8 lenders.

9
10 That's not even talking about the value of the GPOC assets. Now, this was a -- this was a
11 matter of significant discussion before Justice Johnston on September the 22nd, and she
12 comments on it in her reasons, if you have the transcript of her reasons in front of you.

13
14 THE COURT: Yeah.

15
16 MR. VAN DE MOSSELAER: On page 4, beginning at line 11, she says: (as
17 read)

18
19 I accept that the respondents may be prejudiced by the stay but I
20 am not satisfied they will be materially prejudiced. First, as the
21 respondents acknowledge in their own evidence, prior to the
22 shares of Greenfire being listed on the New York Stock Exchange,
23 the estimated value of the shares was approximated at over \$60
24 million US. In addition, the respondents have security over the
25 assets of GPOC. The total amount of their security is, therefore,
26 well in excess of their loan, which is approximately \$35 million
27 US.

28
29 Now, she actually made mistake there. It should be \$38 million US, but the point stands.

30
31 This is an important -- and -- oh, and the final point, which we talked about earlier is that
32 the lenders realize now what they've done to themselves by putting this evidence before
33 the court and recognize that because they're so hugely overcollateralized, they're in a
34 difficult spot because they really have no risk in these proceedings and so they're trying to
35 back off that by putting the evidence before the court that they've done in the affidavit
36 which we received just yesterday but they've made a mathematical calculation. Even in that
37 questionable evidence -- which we have obviously haven't had a chance to really digest or
38 much less challenge, but even on the basis of their own evidence from yesterday, they say
39 that they have collateral value of \$48 million US. So, they have a 10 -- even on their own
40 numbers they have a \$10 million US buffer. They are not thinly overcollateralized. They
41 are massively overcollateralized and this drives everything. This drives their position on

1 this application. This drives their position on this whole process because they are only
2 wanting their money back. They want to exercise against their collateral to seize and sell
3 the shares of Greenfire to get paid back. So, they are more than happy to scuttle this process
4 to allow -- to then be allowed to enforce their security against the Greenfire shares. That's
5 their game plan.

6
7 And so, it is -- to say that they have the most skin in the game, well, they're the largest
8 single creditor, sure, but they don't have the most skin in the game because they are not the
9 (INDISCERNIBLE) creditor. They have no risk. They're going to get paid back. It's just a
10 question of when and how. They want it to be sooner rather than later so they want to
11 scuttle this process. That's the reality.

12
13 I want to touch on this -- what Ms. Fellowes trotted out as something akin to a smoking
14 gun, this slide show that at paragraph 32 you'll recall -- or not paragraph 32. Page 32 of the
15 PDF of Mr. Gallagher's affidavit, she suggests that this is something new before the court,
16 not before the court previously. That is wrong.

17
18 Now, bear in mind we only got this affidavit yesterday. We haven't had an opportunity to
19 really digest it. We haven't had an opportunity to get instructions on it. We're winging this
20 on the fly. But this slide deck was attached to Mr. Gallagher's September 19th affidavit.
21 It's -- it's -- it was before the court on September the 22nd. It's Exhibit K. I don't -- I don't
22 need you to pull it up, but I'm telling you that it's Exhibit K. I'll tell you what page number
23 of the exhibit. Just give me half a second -- or what page number of the PDF.

24
25 That page, page 32 that she took you to - and I'm going to take you back to it, by the way
26 - is page 213 of the PDF of Mr. Gallagher's September affidavit. And what's important and
27 what's clear from the evidence of Mr. Gallagher's September 19th affidavit is that at page
28 209 -- so right immediately before this slide deck in his September affidavit, there's an
29 email.

30
31 And what's clear in that email is that this slide deck was for internal discussion purposes
32 only. In other words, this didn't go to market. This was simply a slide deck to discuss
33 internally - and Mr. Gallagher was part of those discussions - what kind of options are we
34 looking at here? And if -- do you have page 32 of his affidavit in front of you now, Sir?

35
36 THE COURT:

So, let us see now. Page 32, I think so.

37
38 MR. VAN DE MOSSELAER:
39 or "New senior bridge"?

It's -- it's a slide that's titled "Debt refinancing"

40
41 THE COURT:

Yeah.

1
2 MR. VAN DE MOSSELAER: And Ms. Fellowes suggests that, Aha, (WEBEX
3 AUDIO INTERRUPTED) (INDISCERNIBLE) back earlier this year. So, they're trying to
4 do the same thing again. Well, no, that's not at all the case and it's clear if you actually read
5 the document because in the top right-hand corner you'll see there's an overview and then
6 below that it says "Discussion points". Do you see that?

7
8 THE COURT: Yeah, that is top left-hand corner.

9
10 MR. VAN DE MOSSELAER: Sorry, top left-hand corner, yeah, thank you. So,
11 again, first of all, bearing in mind this was not the document that went to market. This was
12 an internal -- for internal discussion, and the first bullet point under "Discussion points" in
13 the upper left says: (as read)

14
15 Dollar for dollar refinancing would only be recommended if there
16 was material savings in interest cost as most new debt comes with
17 upfront restructuring (INDISCERNIBLE) of 2 percent --
18

19 And it goes on. So, this was an option, but it was an option that was rejected because they
20 couldn't find cheaper financing. We're not talking about that. We're talking about going to
21 a broader market, finding what finance that we can find. We're not doing this necessarily
22 as a cost savings exercise. We're doing this as a restructuring exercise and they didn't go to
23 market on this proposal because they couldn't find a lender prepared to lend on those terms.
24 Simple as that.

25
26 Let me spend a few minutes talking about the changes that Ms. Fellowes has asked to the
27 proposed SISP. I remind the court that we sent this document to Ms. Fellowes and to
28 Tamarack's counsel on October the 2nd. Today is October the 18th. We did not receive any
29 of these comments back. Any. This is the first we're hearing them. We're hearing them live
30 time so we're kind of on the fly here.

31
32 She did mention at one point whether we would have any objections to a credit bid and we
33 said, No, of course. I mean, it's a -- your client is entitled to a credit bid, they're entitled to
34 a credit bid. We don't have any objection to that. And that was really it.

35
36 It is clear that the schedule that is proposed will not work. Bidders won't participate in the
37 process because they won't have enough time to do their due diligence. It is unworkable.
38 To suggest that there's no evidence of that is questionable at best - I was going to use a
39 different word - because it's in the affidavit, and it's in the proposal trustee's report. It's
40 unworkable. I confirmed over the break with A & M Corporate Finance, lest there be any
41 doubt of the matter, that the schedule proposed is unworkable. It will simply result in no

1 bids, which is, of course, exactly -- to go back to my point, exactly what the lenders would
2 love to see so that they can then say, See? It was a failed process. We want to appoint a
3 receiver. We want to enforce our security.

4
5 More shocking though is the suggestion, if I'm understanding correctly, that the lenders
6 should be brought inside the tent, have bids shared with them and then they can sit back
7 and decide later whether to make a credit bid. That is astonishing. That is contrary to every
8 sales process that has ever been approved. It would simply chill the process. It would
9 destroy any integrity that this process would have if a prospective bidder had access to the
10 bids as they came in. That's just not done. It's a shocking departure from ordinary sales
11 processes, and it cannot happen. We are more than happy to have them make a bid. If they
12 want to make a bid, if they want to (INDISCERNIBLE) bid, feel free. But you're not getting
13 access to the other bids. It's a competitive process. It has to be a competitive process.

14
15 The other -- the final comment is the suggestion that the court should add in, Except on
16 further order of the court, to the SISP in that one place and, you know, on first blush, you
17 think, Well, how could -- how can that be objectionable? We're simply saying we need the
18 court to make an order. Except this is a debtor-in-possession process, and the debtor gets
19 to choose what assets to market and how to market them. I think this is -- this is a situation
20 where the court actually doesn't have jurisdiction to tell the debtor what assets it is going
21 to sell. And as part of the SISP, it -- the SISP said -- makes clear that the assets and shares
22 of Spicelo are not being offered for sale. The debtors are entitled to make that decision and
23 I don't think the court has the ability to tell the debtors, You must sell your assets. If it's a
24 receivership it's a different situation but it's not.

25
26 So, those are my only comments, Sir. I -- I strongly urge upon the court that we have our
27 sales and investment solicitation process and the schedules set out therein with the
28 December 12th date added approved so that we can get on with this process and start
29 canvassing the market.

30
31 Oh, there's -- sorry, there's one other comment I wanted to make, and that was Ms. Fellowes
32 seemed to take a bit of a shot at A & M by saying, Well, why do they -- why do they need
33 week to prepare their marketing materials? They've been engaged for several weeks. Why
34 didn't they -- why didn't they -- why don't they have them ready yet? Well, because the
35 SISP hasn't started. It's a little bit ridiculous to suggest that A & M should have been doing
36 a bunch of work on marketing material when we -- when we don't even have a SISP yet.
37 That's the simple answer to that.

38
39 So, those are all of my comments unless you have any questions, Sir.

40
41 THE COURT:

No, thank you, Mr. Van de Mosselaer.

1
2 MR. VAN DE MOSSELAER: Thank you. Mr. Kashuba?

3
4 **Submissions by Mr. Kashuba (Reply)**

5
6 MR. KASHUBA: Thank you, Sir. And on behalf of the proposal
7 trustee I think we'll be brief.

8
9 We had a chance to speak with A & M Corporate Finance as well as Mr. Van de Mosselaer
10 on the break, and the proposal trustee is in agreement with the comments just made by my
11 friend, Mr. Van de Mosselaer.

12
13 Where Ms. Fellowes has suggested that a compressed sales process has been allowed in
14 cases where previous sales processes have been run, yes, that's true. That's obvious. In this
15 particular case, for the reasons that were given previously, this previous sale process is
16 different than the present process that is being put forward before the court. The A & M
17 Corporate Finance has considerable experience in not only the sale processes from a debtor
18 point of view, but also from a creditor point of view, (INDISCERNIBLE) a better point of
19 view, as does the proposal trustee. We are relying on an officer of the court on the one hand
20 and a financial advisor on the other with their wealth of experience and their careful
21 consideration of all factors involved to determine what exactly is the best process in these
22 cases, and as everyone on today's application is aware, the proposal trustee is impartial.
23 The court's officer -- what they are suggesting to the court is the process that they have
24 arrived at that will best maximize realizations for all stakeholders. That -- that's what they're
25 supporting today, and anything less than that we have serious concerns that this could
26 hinder recoveries. Allowing significant changes such as are being requested could cost
27 (INDISCERNIBLE) the process. That's what we're hearing from A & M Corporate
28 Finance. That is the submission of the proposal trustee.

29
30 And, lastly, there's been a suggestion from my friend Ms. Fellowes that her client's
31 concerns are not being listened to. They're not getting attention. That, Sir, is almost
32 offensive to the court's officer. That suggests that the proposal trustee is not meeting their
33 obligations under -- their professional obligations under previous court orders under
34 the -- the day-to-day business of the proposal trustee.

35
36 Questions and input were sought - I won't get into the dates again - October 2nd. Here we
37 are on October 18th. We received an affidavit yesterday from Mr. Gallagher. We are only
38 hearing about the proposed changes to the SISP for the first time today live. The proposal
39 trustee has listened but it's difficult to listen and give further consideration when there's
40 zero time when the -- the suggestions that are being made to SISP are being submitted to
41 the court without advance notice.

1
2 So, just on that point, the proposal trustee has listened. They have considered the
3 submissions and the suggestions but remain steadfastly behind the SISP from the deadlines
4 that have been put before the court by the company and that are supported by the proposal
5 trustee.

6
7 Those are my only submissions, Sir. Everything further is -- it would be a rehash what was
8 already said.

9
10 THE COURT: Okay. Thank you all for your submissions. I am
11 ready to make a decision.

12
13 **Decision**

14
15 THE COURT: I have before me an application to approve a
16 SISP and I always have trouble remembering what that stands for, but it is basically a sales
17 process with respect to Griffon Partners and related entities, all of which have been
18 pursuant to a previous order put together into one action, and I am going to grant the
19 application in the form sought with a slight change that is set out in the version of the
20 sales -- sale and investment solicitation process that was sent to me earlier today, that slight
21 change being the addition of a time -- to the timeline of non-binding LOI deadline of
22 December 12th and a clarification that the due diligence period is October 30th
23 (INDISCERNIBLE).

24
25 There were some other -- there is some other slight wording change shown in the red line
26 in the version that was given to me. Nobody addressed it and so I am assuming it is not
27 controversial.

28
29 The reasons for me granting it as -- as in the form it was sought are they start with the fact
30 that all parties who made representations to me today want these assets to be marketed,
31 want it, frankly -- even more precisely, want there to be a sales process. The disagreement
32 is the timeframe and some wordings in the -- very slight wording differences in the SISP.

33
34 The reason I am accepting what is being put forward and not making the changes, which
35 the secured creditors have asked, is because what has been put forward to me has been
36 approved by the trustee and the variations have not. In fact, the trustee has spoken against
37 them, and that is a factor to be considered under section 65.13(4) of the Act. That has to be
38 modified because we are talking about a sales process, not a sale, but nevertheless, just as
39 was done in the *Danier Leather* case, it is relevant for the court to consider, Has the trustee
40 approved this process or recommended it? And they have and, frankly, recommended
41 against the other process. That is one reason.

1
2 Another reason is that I am not satisfied -- despite able representations by Ms. Fellowes in
3 particular, I am not satisfied that the secured creditors, her clients, will be harmed in any
4 way by the longer sales process over the shorter one primarily because they are -- they are
5 at least thinly overcollateralized and arguably significantly overcollateralized.
6

7 So, those are the two primary reasons I am accepting it as put forward -- three, I guess. One
8 is everybody wants to have a sales process. Two is the trustee is recommending the one
9 that is put forward and not their amendments. And three is that I am not satisfied that the
10 extended time period will prejudice the secured creditors in any significant way.
11

12 Looking at the other factors set out in section 65.13 with appropriate modifications for sale
13 process as opposed to a sale, as the process leading to the proposed sale or disposition, is
14 it reasonable in the circumstances? Well, Ms. Fellowes made some submissions about this
15 being unreasonable because of what went before. And I accept there may be some merit to
16 that, but it is not -- it is not enough to make me want to tinker with the timelines and the
17 wording.
18

19 The extent to which the creditors were consulted again, Ms. Fellowes has complaints about
20 how they were consulted. Mr. Kashuba, on behalf of his clients, says, Well, they were
21 consulted as well as could be done. I cannot really fault that. I mean, we have a notice of
22 intention that came down the -- came down in August and we had an extension in
23 September, and we had draft terms without dates in October and then the dates a few days
24 later. It is fast but these things have to be fast, so I think that the consultation was reasonable
25 in the circumstances and whether this will result in reasonable and fair value, well, I do not
26 know, but it is a process on its face what we think would lead to reasonable and fair value.
27 But time (INDISCERNIBLE) and that will be an issue for the court approving or not any
28 sale in the future.
29

30 So, Mr. Van de Mosselaer, I am granting the order in the form you have drafted and you
31 are going to need to submit it for my signature. It is -- I do not think it needs any other
32 counsel's approval because everybody has seen it. I have seen it. I know what it is going to
33 say. You should submit it to the digital filing service. It will --
34

35 MR. VAN DE MOSSELAER: Yes.

36
37 THE COURT: -- come to me. Come to me and I will -- I do look
38 at my site every -- a couple of times a day so I will sign it properly when it gets to me.
39

40 MR. VAN DE MOSSELAER: Very good, Sir. Thank you. Just so we're clear -- I
41 guess a couple things. I'm not clear. Did we send you the execution copy or do we have to

1 submit it in any case through the digital service?

2

3 THE COURT: You have to send it through the digital service.

4

5 MR. VAN DE MOSSELAER: Okay, we will take care of that. It probably won't
6 happen until the morning.

7

8 Something just has occurred to me and I wonder if we might be able to do this. I mean,
9 part -- part of the challenge here, of course, is that there's a lot of history, a lot of
10 background, and we do have our application for the next stay extension set for November
11 the 8th, but it's -- it's in front of yet another justice and we are going to have to educate her
12 all over again. I wonder if perhaps Your Lordship is available on November the 8th to hear
13 our stay extension application?

14

15 THE COURT: It is doubtful. I have been -- the commercial
16 coordinator and I have been filling that week up --

17

18 MR. VAN DE MOSSELAER: Yeah.

19

20 THE COURT: And so I know -- so the answer is no.

21

22 MR. VAN DE MOSSELAER: Okay, that's fine.

23

24 THE COURT: All right.

25

26 MR. VAN DE MOSSELAER: I just thought I would ask.

27

28 THE COURT: All right. Anything else?

29

30 MR. VAN DE MOSSELAER: No, I think that's it. So, we will -- we will get that
31 form of order to you first thing in the morning for your signature and then we'll get that
32 filed and out to the service list.

33

34 THE COURT: Okay, thank you all for your submissions.

35

36 MR. VAN DE MOSSELAER: Thank you very much for your assistance, Sir.

37

38 THE COURT: I will now adjourn.

39

40 UNIDENTIFIED SPEAKER: Thank you, My Lord.

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PROCEEDINGS CONCLUDED

Certificate of Record

I, Mohammed (phonetic) Tajoo, certify that this recording is the record made of the evidence in the proceedings in the Court of King's Bench, held in courtroom 516,EVK at Edmonton, Alberta on the 18th day of October, 2023, and that I was the court official in charge of the sound-recording machine during the proceedings.

Certificate of Transcript

I, Janet Harder, certify that

(a) I transcribed the record, which was recorded by a sound-recording machine, to the best of my skill and ability and the foregoing pages are a complete and accurate transcript of the contents of the record, and

(b) the Certificate of Record for these proceedings was included orally on the record and is transcribed in this transcript.

Page by Paige Transcribers

Job Number: TDS-1043863

Dated: October 26, 2023

This is **Exhibit "F"** to the Affidavit of Daryl Stepanic
sworn before me this 4th day of December 2023.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

COURT FILE NUMBER B201 979735
25-2979735

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY



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

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF GRIFFON PARTNERS OPERATION CORPORATION, GRIFFON PARTNERS HOLDING CORPORATION, GRIFFON PARTNERS CAPITAL MANAGEMENT LTD., STELLION LIMITED, 2437801 ALBERTA LTD., 2437799 ALBERTA LTD., 2437815 ALBERTA LTD., and SPICELO LIMITED

APPLICANTS GRIFFON PARTNERS OPERATION CORPORATION, GRIFFON PARTNERS HOLDING CORPORATION, GRIFFON PARTNERS CAPITAL MANAGEMENT LTD., STELLION LIMITED, 2437801 ALBERTA LTD., 2437799 ALBERTA LTD., 2437815 ALBERTA LTD., and SPICELO LIMITED

DOCUMENT **ORDER**

ADDRESS FOR **OSLER, HOSKIN & HARCOURT LLP**

SERVICE AND Suite 2700, Brookfield Place
CONTACT 255 – 6th Avenue SW
INFORMATION OF Calgary, AB T2P 1N2

PARTY FILING THIS
DOCUMENT

Solicitors: Randal Van de Mosselaer / Emily Paplawski
Phone: 403.260.7000 / 7071
Email: rvandemosselaer@osler.com / epaplawski@osler.com
Matter: 1247318

DATE ON WHICH ORDER WAS PRONOUNCED: November 8, 2023

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

JUSTICE WHO MADE THIS ORDER: The Honourable Justice Sidnell

UPON THE APPLICATION of Griffon Partners Operation Corporation, Griffon Partners Holding Corporation, Griffon Partners Capital Management Ltd., Stellion Limited, 2437801 Alberta Ltd., 2437799 Alberta Ltd., 2437815 Alberta Ltd., and Spicelo Limited (collectively, the “**Applicants**”); **AND UPON** reviewing the Affidavit of Daryl Stepanic, sworn October 30, 2023 (the “**Third Stepanic Affidavit**”); **AND UPON** reviewing the Third Report of Alvarez & Marsal Canada Inc. (the “**Third Report**”) in its capacity as proposal trustee of the Applicants (in such capacity, the “**Proposal Trustee**”); **AND UPON** reviewing the Affidavit of Dave Gallagher sworn November 6, 2023; **AND UPON** noting that each of the Applicants filed a Notice of Intention to Make a Proposal under subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”) on August 25, 2023, which have been administratively consolidated pursuant to the Order of Madam Justice B. Johnston granted on September 22, 2023; **AND UPON** hearing from counsel for the Applicants, counsel for the Proposal Trustee 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 is hereby abridged and deemed good and sufficient and this Application is properly returnable today, and no other person apart from those persons served is entitled to service of the Application.

EXTENSION OF TIME TO FILE A PROPOSAL

2. The time within which the Applicants are required to file a proposal to their creditors with the Official Receiver under section 50.4(9) of the BIA is hereby extended to December 23, 2023.

KEY EMPLOYEE RETENTION PLAN

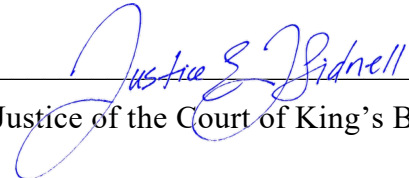
3. The application for approval of a key employee retention and related charge as described in the Third Report is hereby dismissed.

APPROVAL OF PROPOSAL TRUSTEE FEES & DISBURSEMENTS

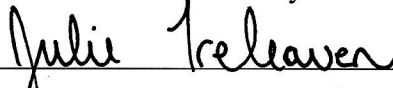
4. The fees and disbursements of the Proposal Trustee and its counsel, Torys LLP, as set out in the Third Report are hereby approved for payment. Trafigura Canada Limited, Signal Alpha C4 Limited, and Tamarack Valley Energy Ltd. (collectively, the “**Lenders**”) are hereby given leave to bring an application challenging the quantum of such fees and disbursements, provided that such application is brought within 6 months of the date of this Order, failing which the Lenders shall be foreclosed from making such a challenge.

MISCELLANEOUS

5. Parties shall bear their own costs of this Application. 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 King's Bench of Alberta

This is **Exhibit “G”** to the Affidavit of Daryl Stepanic
sworn before me this 4th day of December 2023.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

COURT FILE NUMBER **B201-979735**
~~25-2979735~~
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



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

NB
C110042

AND IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF GRIFFON PARTNERS
OPERATION CORPORATION, GRIFFON PARTNERS
HOLDING CORPORATION, GRIFFON PARTNERS
CAPITAL MANAGEMENT LTD., STELLION LIMITED,
2437801 ALBERTA LTD., 2437799 ALBERTA LTD., 2437815
ALBERTA LTD., and SPICELO LIMITED

APPLICANTS GRIFFON PARTNERS OPERATION CORPORATION,
GRIFFON PARTNERS HOLDING CORPORATION,
GRIFFON PARTNERS CAPITAL MANAGEMENT LTD.,
STELLION LIMITED, 2437801 ALBERTA LTD., 2437799
ALBERTA LTD., 2437815 ALBERTA LTD., and SPICELO
LIMITED

DOCUMENT **AFFIDAVIT OF DARYL STEPANIC**

ADDRESS FOR SERVICE **OSLER, HOSKIN & HARCOURT LLP**
AND CONTACT Suite 2700, Brookfield Place
INFORMATION OF 255 – 6th Avenue SW
PARTY FILING THIS Calgary, AB T2P 1N2
DOCUMENT

Solicitors: Randal Van de Mosselaer / Emily Paplawski
Phone: 403.260.7000 / 7071
Email: rvandemosselaer@osler.com / epaplawski@osler.com
Matter: 1247318

AFFIDAVIT OF DARYL STEPANIC
SWORN OCTOBER 30, 2023

I, Daryl Stepanic, of the City of Calgary, in the Province of Alberta, **MAKE OATH AND**
SAY:

1. I am the Chief Executive Officer (“**CEO**”) and a Director of Griffon Partners Operation
Corp. (“**GPOC**”) and a Director of Griffon Partners Holding Corp. (“**GPCM**”) and Griffon

Partners Capital Management Ltd. (collectively, the “**Griffon Entities**”). I have been CEO of GPOC and a Director of each of the Griffon Entities since 2022. Prior to joining the Griffon Entities, I held various Vice President, asset manager, and reservoir engineer positions with Burlington Resources, ConocoPhillips and Fractal Energy Resource Holdings Inc., among others. I am a professional engineer with more than 35 years of experience in oil and gas production, exploitation, marketing, corporate development and acquisition activities and hold a Bachelor of Science in Chemical and Petroleum Engineering from the University of Calgary.

2. As such, I have personal knowledge of the matters to which I depose in this Affidavit, except where stated to be based on information and belief, in which case I believe such information to be true. In preparing this Affidavit, I consulted with the Applicants’ (as defined below) management teams and advisors and reviewed relevant documents and information concerning the Applicants’ operations and business and financial affairs. I am authorized by the Applicants to swear this Affidavit.

3. I swear this Affidavit in support of an application by the Applicants for an Order:

- (a) extending the time within which the Applicants are required to file a proposal to their creditors with the Official Receiver under section 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”) to December 23, 2023 (the “**Stay Period**”);
- (b) approving the key employee retention plan (the “**KERP**”) described in the Third Report of the Proposal Trustee, to be filed (the “**Third Report**”) and granting a second ranking Court-ordered charge (the “**KERP Charge**”) as security for payments under the KERP, up to the maximum amount of \$100,000; and

- (c) approving the fees and disbursements of the Proposal Trustee and its counsel, Torys LLP, as described in the Third Report.

4. All references to monetary amounts in this Affidavit are in Canadian dollars unless otherwise noted.

A. Overview of these NOI Proceedings and the Applicants' Activities

5. On August 25, 2023, the Griffon Entities, Spicelo Limited ("**Spicelo**"), Stellion Limited, 2437799 Alberta Ltd., 2437801 Alberta Ltd. and 2437815 Alberta Ltd. (collectively with the Griffon Entities, the "**Applicants**") filed Notices of Intention to Make a Proposal (the "**NOI Proceedings**") with the Office of the Superintendent of Bankruptcy Canada pursuant to section 50.4(1) of the BIA. Alvarez & Marsal Canada Inc. was appointed Proposal Trustee in each NOI Proceeding (the "**Proposal Trustee**"). Further information regarding the Applicants, the reasons leading to these NOI Proceedings and the Applicants' intended restructuring plans is provided in my Affidavit sworn September 14, 2023 (my "**September Affidavit**"), attached hereto (without exhibits) as **Exhibit "A"**.

6. On September 22, 2023, the Applicants filed an application (the "**First Stay Extension Application**") to the Alberta Court of King's Bench (the "**Court**") for an Order: (i) extending the time for the Applicants to file a proposal to November 8, 2023, (ii) administratively consolidating the Applicants' estates, (iii) granting an Administration Charge and a D&O Charge, (iv) authorizing the Applicants to make certain pre-filing payments, and (v) approving the Applicants' engagement of Alvarez & Marsal Canada Securities ULC (the "**Transaction Agent**") to run a sale and investment solicitation process.

7. The First Stay Extension Application was opposed by Trafigura Canada Limited and Signal Alpha C4 Limited (collectively, the “**Lenders**”) who filed a cross-application to terminate these NOI proceedings as against Spicelo and appoint a Receiver over Spicelo (the “**Receivership Application**”).

8. On September 22, 2023, the Court granted the Applicants’ First Stay Extension Application in full (with the exception only of the D&O Charge) (the “**First Stay Extension Order**”). The Court did not grant the Receivership Application. A copy of the First Stay Extension Order is attached hereto as **Exhibit “B”**. A copy of the Court’s reasons for decision is attached hereto as **Exhibit “C”**.

9. Since the granting of the First Stay Extension Order on September 22, 2023, the Applicants have, among other things:

- (a) developed a sale and investment solicitation process (“**SISP**”) to solicit interest in, and opportunities for, the sale of some or all of the assets of the Griffon Entities, an investment in the Griffon Entities, a refinancing of the Applicants through the provision of take out or additional financing, or some combination of the foregoing;
- (b) sought and obtained an Order from the Court on October 18, 2023 (the “**SISP Approval Order**”) (over the Lenders’ objections) approving the SISP and authorizing the Applicants, the Transaction Agent and the Proposal Trustee to implement the SISP in accordance with the terms thereof, a copy of which is attached hereto as **Exhibit “D”**. A copy of the transcript from the hearing is attached hereto as **Exhibit “E”**;

- (c) worked in conjunction with the Proposal Trustee and the Transaction Agent to establish and populate a confidential virtual data room for the SISP containing financial and other information relating to the shares, the assets, the property and the business of the Applicants;
- (d) worked in conjunction with the Proposal Trustee and the Transaction Agent to develop: (i) a list of prospective bidders which includes both strategic and financial parties who may be interested in and have the financial capacity to make a Qualified Bid (as defined in the SISP), (ii) an initial public offering summary (the “**Teaser**”) describing and outlining the SISP and inviting prospective bidders to make a Qualified Bid, and (iii) a draft confidentiality and nondisclosure agreement (“**NDA**”);
- (e) assisted the Transaction Agent to publish a notice regarding the SISP to be published in the BOE Report/Daily Oil Bulletin and The Globe and Mail, copies of which are attached hereto as **Exhibit “F”**;
- (f) negotiated and finalized a one-year extension of the Griffon Entities’ Directors & Officers – Commercial insurance policy with Travelers Insurance Company of Canada which had previously expired on September 1, 2023;
- (g) engaged in discussions with a significant number of contractual counterparties, royalty holders, suppliers and creditors regarding these NOI Proceedings, the status of such party’s accounts receivable/payable with the Applicants, and the continuing supply of goods and/or services during these proceedings;

- (h) worked with the Proposal Trustee to prepare updated cash flow forecasts;
- (i) engaged with the Saskatchewan Ministry of Energy and Resources and the Alberta Energy Regulator (the “AER”) regarding the current NOI Proceedings, the Applicants’ regulatory obligations, and their ongoing commitment to meeting same; and
- (j) operated the business in the normal course with a view to maximizing the value of the Applicants for the benefit of all stakeholders.

B. Extension of the Stay Period

10. The Applicants are seeking to extend the Stay Period up to and including December 23, 2023. The extension of the Stay Period is necessary to allow the SISP to be undertaken by the Applicants, the Proposal Trustee and the Transaction Agent for the benefit of the Applicants’ stakeholders. The SISP was only approved by the Court on October 18th, with the Teaser and NDA being distributed by the Transaction Agent on October 25th. The due diligence period under the SISP only commenced today – on October 30, 2023. Non-binding Letters of Intent are due under the SISP by December 12, 2023, with Final Bids due on January 8, 2024. The SISP is in its early stages and requires the necessary time to be undertaken in accordance with the SISP Approval Order in order to maximize the value of the Applicants for the benefit of stakeholders. The Applicants believe that the extension of the Stay Period is necessary and appropriate in the circumstances.

11. The Applicants have acted, and continue to act, in good faith and with due diligence in these NOI Proceedings. Since the granting of the First Stay Extension Order, the Applicants have

worked diligently to develop, obtain approval of, and implement, the SISP. In conjunction with the Proposal Trustee, the Applicants have continued engaging with their Lenders regarding both the development of the SISP and various operational and financial matters impacting the Applicants. The Applicants have maintained regular communications with applicable regulators, contractual counterparties, royalty holders, suppliers and creditors regarding these NOI Proceedings.

12. I understand that the Third Report will include, among other things, a cash flow forecast demonstrating that, subject to the underlying assumptions contained therein, the Applicants will have sufficient liquidity to continue their operations and fund these NOI Proceedings through December 23, 2023. I further understand that the Third Report will recommend that the Stay Period be extended.

C. The Lenders' Views on Value

13. The Lenders have opposed both applications brought by the Applicants in these NOI Proceedings. First, the Lenders opposed the First Stay Extension Application and brought the Receivership Application for the appointment of a Receiver over Spicelo. Second, the Lenders opposed the Applicants' request for the SISP Approval Order. In both cases, the Court rejected the objections raised by the Lenders and granted the relief sought by the Applicants in full (other than the Applicants' original request for a D&O Charge in the First Stay Extension Order, which the Court dismissed on the basis that insufficient evidence was provided establishing the need for same, and granting the Applicants leave to reapply on further evidence). The Court refused to grant the Receivership Application.

14. In support of the Receivership Application, and in opposition to the First Stay Extension Application, the Lenders filed the Affidavit of Dave Gallagher, sworn September 19, 2023 (the “**First Gallagher Affidavit**”), which confirms (at para 59) that “the assets of Spicelo are more than sufficient to repay the Lenders” (without even taking into account the assets of the Griffon Entities over which the Lenders hold first lien security). The “assets of Spicelo” are comprised of 1,125,002 common shares held in the capital of Greenfire Resources Inc. (“**Greenfire**”) which are currently eligible to be exchanged for shares in the capital of New Greenfire (defined and discussed below and in my September Affidavit) and for payment of an approximately \$6.6 million USD dividend.

15. In support of their objections to the SISP Approval Order, the Lenders filed the Affidavit of Dave Gallagher, sworn October 17, 2023 (the “**Second Gallagher Affidavit**”). The Second Gallagher Affidavit makes various assertions about the share price of New Greenfire including, in particular, that based on an average price of USD \$5.06 per share, the New Greenfire shares have a value of approximately USD \$28,000,000.

16. Apart from the calculation error made by the Lenders in the Second Gallagher Affidavit with respect to the value of their collateral package (by not including \$6.6 million USD dividend payable to Spicelo with respect to the New Greenfire shares), I am advised by Mr. Kenneth Morris, Managing Director – Corporate Finance and Energy Investment Banking at Imperial Capital, Inc. (“**Imperial**”),¹ that the Lenders’ assessment suffers from a further issue, namely, it fails to reflect

¹ Imperial is a full-service investment bank offering an integrated platform of comprehensive services to middle market companies and institutional investors. Imperial has primary offices in New York, Los Angeles, London, Houston and elsewhere in the United States and internationally.

historical stock price performance and the fundamental value of “De-SPACs” like New Greenfire.

In particular, I am advised by Mr. Morris that:

- (a) the Greenfire business combination with M3-Brigade Acquisition III Corp. (“**M3**”) (discussed further in my September Affidavit) was structured as a “SPAC” transaction. Special Purpose Acquisition Companies (“**SPACs**”) are companies formed to raise capital in an initial public offering (“**IPO**”) with the purpose of using the proceeds to acquire one or more unspecified businesses or assets. After the IPO, the SPAC will pursue an acquisition opportunity and negotiate a merger or purchase agreement to acquire a business or assets (referred to as the “business combination”);
- (b) in advance of signing an acquisition agreement, the SPAC will often arrange committed debt or equity financing, such as a private investment in public equity commitment, to finance a portion of the purchase price for the business combination and thereafter publicly announce both the acquisition agreement and the committed financing. Once the business combination is approved by the shareholders and the financing and other conditions specified in the acquisition agreement are satisfied, the business combination will be consummated (a process known as “**De-SPAC**”), and the SPAC and the target business will combine into a publicly traded operating company;
- (c) the foregoing was the process followed by Greenfire and M3 which led to the closing of their business combination on September 20, 2023 (resulting in “**New Greenfire**”) and the subsequent trading of New Greenfire shares on the New York

Stock Exchange (“NYSE”) commencing September 21, 2023. New Greenfire is now accordingly considered a De-SPAC;

- (d) it is typical as part of the SPAC process that insiders or founders will enter into lock up agreements which would prohibit trading of their shares (which would typically represent about 70% of the issued and outstanding shares) for a period of six months. The purpose of a lock up period is to preserve the value of the business combination and prevent an oversupply of shares entering the market in a short period of time. The Greenfire management team and initial investors who collectively hold insider and founder shares in Greenfire (including the Greenfire shares held by Spicelo) fall into this category;
- (e) based on the foregoing, public equity available for trading is often thinly traded for a period immediately following a De-SPAC, resulting in temporary lower stock trading prices. The only shares that would typically be available are those that had been previously issued to bondholders and others who would have received them for a nominal price, and accordingly they would be prepared to trade their shares at deep discounts to the prices that would be suggested based on an analysis of the fundamentals of the De-SPAC company;
- (f) due to this limited liquidity and volume of shares, a De-SPAC company will normally display excess volatility in the days and weeks immediately following a De-SPAC; and
- (g) this is New Greenfire’s current situation on the NYSE, a situation which is expected to continue for several more weeks before prices stabilize and the New Greenfire

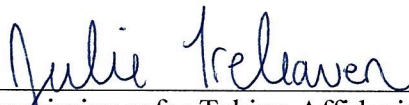
shares begin trading at values that are reflective of the fundamentals of the Greenfire business. In particular, since September 21, 2023:

- (i) the New Greenfire shares traded to date consist primarily of shares issued to bondholders who acquired bonds in a prior refinancing. That bond offering was issued for USD \$312.5 million with a 25% warrant coverage, with the result that all bondholders received a warrant for Greenfire shares priced at one cent. This now creates two dynamics which are creating depressed trading prices for New Greenfire in the short term: (a) bond funds that now find themselves holding New Greenfire equity are required to liquidate those shares as they do not have the ability to hold equity in their funds, and (b) because those holders acquired Greenfire shares for a nominal price they are not particularly concerned about trading those shares at deep discounts to fundamental value because their adjusted cost based is essentially \$0.00; and
- (ii) the daily volume of New Greenfire shares traded on the NYSE total only tens of thousands or (in some cases) hundreds of thousands of shares per trading session, notwithstanding that New Greenfire has total issued and outstanding shares of approximately 68.64 million, with a public float of 29.54 million. A chart showing the daily high trading price, daily low trading price, and volume of shares traded of New Greenfire as at October 30, 2023 is attached hereto as **Exhibit “G”**.


17. Attached and marked as **Exhibit "H"** is a recent Credit Trading Desk Analysis completed by Imperial of New Greenfire. The analysis concludes that while the equity of New Greenfire is currently trading below 3x 2024E EBITDA versus peers at near 4x, Imperial believes that the equity of New Greenfire could trade more in-line with peers at a 3.0-4.0x multiple, which would drive a price range of \$6-9 USD/share.

18. I understand that both Mr. Morris and Imperial have significant experience with, and knowledge of, the business and capital structure of Greenfire, In particular: (a) in 2019, Greenfire retained Imperial to assist it in sourcing a USD \$50,000,000 term loan, commodity risk management facility, and facility for future growth and operations to refinance Greenfire's then existing debt portfolio; (b) in 2020, Greenfire retained Imperial to assist it in undertaking a strategic process to locate an investor or strategic buyer to alleviate certain working capital and liquidity constraints; (c) in 2021, Imperial and Pareto Securities acted as financial advisors and co-placement agents with Imperial as sole book runner for Greenfire regarding the issuance of USD \$312.5 million of 12% senior secured bonds; and (d) in September 2023, Imperial served as co-manager to Greenfire in connection with the issuance of USD \$300 million 12.00% senior secured notes.

SWORN BEFORE ME this 30th day of
October, 2023 in the City of Calgary, in the
Province of Alberta.



Commissioner for Taking Affidavits in and for
the Province of Alberta



Daryl Stepanic

JULIE LAURA TRELEAVEN
Commissioner for Oaths
in and for
the Province of Alberta

This is **Exhibit "H"** to the Affidavit of Daryl Stepanic
sworn before me this 4th day of December 2023.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

Action No.: B201-979735
E-File Name: CVK23GRIFFON
Appeal No.: _____

IN THE COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF CALGARY

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT,
RSC 1985 c B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE
A PROPOSAL OF GRIFFON PARTNERS OPERATION CORPORATION,
GRIFFON PARTNERS HOLDING CORPORATION, GRIFFON PARTNERS
CAPITAL MANAGEMENT LTD., STELLION LIMITED et al

P R O C E E D I N G S

Calgary, Alberta
November 8, 2023

Transcript Management Services
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1 at 4:30 I'm a few minutes late, sometimes things take longer than I hope, I'll just let madam
2 clerk know and give you an ETA at that time. Okay?

3
4 MR. KASHUBA: Thank you, My Lady.

5
6 MR. VAN DE MOSSELAER: Very good. Thank you.

7
8 MS. LEMMENS: Thank you.

9
10 MS. FELLOWES: Thank you.

11
12 (ADJOURNMENT)

13
14 THE COURT: Nice to see you back, Mr. Van de Mosselaer, Ms.
15 Fellowes and Mr. Kashuba. Okay. I'll just say this. I type out my comments so that I can
16 actually read them because perhaps my handwriting is not the best, but that doesn't mean,
17 say, my typewriting is the best either. My typing is not the best, so I do have to slow down
18 from time to time because I might have missed words, I'm going kind of fast when I'm
19 preparing these, but I do want to give you my reasons this afternoon. There's no need, in
20 my view, to prolong this. Okay.

21
22 **Decision**

23
24 THE COURT: So these are my reasons for decision on the
25 application that I've heard today. I'll set my document up here. I'm giving you my decision
26 orally. If a transcript of this decision is requested, I reserve the right to edit my decision
27 for typographical and grammatical errors for readability and to ensure citations and
28 quotations are correct and complete. However, I will not change the substance of my
29 decision.

30
31 The applicants apply for an order which raised three primary issues: extension of time to
32 file a proposal to December 23, 2023; approval of a key employee retention plan, a KERP,
33 in relation to Daryl Stepanic who, since 2002, has been the Chief Executive Officer of
34 Griffon Partners Operation Corporation and a director of Griffon Partners Holding
35 Corporation, Griffon Partners Capital Management Ltd; and approval of the fees and
36 disbursements of the Proposal Trustee and its counsel as set out in the third report of the
37 Trustee.

38
39 The applicants' senior lenders, Traftura Canada Limited and Signal Alpha C4 Limited,
40 who I will refer to as the "Senior Lenders", do not agree with the relief sought. The
41 applicants' secondary lender, Tamarack, echoes the position taken by the Senior Lenders.

1 When I refer to the “Lenders”, I mean both the Senior Lenders and Tamarack.

2
3 Turning first to the first element, which is the extension to file a proposal to December 23,
4 2023, all of the Lenders agree to the extension and the sale investment and solicitation
5 process (SISP) already ordered by Justice Dunlop is underway. It would create havoc to
6 the orders previously granted by this Court not to extend the time to file a proposal. In all
7 the circumstances of this case, I find it appropriate to grant the extension to December 23,
8 2023. If the Lenders wish to bring an application, that they are entitled to bring under the
9 *Bankruptcy and Insolvency Act*, then they can do so as they see fit.

10
11 Turning to the KERP. The applicants and the Lenders rely on the same case law for the
12 test to determine whether a key employee retention plan should be approved. In *Grant*
13 *Forest Products*, 2009 CanLII 42046 (ONSC), Justice Newbould approved a key employee
14 retention plan for the executive vice president of Grant Forest in the context of a CCAA
15 proceeding. Justice Newbould noted:

- 16
17 (a) that whether a key employee retention program should be ordered is a matter of
18 discretion;
19
20 (b) such plans are aimed at retaining employees who are important to the management or
21 operations of the debtor company in order to keep their skills within the company at a
22 time when they are likely to look for other employment because of the company’s
23 financial distress; and
24
25 (c) they are a controversial arrangement, must be scrutinized carefully with a view to
26 ensuring that only true key employees are offered the plan and that the plan will not do
27 more harm than good by failing to include truly key employees and failing to treat them
28 fairly.

29
30 In the *Grant Forest Products* case, Justice Newbould relied on the following reasons for
31 permitting the plan:

- 32
33 (a) The monitor supported the plan and was of the view that the employee’s role as a senior
34 executive was important for the stability of the business and to enhance the
35 effectiveness of the marketing process, and later said that, as an officer of the court, the
36 monitor’s opinion deserved great weight;
37
38 (b) The Chief Restructuring Advisor swore that the employee was crucial to dealing with
39 the potential investors during the restructuring to provide them with information
40 regarding the debtor’s operations and also making decisions regarding operations and
41 management on a day-to-day basis. He also said it would be very difficult to replace

the employee. Justice Newbould said that the plan is aimed at retaining important employees when they are likely to look for other employment, rather than an employee who has been offered another job and turned it down.

(c) The party in opposition to the plan suggested that the employee was not indispensable and in response to that argument, Justice Newbould noted that the employee was not a shareholder and that one could understand how a prospective bidder in the marketing process might want to hear from an experienced executive of the company who was not a shareholder and thus conflicted.

(d) The amount was not so large on its face to be unreasonable or unfair to other stakeholders.

In *Aralez Pharmaceuticals Inc. (Re)*, 2018 ONSC 6980, Justice Dunphy approved a key employee retention plan also in the context of the CCAA. At paragraph 29, he noted some of the considerations set out in *Cinram International Inc. (Re)*, 2012 ONSC 3767:

- a. whether the Monitor supports the KERP agreement and charge (to which great weight is attributed);
- b. whether the employees to which the KERP applies would consider other employment options if the KERP agreement was not secured by the KERP charge;
- c. whether the continued employment of the employees to which the KERP applies is important for the stability of the business and to enhance the effectiveness of the marketing process;
- d. the employees' history with and knowledge of the debtor;
- e. the difficulty in finding a replacement to fulfill the responsibilities of the employees to which the KERP applies;
- f. whether the KERP agreement and charge were approved by the board of directors, including the independent directors, as the business judgment of the board should not be ignored;
- g. whether the KERP agreement and charge are supported or consented to by secured creditors of the debtor; and
- h. whether the payments under the KERP are payable upon the

1 completion of the restructuring process.

2
3 At paragraph 30, Justice Dunphy went on to review the case before him on the basis of
4 three criteria, which he determined considered all of the *Grant Forest* and *Cinram*
5 considerations.

6
7 (a) Arm's length safeguards. He noted the objectivity of the business judgment of parties
8 with a legitimate interest in the matter or arm's length independence from the
9 beneficiaries of the program. In *Aralez Pharmaceuticals* it was important that the
10 monitor was actively involved in all phases of the process, from assessing the need and
11 scope to design and metrics and rewards.

12
13 (b) Necessity. He noted: (1) that incentive programs must be justified on a case-by-case
14 basis and necessity must be examined critically; (2) employees working to help protect
15 their long-term job security are already well-aligned with creditor interests and might
16 generally be considered as being near one end of the necessity spectrum; and (3) others
17 upon whom great responsibility lies with little realistic chance of having an ongoing
18 role in the business are the least aligned with stakeholder interests and may be viewed
19 as being near the other end of the necessity spectrum when it comes to the incentive
20 programs.

21
22 (c) Reasonableness of the Design. (1) Incentive programs were meant to align the interests
23 of the beneficiaries with those of the stakeholders; (2) they are not to provide incentive
24 to insiders to disrupt the process at the least opportune moment; and (3) consideration
25 should be had for when payments will likely be made to the key employee.

26
27 In the case before me, I note that Mr. Stepanic is not only the CEO of one of the applicants,
28 but a director of two of the other applicants. The Senior Lenders submit that the board of
29 directors consists of two people, Mr. Stepanic and one other, and this was not contradicted.
30 And I just take it that that is the Griffon Partners Operation Corporation.

31
32 Mr. Stepanic has been in this position since June of 2022. He has a career of more than 35
33 years in oil and gas for a number of different companies and he's a professional engineer.
34 He is also the legal or beneficial shareholder of one of the guarantors, 2437815 Alberta
35 Ltd., which has an ownership interest in the Griffin Partners Operation Corporation assets,
36 which are subject to the SISP. The Lenders submit that this puts Mr. Stepanic in a conflict
37 position. The Proposal Trustee states that Mr. Stepanic is critical to the restructuring efforts
38 and is supporting the SISP, as well as the day-to-day operation of the applicants.

39
40 The KERP is for a predetermined amount of \$100,000 to be paid upon achieving two
41 milestones, firstly, the final bid deadline as defined in the SISP in the amount of \$25,000

1 and, secondly, the closing of the sale or refinancing transaction under the SISP in the
2 amount of 75,000. There is no KERP agreement drafted and the Lenders submit that they
3 were not aware of the proportion of the payments until the hearing today, that being the
4 75,000 and the \$25,000 payments.

5
6 The Proposal Trustee suggests that the amount of \$100,000 is appropriate based on other
7 proceedings. This is not in accordance with case law, which clearly suggests that key
8 employee retention programs should be based on a case-by-case basis, so some similar
9 cases may be helpful, but they are each to be considered on their own merits.

10
11 The Proposal Trustee submits that the KERP is reasonable and appropriate because:

- 12
13 (a) Mr. Stepanic is the only full-time contractor of Griffin Partners Operation Corporation
14 and his involvement has been and will continue to be critical to the success of the notice
15 of intention proceedings;
16
17 (b) he will provide stability to the business and provides continuity of leadership and
18 knowledge;
19
20 (c) he is critical to the efficient and cost-effective execution of SISP;
21
22 (d) a placement is not desirable or practicable in the short term;
23
24 (e) the payments are reasonable in proportion to the size and nature of the business and the
25 milestones are consistent with the timeline set out in the SISP; and
26
27 (f) the Proposal Trustee considered the terms and has compared them with other CCAA
28 and other proceedings and is satisfied that the quantum and payment are commercially
29 reasonable and are not what the Proposal Trustee refers to as “off market” in the
30 circumstances.

31
32 The proposed KERP would rank second to the administration charge. Based on the current
33 projections, this would not impact the repayment of the Senior Lenders, but would impact
34 the repayment of Tamarack. Further, at least the first tranche would be paid to Mr. Stepanic
35 in advance of any Lenders receiving any funds.

36
37 Applying some of the factors to this case, I note that:

- 38
39 (1) The Proposal Trustee is in favour of the KERP, but it is also not a receiver of the
40 company who is managing the companies or any of the applicants. The Proposal
41 Trustee is the eyes and ears of the Court, but management is actually operating the

1 companies. The management includes Mr. Stepanic and one other director.

- 2
- 3 (2) The Proposal Trustee says that Mr. Stepanic has a history and knowledge of the
- 4 applicants which is critical to the SISP. I understand that they correspond on a daily
- 5 basis, however, there is no evidence that Mr. Stepanic is considering leaving or that
- 6 there is any risk of him leaving.
- 7
- 8 (3) Counsel for applicants say that the KERP will enhance recovery and yet the Lenders,
- 9 who will be the recipients and beneficiaries of that recovery, do not agree with the
- 10 KERP. The fact that the Lenders were notified of the KERP at the same time as the
- 11 application may be a reflection on some of the difficulties of communication in this
- 12 case, but as an officer of the court, it would have been helpful for the Proposal Trustee
- 13 to notify the Lenders in advance and at least seek their approval.
- 14
- 15 (4) The Proposal Trustee states that the terms are reasonable and they might be, however,
- 16 the lack of specificity of those terms is a concern. There is no agreement. The
- 17 proportion of the payment was not known until the hearing. How the revenue or value
- 18 of the company relates to the specified sum payable under the KERP is vague in the
- 19 Third Report.
- 20
- 21 (5) The fact that the Proposal Trustee has based its opinion on other similar KERPs does
- 22 not follow case law that each should be assessed on its own merits.
- 23

24 It is my view, and I find, that there is not enough evidence to show necessity of the KERP

25 in this case and, in fact, reasonableness of its design. In light of the Lenders' position, and

26 particularly Tamarack not being supportive, it is my view that the Proposal Trustee bears

27 the burden to show the Court that the KERP is both necessary and is reasonable in design.

28 It is my view that in this case neither of those have been met. So the KERP is not approved.

29

30 Approval of the fees and disbursements. The brief prepared by counsel for the Lenders is

31 dated November 6, 2023, the same date as the letter for counsel for the Proposal Trustee to

32 myself. I am just going to note, we did not talk about this during the hearing, or very much

33 anyway, that that is outside of the deadlines for matters to be filed and should have been

34 dealt with in terms of a late filing.

35

36 The Lenders did not make a request for the invoices before the hearing, but suggest that

37 there is not enough evidence to approve the interim invoices. I disagree. The Proposal

38 Trustee report advises on the steps taken in regard to the posed applications and since those

39 applications have been opposed, at least in part, some of the legal work that is now being

40 sought to be paid for is known to the Lenders.

41

1 Counsel for the Proposal Trustee submits that there is confidential information in invoices.
2 Without an application for disclosure of the invoices being before the Court by the Lenders,
3 this cannot be fully flushed out. The Lenders say that it is premature to approve the interim
4 accounts. I disagree. Consultants and professionals, including counsel, may work for
5 considerable time before their accounts are approved, but the parties are before the Court
6 on other matters and have not made a special trip to just pay interim fees. In this case, I
7 think this is an appropriate time for it to be raised.

8
9 There is no evidence before me that the Proposal Trustee or its counsel have taken any
10 inappropriate steps or have been overbilling for their services. A disagreement about how
11 a company is operated or is overseen is not the same as a deficit in the billing process, or
12 any type of allegation like negligence. Unlike in the *Winalta Inc.*, 2011 ABQB 399 case,
13 there are not 20 reports from the monitor before me. This is the third report of the Proposal
14 Trustee. I do not think that the facts are the same in the *Winalta* case as the case here, nor
15 is all of the evidence that was before the Court in *Winalta* before this Court.

16
17 If the Lenders wish to have copies of the invoices and copies are not provided by the
18 Proposal Trustee or counsel, then they need to bring an application for such disclosure, and
19 they have not done so to date.

20
21 I am prepared to authorize the interim payment of the fees and disbursements of the
22 Proposal Trustee and its counsel as described in the Third Report, however, I am going to
23 make that payment subject to the Lenders' right to challenge the appropriateness of those
24 fees and disbursements within 6 months of today's date. If the Lenders have not brought
25 an application to review those fees and disbursements within 6 months, then they will be
26 barred from doing so.

27
28 And that, counsel, is the conclusion of my reasons. I think I have dealt with everything. If
29 people want to speak to costs, now is the time to do so.

30
31 MR. VAN DE MOSSELAER: Thank you, My Lady. I won't speak to costs,
32 other than to say that I think it would be appropriate in the circumstances that the usual
33 practice in the commercial court be followed and that the parties bear their own costs.

34
35 THE COURT: Okay. Anybody else want to speak to costs?

36
37 MS. FELLOWES: Yes. I agree with Mr. Randal that -- Mr. Van de
38 Mosselaer. Thank you

39
40 MR. KASHUBA: Here as well, My Lady.

41

1 THE COURT: All right. Everybody will bear their own costs
2 then. Thank you. Anything else that we need to deal with today?

3
4 MR. VAN DE MOSSELAER: The only remaining thing then is obviously we
5 need to make a change to our form of order. I think -- do you have the -- do you have our
6 form of order in front of you?

7
8 THE COURT: I do, indeed. The one that I received, I think,
9 today so I've got the most recent one here, yeah.

10
11 MR. VAN DE MOSSELAER: Yeah. So that should be the same as the one that
12 was attached to our application. So I think paragraphs 1 and 2 should be fine. Obviously,
13 paragraph 3 through 6 will need to be deleted and replaced with some language to the effect
14 that the application for her KERP has been dismissed.

15
16 THE COURT: Correct.

17
18 MR. VAN DE MOSSELAER: And then I think paragraph 7 can stay the same,
19 but adding some language to the effect that the Lenders have leave to apply to challenge
20 those accounts within 6 months, or language to that effect.

21
22 THE COURT: Right. So I think the fees and disbursement of
23 the Proposal Trustee and its counsel, Torys LLP, as set out in the Third Report are hereby
24 approved for payment would be appropriate --

25
26 MR. VAN DE MOSSELAER: Correct.

27
28 THE COURT: -- because they are approved for payment. It's
29 my view, and I've hopefully made my decision clear, that they are to be paid and that's
30 subject to if the Lenders want to bring an application within 6 months of today's date --

31
32 MR. VAN DE MOSSELAER: Right.

33
34 THE COURT: -- to review the accounts, well, then that's up to
35 them. But you can also include the language, if they haven't brought it within 6 months of
36 today's date, they are barred from doing so. They will be, you know --

37
38 MR. VAN DE MOSSELAER: Right.

39
40 THE COURT: Okay?

41

1 MR. VAN DE MOSSELAER: Very good. Now, just in terms of getting this
2 signed and approved. I don't know if Ms. Fellowes wants to see a copy of this language
3 before it goes to Your Ladyship for signature.
4

5 MS. FELLOWES: Yes, please.
6

7 MR. VAN DE MOSSELAER: Okay. Just -- if I can can direction from Your
8 Ladyship, I'm -- I'm happy to send -- I'll send a copy across very shortly. Do we need
9 forms of order approved with signature or is it sufficient if Ms. Fellowes agrees with the
10 verbiage?
11

12 THE COURT: Well, I'm certainly prepared to accept counsel's
13 submissions, so if you provide it to the commercial coordinator with your comment that
14 it's been approved by counsel, that's good enough for me, right. So, you know, as an
15 officer of the court --
16

17 MR. VAN DE MOSSELAER: Sure.
18

19 THE COURT: -- you could just tell me that. If you send it
20 through the commercial coordinator, you know, I will get it very promptly and I'm sitting
21 commercial all week and I'll sign it as soon as I am able to.
22

23 MR. VAN DE MOSSELAER: Very good.
24

25 MS. LEMMENS: I would also like a copy.
26

27 MR. VAN DE MOSSELAER: Okay. I will circulate it to both of you.
28

29 MR. LEMMENS: Thank you.
30

31 THE COURT: All right. Anything else?
32

33 MR. VAN DE MOSSELAER: That's everything from me, My Lady.
34

35 MR. KASHUBA: No. Thank you, My Lady. Nothing further.
36

37 THE COURT: And so I guess, Ms. Lemmens, I didn't ask you
38 about the costs, so.
39

40 MS. LEMMENS: I agree with the comments made by my friends.
41

1 THE COURT: Okay. I'm sorry for --
2
3 MS. LEMMENS: That's okay.
4
5 THE COURT: -- overlooking that. All right. Okay. Thanks
6 very much, everyone.
7
8 MS. LEMMENS: Thank you.
9
10 THE COURT: Have a good afternoon. Okay.
11
12 MR. VAN DE MOSSELAER: Very good. Thank you.
13
14 THE COURT: Thank you very much, madam clerk, for staying
15 late. Certainly appreciate your time this afternoon.
16
17 THE COURT CLERK: You're welcome.
18
19 MS. FELLOWES: Thank you, madam clerk. And thank you.
20

21
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23 PROCEEDINGS ADJOURNED
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1 **Certificate of Record**

2
3 I, Kamaria Rhoden, certify that this recording is a record of the evidence in proceedings in the
4 Court of King's Bench, held in courtroom 1603, virtual courtroom 60, at Calgary, Alberta, on
5 the 8th day of November, 2023, and that I was the court official in charge of the sound-
6 recording machine during the proceedings.
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1 **Certificate of Transcript**

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3 I, Lori Nelson, certify that

4
5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the best of
6 my skill and ability and the foregoing pages are a complete and accurate transcript of the
7 contents of the record, and

8
9 (b) the Certificate of Record for these proceedings was included orally on the record and is
10 transcribed in this transcript.

11
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14
15 Lori Nelson, (Operating as Pro-to-type Word Processing)

16 Order: TDS-1045870

17 Dated: November 24, 2023
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