

COURT FILE NUMBERS 25-2979738 / B201 979738
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
MATTERS IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL UNDER THE *BANKRUPTCY*
AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS
AMENDED, OF GRIFFON PARTNERS OPERATION
CORP., GRIFFON PARTNERS HOLDING CORP.,
GRIFFON PARTNERS CAPITAL MANAGEMENT LTD.,
SPICELO LIMITED, STELLION LIMITED, 2437799
ALBERTA LTD., 2437801 ALBERTA LTD. and 2437815
ALBERTA LTD.

APPLICANTS TRAFIGURA CANADA LIMITED and SIGNAL ALPHA
C4 LIMITED

RESPONDENTS SPICELO LIMITED

DOCUMENT **APPLICATION TO APPOINT A RECEIVER**

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

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Lawyers for the Applicants,
Trafigura Canada Limited and Signal Alpha C4 Limited

File No.: 137093.1011

NOTICE TO THE RESPONDENT

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

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

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

Date: September 22, 2023

Time: 10:00 am

Where: Calgary, Alberta

Before Whom: The Honourable Justice Johnston presiding on the Commercial Duty List



ENTERED

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

Purpose of Application:

1. The Applicants, Trafigura Canada Limited (“**Trafigura**”) and Signal Alpha C4 Limited (“**Signal**” and with Trafigura, the “**Lenders**”), are secured creditors of Spicelo Limited (“**Spicelo**”). Spicelo is indebted to the Lenders pursuant to the terms of the Spicelo Guarantee (as defined below) in the amount of at least USD\$38M. On August 16, 2023, the Lenders formally demanded repayment of the indebtedness from Spicelo, but Spicelo has failed, neglected, or refused to pay the same.
2. Thereafter, despite having assets valued in excess of CAD\$60M, Spicelo filed a Notice of Intention to Make a Proposal (“**NOI**”) under *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (“**BIA**”), on August 25, 2023, along with Griffon Partners Operations Corp. (“**GPOC**”) and 6 other guarantors (collectively, the “**Other NOI Parties**”). The Lenders are the primary secured creditors in the NOI proceedings.
3. Spicelo and the Other NOI Parties have filed an application to, *inter alia*, extend the initial stay of proceedings to November 8, 2023. The Lenders wish to immediately enforce their security against Spicelo as a solvent guarantor, and oppose Spicelo’s request for an extension of the stay in these NOI proceedings.
4. In the event the request for a stay extension is denied, Spicelo will be deemed bankrupt. In such circumstances, the Lenders seek to enforce their contractual right to appoint a receiver over all of Spicelo’s present and after-acquired properties, assets, and undertakings (the “**Property**”). In all of the relevant circumstances, a receiver is best suited to liquidate the Property, which has sufficient value to see that the Lenders paid out in full. Such a result would be beneficial to all other creditors and dramatically simplify these proceedings.

Remedy claimed or sought:

5. The Lenders seek an Order, substantially in the form attached as **Schedule “A”**, for the following relief:
 - (a) declaring that the time for service of this application (the “**Application**”) and supporting materials be abridged, that the Application is properly returnable on September 22, 2023 and that service of the Application and supporting materials, as described in the corresponding affidavit of service, is good and sufficient, and that no other persons are entitled to service of the Application or any orders arising therefrom;

- (b) appointing KPMG LLP ("**KPMG**") as the receiver and manager (the "**Receiver**") of all of Spicelo's Property pursuant to section 243(1) of the BIA and sections 13(2) of the *Judicature Act*, RSA 2000, c J-2 (the "**Judicature Act**"), 99(a) of the *Business Corporations Act*, RSA 2000, c B-9 (the "**BCA**"), and 65(7) of the *Personal Property Security Act*, RSA 2000, c P-7 (the "**PPSA**");
- (c) awarding costs of this Application to the Lenders, on a solicitor client full indemnity basis; and
- (d) such further and other relief as counsel for the Lenders may advise.

Grounds for making this application:

The Parties

- 6. Trafigura is a corporation incorporated pursuant to the federal laws of Canada and extra-provincially registered in the Province of Alberta.
- 7. Signal is a corporation incorporated pursuant to the laws of Jersey. The Lenders provide capital to Canadian businesses, including lending within the oil and gas industry in Western Canada.
- 8. The Respondent, Spicelo, is an investment corporation incorporated pursuant to the laws of the Republic of Cyprus. Spicelo's only asset is the Greenfire Securities (as defined below), does not have employees or carry on active business, and is a holding company.

The Credit Agreement and Guarantees

- 9. On July 21, 2022, GLAS USA LLC and GLAS Americas LLC (collectively, the "**Collateral Agent**"), as agent for the Lenders, executed a credit agreement (the "**Credit Agreement**") with Griffon Partners Operation Corp. ("**GPOC**") whereby the Lenders agreed to advance a total of USD\$35,869,565.21 to GPOC (the "**Commitment**") to serve as financing towards an asset purchase and sale transaction between Tamarack Valley Energy Ltd. ("**Tamarack**") and GPOC (the "**Tamarack Acquisition**").
- 10. Pursuant to the Credit Agreement, GPOC agreed to monthly amortization payments of USD\$1,328,502.415 starting on October 1, 2022 and ending on January 31, 2025, at which point the Commitment was to be repaid in full, along with all accrued unpaid interest, fees, and all other obligations in connection with the Credit Agreement (including, *inter alia*, any applicable MOIC Amount owing to the Lenders). The MOIC Amount is defined in the Credit

Agreement as an amount sufficient to achieve a 1.4 multiple on each Lender's ratable portion of the outstanding principal less the original issue discount of USD\$2,869,565.21 (the "**OID**").

11. The Commitment advanced under the Credit Agreement (after netting the OID) was made on July 21, 2022. The Commitment was allocated as to Trafigura in the amount of USD\$10,869,565.21 and as to Signal in the amount of USD\$25,000,000.
12. As security for the payment of the Commitment, GPOC executed a fixed and floating term debenture over all of GPOC's present and future real and personal property (the "**GPOC Debenture**").
13. Pursuant to the GPOC Debenture, in the event of a default under the Credit Agreement, GPOC is required to repay the Commitment on demand, plus interest thereon. Additionally, in the event of default in the payment of any principal or interest, GPOC is required to pay interest on the amount in default both before and after demand, default, and judgment, with interest on overdue interest at the same rate. The GPOC Debenture further grants the Collateral Agent certain rights and remedies upon default by GPOC, including, *inter alia*, the right to appoint a receiver or receiver and manager.
14. Concurrent with the execution of the Credit Agreement and the GPOC Debenture, a total of seven secured guarantees were provided to the Lenders. Spicelo, Griffon Partners Capital Management Ltd. ("**GPCM**"), Griffon Partners Holding Corp. ("**GPHC**"), Stellion Limited ("**Stellion**"), 2437801 Alberta Ltd. ("**2437801**"), 2437799 Alberta Ltd. ("**2437799**"), and 2437815 Alberta Ltd. ("**2437815**") (collectively, the "**Guarantors**") each executed guarantees along with supporting security in favour of the Collateral Agent, whereby they guaranteed the obligations of GPOC under the Credit Agreement.
15. In the case of Spicelo, a Limited Recourse Guarantee and Securities Pledge Agreement dated July 21, 2022, was executed between Spicelo and the Collateral Agent, as amended by a first amending agreement dated August 31, 2022 (the "**Spicelo Guarantee**") the collateral of which was, *inter alia*, all of the common shares in the capital of Greenfire Resources Inc. ("**Greenfire**") owned by Spicelo (the "**Greenfire Securities**") and the Special Dividend (as defined below).

Defaults and Demands for Payment

16. Pursuant to the Credit Agreement, GPOC was required to adhere to certain terms concerning repayment of the Commitment and other financial matters. On November 1, 2023, GPOC defaulted on the Credit Agreement by failing to meet mandatory principal amortization payments as required under section 2.5(2) of the Credit Agreement. On November 15, 2022,

GPOC made a principal amortization payment of USD\$1,281,056 but continued to default on the Credit Agreement when, on December 1, 2022, it again failed to meet mandatory principal amortization payments. Furthermore, GPOC has breached the Sections 6.1(c), 6.1(p) 6.1(y), and 6.3 (collectively, the “**Defaults**”), details of which are as follows:

- (a) as of December 31, 2022, GPOC has failed to maintain a PDP Coverage Ratio of 1.43:1;
 - (b) as of December 31, 2022, GPOC has failed to maintain a Total Leverage Ratio that does not exceed 2.5:1;
 - (c) as of December 31, 2022, GPOC has failed to maintain Liquidity of not less than \$4,000,000; and
 - (d) as of December 31, 2022, GPOC has failed to maintain an LMR of not less than 2.00 in Alberta.
17. On December 31, 2022, GPOC entered into a waiver agreement with the Lenders (the “**Waiver Agreement**”) whereby the Lenders agreed to waive the Defaults as of year-end 2022. The Lenders reserved their right to declare default in 2023 for ongoing Defaults.
18. However, since the Waiver Agreement, GPOC has continued to default on the Credit Agreement. Aside from a USD\$400,000 payment made on February 1, 2023, GPOC has otherwise failed to make any monthly principal amortization payments since December 31, 2022. Furthermore, beginning in August 2023, GPOC has failed to make any interest payments (collectively, the “**Continued Defaults**”).

Amount Outstanding and Demands

19. Following the Continued Defaults, the Lenders attempted to negotiate a forbearance agreement with GPOC and the Guarantors. On August 8, 2023, the Lenders sent a forbearance agreement to GPOC and the Guarantors and communicated that if the document was not signed by August 11, 2023, then the Lenders would pursue enforcement measures. GPOC and the Guarantors failed to execute the forbearance agreement.
20. As a result, on August 16, 2023, the Lenders issued formal demands for repayment from the Debtor and the Guarantors (the “**Demands**”) and notice to enforce security pursuant to section 244 of the BIA.

21. The Debtor and the Guarantors have refused, failed, neglected, or been unable to pay the amounts pursuant to the Demands.
22. As of August 16, 2023, the Lenders are owed the following amounts:
 - (a) the original principal amount plus 1.4x MOIC equaling USD\$37,938,054.69 owing under the Credit Agreement plus interest accruing thereon; and
 - (b) legal fees, costs, expenses and other charges which are due and payable pursuant to the Credit Agreement (collectively, the “**Indebtedness**”).

The NOI Proceedings

23. Without notice to the Lenders, the Debtor and Guarantors filed NOI's on August 25, 2023, pursuant to section 50.4(1) of the BIA and Alvarez & Marsal Canada ULC was appointed as the proposal trustee under each NOI.
24. As a result of the filing of the NOIs, all proceedings against GPOC, the Guarantors, and their assets were automatically stayed for an initial period of thirty days, until September 25, 2023 (the “**Initial Stay**”).

Spicelo is Not Insolvent

25. Spicelo is not insolvent and, therefore, its filing of an NOI is improper and an abuse of process.
26. Pursuant to the terms of the Spicelo Guarantee, Spicelo granted, *inter alia*, the Greenfire Securities as collateral for its commitment. The Lender's security interest in the collateral also includes all substitutions or replacements of, increases and additions to the Greenfire Securities, including any consolidation, subdivision, or reclassification thereof.
27. In the event of a default on the Credit Agreement by GPOC, the Lenders are entitled to seek repayment from Spicelo as a separate and distinct obligation and, in the event of non-payment by Spicelo or GPOC, as the case may be, are entitled to seek enforcement via the Greenfire Securities. Specifically, the Spicelo Guarantee allows the Lenders to, *inter alia*, assume control, sell, transfer, use or otherwise deal with the Greenfire Securities. The Spicelo Guarantee also allows the Lenders to appoint a receiver over the Greenfire Securities.
28. The Greenfire Securities will imminently participate in an initial public offering pursuant to a Plan of Arrangement whereby, *inter alia*, Greenfire and certain Greenfire subsidiaries will merge (the “**New Greenfire**”) pursuant to a Business Combination Agreement dated

December 14, 2022 (as amended on April 21, 2023 and June 15, 2023) (the “**Transaction**”). The Transaction was approved by shareholders on September 11, 2023. It is anticipated that the Transaction will close on September 20, 2023.

29. As part of the Transaction, Spicelo is set to receive a dividend valued at USD\$6,600,000 before withholding tax estimated at 15%, of which the Lenders are entitled to 75%, or USD\$4,950,000, pursuant to section 37(s) of the Spicelo Guarantee (the “**Special Dividend**”). Furthermore, as part of the Transaction, Spicelo will receive 5,506,833 common shares in the capital of New Greenfire (the “**New Greenfire Securities**”) in exchange for the Greenfire Securities. According to the Greenfire Proxy Statement for Special Meeting of Stockholders, the New Greenfire Securities will have an estimated market value of USD\$10.10 per share, resulting in a total of USD\$55,600,000.
30. Spicelo’s secured claims in its NOI total CAD\$52,603,740.74, the overwhelming majority of which belong to the Lenders (CAD\$51,413,652.14 or 97.7%). Based on the combined value of the New Greenfire Securities post-closing and Special Dividend, Spicelo’s assets clearly exceed the value of its liabilities.
31. The Greenfire Securities represent a distinct asset class which is pledged only to the Lenders, and is otherwise completely separate and apart from the operations and affairs of the Other NOI Parties.
32. The value of the Greenfire Securities should be sufficient to see the Indebtedness paid out in full. Such a result would be beneficial to the other creditors of GPOC, including Tamarack as the subordinate lender on the GPOC assets. If the Lenders are paid out in full from the sale of the Greenfire Securities, Tamarack will become the first lien lender on the GPOC assets, and the largest secured creditor will be removed from the GPOC credit matrix.

The Greenfire Securities are Liquid Assets

33. Other than as described in Schedule “A” to the Spicelo Guarantee, no transfer restrictions apply to the Greenfire Securities. Schedule “A” provides, *inter alia*, certain restrictions on the transfer of the Greenfire Securities unless they are completed in accordance with the piggy-back, first refusal, pre-emptive and drag along provisions contained therein (the “**Transfer Restrictions**”). The Transfer Restrictions expire when the Transaction closes on September 20, 2023 (the “**Closing Date**”).
34. Following the Closing Date, the New Greenfire Securities will form part of the Lenders’ security interest pursuant to the terms of the Spicelo Guarantee.

35. Spicelo has advised the Lenders that it has unilaterally executed a Lock Up Agreement (“**LUA**”) that restricts the transfer of the New Greenfire Securities. Relevant definitions set forth in the LUA are as follows:
- (a) “**Transfer**” is defined as the (i) sale or assignment of, offer to sell, contract or agreement to sell, hypothecation, pledge, grant of any option to purchase or other disposal of or agreement to dispose of; directly or indirectly, or establishment or increase of a put equivalent position or liquidation or decrease of a call equivalent position within the meaning of Section 16 of the *Exchange Act* with respect to, any security, (ii) entry into any swap or other arrangement that transfers to another person, in whole or in part, any of the economic consequences of ownership of any security, whether any such transaction is to be settled by delivery of such securities, in cash or otherwise, or (iii) public announcement of any intention to effect any transaction specified in clause (i) or (ii); and
 - (b) “**Lock Up Period**” is defined as beginning on the Closing Date to the earliest of: (i) the date that is 180 days after the Closing Date, (ii) the date on which the last reported closing price of the New Greenfire Shares equals or exceeds \$12.00 per share for any 20 trading days within any 30 trading day period commencing at least 75 days after the Closing Date; or (iii) the date on which the Company completes a transaction that results in all of the Company’s shareholders having the right to exchange their shares of capital stock for cash, securities or other property.
36. The LUA provides certain exceptions to the Lock Up Period, for example, (i) in connection with a pledge of New Greenfire Shares, or any other securities convertible into or exercisable or exchangeable for New Greenfire Shares, to a financial institution, including the enforcement of any such pledge by a financial institution, or (ii) in connection with any legal, regulatory, or other order. These provisions would permit a Receiver to liquidate the New Greenfire Shares immediately.
37. Further, and more importantly, the Lenders are not parties to the LUA and have never agreed to be bound by its terms. As a result, it is the Lenders position that they are not bound by the Lock Up Period and may enforce their security by liquidating the New Greenfire Shares immediately.
38. In either case, the New Greenfire Shares are liquid assets of Spicelo and capable of being realized upon to satisfy the outstanding Indebtedness.

A Receiver should be Appointed over Spicelo

39. On September 14, 2023, GPOC and the Guarantors served an application to, *inter alia*, extend the Initial Stay for an additional period of 45-days. The Lenders oppose the extension of the stay with respect to Spicelo.
40. If this Court denies Spicelo's request for an extension of the stay of proceedings, the Lenders intention is to enforce against the Greenfire Securities held by Spicelo as a first recourse to resolving the Indebtedness. Although Spicelo will automatically be deemed bankrupt, the Lender's preference is to execute against the Greenfire Securities by way of a sales process controlled by a Court-Appointed Receiver.
41. In all the circumstances, it is just and equitable that a receiver be appointed over all of the Property of Spicelo since, *inter alia*:
 - (a) Spicelo is in default of its obligations under the Spicelo Guarantee;
 - (b) The Lenders are secured creditors and delivered notices of intention to enforce security under section 244 of the BIA;
 - (c) Spicelo is not insolvent, and its NOI filing was improper;
 - (d) The Spicelo Guarantee allows for the appointment of a receiver in the event of a default;
 - (e) The Lenders have, at all times, acted in good faith and have given GPOC and the Guarantors more than ample time to remedy the Defaults;
 - (f) The immediate appointment of a receiver will allow for orderly realization of the Greenfire Securities in the most efficient and value maximizing manner;
 - (g) A Court Appointed Receiver can run a sales process supervised by the Court in a fair and transparent manner;
 - (h) A Bankruptcy Trustee sale will be subject to certain statutory provisions in the *Bankruptcy and Insolvency Act*, including the application of a Superintendent of Bankruptcy's levy on any sale proceeds;
 - (i) As a result of the Transaction, the Greenfire Securities will no longer be encumbered by any rights of first refusal or other impediments to sale and liquidity, and as a result, a Receiver is best suited to realize on those assets;

- (j) There is no other process available to the Lenders that would enable it to adequately protect its interests;
 - (k) The Lenders' position as primary secured creditor is being unnecessarily impacted by various professional fees, administrative charges, and potentially DIP charges if Spicelo continues in the NOI proceedings;
 - (l) There is real risk of harm and losses to the Lenders such that each will suffer a shortfall on their security if a Receiver is not appointed, especially if a Bankruptcy Trustee is not able to sell the assets in a value-maximizing manner;
 - (m) The balance of convenience supports the appointment of a Receiver; and
 - (n) Such further or other grounds.
42. KPMG, the proposed receiver, has consented to act as receiver.
43. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

- 44. All pleadings and proceedings filed in the within Action;
- 45. The Affidavit of Dave Gallagher, sworn on September 19, 2023;
- 46. The Consent to Act of KPMG signed on September 19, 2023;
- 47. The proposed form of Receivership Order, attached hereto as **Schedule "A"**; and
- 48. Such further and other material as counsel for the Lender may advise and this Honourable Court may permit.

Applicable rules:

- 49. The *Alberta Rules of Court*, AR 124/2010, as amended; and
- 50. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

- 51. Sections 243 and 244 of the BIA;
- 52. Section 13(2) of the Judicature Act;

- 53. Section 99(a) of the BCA;
- 54. Section 65(7) of the PPSA; and
- 55. Such further and other acts and regulations as counsel for the Lenders may advise or this Honourable Court may permit.

Any Irregularity Complained of or Objection Relied on:

- 56. There are no irregularities complained of or objections relied on.

How the Application is Proposed to be Heard or Considered

- 57. Via Webex Video Conference, before the Honourable Justice Johnston on September 22, 2023 at 10:00 a.m.

WARNING

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

SCHEDULE "A"

PROPOSED FORM OF RECEIVERSHIP ORDER

COURT FILE NUMBERS	25-2979738	Clerk's stamp
COURT	COURT OF KING'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
MATTERS	IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE <i>BANKRUPTCY</i> <i>AND INSOLVENCY ACT</i> , R.S.C. 1985, c. B-3, AS AMENDED, OF GRIFFON PARTNERS OPERATION CORP., GRIFFON PARTNERS HOLDING CORP., GRIFFON PARTNERS CAPITAL MANAGEMENT LTD., SPICELO LIMITED, STELLION LIMITED, 2437799 ALBERTA LTD., 2437801 ALBERTA LTD. and 2437815 ALBERTA LTD.	
APPLICANTS	TRAFIGURA CANADA LIMITED and SIGNAL ALPHA C4 LIMITED	
RESPONDENT	SPICELO LIMITED	
DOCUMENT	RECEIVERSHIP ORDER	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	STIKEMAN ELLIOTT LLP Barristers & Solicitors 4300 Bankers Hall West 888-3rd Street SW Calgary, AB T2P 5C5 Karen Fellowes, K.C. / Natasha Doelman Tel: (403) 724-9469 / (403) 781-9196 Fax: (403) 266-9034 Email: kfellowes@stikeman.com / ndoelman@stikeman.com Lawyers for the Applicants, Trafigura Canada Limited and Signal Alpha C4 Limited File No.: 137093.1011	

DATE ON WHICH ORDER WAS PRONOUNCED:	September 22, 2023
LOCATION OF HEARING:	Calgary Courts Centre, Calgary, Alberta
NAME OF JUSTICE WHO GRANTED THIS ORDER:	The Honourable Justice Johnston

UPON the application of Trafigura Canada Limited and Signal Alpha C4 Limited (the “**Lenders**”) in respect of Spicelo Limited (the “**Debtor**”); AND UPON having read the Application, the Affidavit of Dave Gallagher, sworn September 19, 2023, filed; and the Affidavit of Service of ●, sworn September ●, 2023, filed; AND UPON reading the consent of KPMG LLP to act as receiver (the “**Receiver**”) of the Debtor, filed; AND UPON hearing counsel for the Lenders, Spicelo, counsel for the proposed Receiver and any other counsel or other interested parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

Service

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

Appointment

2. Pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “**BIA**”), and sections 13(2) of the *Judicature Act*, RSA 2000, c.J-2, 99(a) of the *Business Corporations Act*, RSA 2000, c.B-9, and 65(7) of the *Personal Property Security Act*, RSA 2000, c.P-7, KPMG LLP is hereby appointed Receiver, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”).

Receiver's Powers

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
 - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, which shall include the Receiver's ability:
 - i. to abandon, dispose of, or otherwise release any interest in any of the Debtor's real or personal property, or any right in any immovable; and
 - ii. upon further order of the Court, to abandon, dispose of, or otherwise release any license or authorization issued by the Alberta Energy Regulator, or any other similar government authority;
 - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
 - (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;
- (k) to market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
 - i. without the approval of this Court in respect of any transaction not exceeding \$500,000.00, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and

- ii. with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 60(8) of the *Personal Property Security Act*, RSA 2000, c. P-7 or any other similar legislation in any other province or territory shall not be required.

- (m) to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing orders) necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other orders in respect of the Property against title to any of the Property, and when submitted by the Receiver for registration this Order shall be immediately registered by the Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding Section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles shall accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtor, and without interference from any other Person (as defined below).

Duty to Provide Access and Co-operations to the Receiver

4. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph or in paragraph [6] of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names, and account numbers that may be required to gain access to the information.

No Proceedings Against the Receiver

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

No Proceedings Against the Debtor or the Property

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

No Exercise of Rights of Remedies

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

No Interference with the Receiver

11. No Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, except with the written consent of the Debtor and the Receiver, or leave of this Court.

Continuation of Services

12. All persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Debtor, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Debtor,

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Debtor or exercising any other remedy provided under such agreements or arrangements. The Debtor shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Debtor in accordance with the payment practices of the Debtor, or such other practices as may be agreed upon by the supplier or service provider and each of the Debtor and the Receiver, or as may be ordered by this Court.

Receiver to Hold Funds

13. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

Employees

14. Subject to employees’ rights to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2)

of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, SC 2005, c.47 ("**WEPPA**").

15. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

Limitations on Environmental Liabilities

16. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
 - i. before the Receiver's appointment; or
 - ii. after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
 - i. if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the

Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause ii below, the Receiver:

- A. complies with the order, or
 - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
- ii. during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by:
- A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
 - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- iii. if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

Limitation on the Receiver's Liability

17. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

Receiver's Accounts

18. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Property, which charge shall not exceed an aggregate amount of Enter Amount, as security for their professional fees and disbursements incurred at the normal rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) and 88 of the BIA.

19. The Receiver and its legal counsel shall pass their accounts from time to time.
20. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

Funding of the Receivership

21. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000 (or such greater amount as this Court may by further order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the **"Receiver's Borrowings Charge"**) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) and 88 of the BIA.
22. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
23. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the **"Receiver's Certificates"**) for any amount borrowed by it pursuant to this Order.
24. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.
25. The Receiver shall be authorized to repay any amounts borrowed by way of Receiver's Certificates out of the Property or any proceeds, including any proceeds from the sale of any assets without further approval of this Court.

Allocation

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

General

27. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
28. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Receiver's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
29. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.
31. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
32. The Plaintiff shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis, including legal costs on a solicitor-client full indemnity basis, to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
33. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

Filing

34. This Order is issued and shall be filed in and Court of King's Bench in Bankruptcy Action No. 25-2979738.
35. The Receiver shall establish and maintain a website in respect of these proceedings at www.kpmg.com/ca/Spicelo (the "**Receiver's Website**") and shall post there as soon as practicable:
- (a) all materials prescribed by statute or regulation to be made publicly available; and
 - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
36. Service of this Order shall be deemed good and sufficient by:
- (a) serving the same on:
 - i. the persons listed on the service list created in these proceedings or otherwise served with notice of these proceedings;
 - ii. any other person served with notice of the application for this Order;
 - iii. any other parties attending or represented at the application for this Order; and
 - (b) posting a copy of this Order on the Receiver's Website
- and service on any other person is hereby dispensed with.
37. 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

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KPMG, the interim receiver and receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of Spicelo Limited appointed by Order of the Court of King's Bench of Alberta and Court of King's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "Court") dated the 22 day of September, 2023 (the "**Order**") made in action number 25-2979738, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of **Enter Amount**, being part of the total principal sum of \$200,000 that the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded **Select an Option** after the date hereof at a notional rate per annum equal to the rate of **Enter Rate** per cent above the prime commercial lending rate of **Name of Institution** from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at **Enter Address**.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20____

KPMG LLP, solely in its capacity as Receiver of the Property (as defined in the Order), and not in its personal capacity

Per: _____

Name:

Title: