

Form 27

[Rules 6.3 and 10.52(1)]

COURT FILE NUMBER 2201-01086

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF CANADIAN WESTERN BANK

DEFENDANTS BIG BEAR ENERGY RENTALS LTD., 1509571 ALBERTA LTD., 5556300 MANITOBA LTD., BARRICADE ENVIRONMENTAL LTD., DIRECT ENVIRONMENTAL TECHNOLOGIES INC., JASON ROBERT LLOYD, KENNETH JOHN GEORGE CARSTAIRS, ROBERT CHRISTOPHER LLOYD, and DANIEL ROBERTS

Clerk's Stamp

DOCUMENT **APPLICATION BY CANADIAN WESTERN BANK**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

MILLER THOMSON LLP
Barristers and Solicitors
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File No.: 0179291.0020

NOTICE TO RESPONDENT(S):

This application is made against you. You are a respondent. You have the right to state your side of this matter before the master/judge.

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

Date: **February _____, 2022**

Time: _____

Where: **Via Webex**

Before Whom: **The Honourable Madam Justice K.M. Horner**

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

Remedy claimed or sought:

1. An Order substantially in the form provided in Schedule "A" hereto, providing, among other things:

- (a) expanding the powers of Alvarez & Marsal Canada Inc. (the “**Interim Receiver**”) in its capacity as the Court-appointed Interim Receiver of Big Bear Energy Rentals Ltd., 1509571 Alberta Ltd., 5556300 Manitoba Ltd., Barricade Environmental Ltd., Direct Environmental Technologies Inc. (collectively, the “**Debtors**”) pursuant to the Interim Receivership Order;
- (b) further expanding the powers of the Interim Receiver effective on February 9, 2022 with a power of sale in the event that the Debtors do not file a Notice of Intention to Make a Proposal pursuant to the *Bankruptcy and Insolvency Act* prior to such date; and
- (c) automatically appointing the Interim Receiver as the Receiver of the Debtors in the event that the Debtors do not file a Notice of Intention to Make a Proposal pursuant to the *Bankruptcy and Insolvency Act* prior to February 9, 2022.

Grounds for making this application:

1. On December 21, 2021, CWB extended certain credit facilities to the Big Bear Energy Rentals Ltd. (the “**Credit Facilities**”)
2. On February 1, 2022, there was outstanding under the Credit Facilities, plus further amounts owed in respect of costs and expenses incurred by CWB, plus further accruing interest, plus any additional amounts drawn on the Operating Loan and Visa Facility, the amounts as follows:

Description	Principal	Accrued Interest	Total
Operating Loan	\$5,541,587.96	\$0.00	\$5,541,587.96
Visa Facility	\$150,000.00*	\$0.00	\$150,000.00*
Non Revolving Loan	\$4,600,000.00	\$8,462.74	\$4,608,462.74
Equipment Loan	\$-	\$-	\$-
			\$10,300,050.70
Total, plus further amounts drawn on the Operating Loan and Visa Facility, plus interest, costs, charges and expenses, plus legal fees on a solicitor and own client full indemnity basis (the “Indebtedness”): <u>\$10,300,050.70</u>			

3. On the application of Canadian Western Bank (“**CWB**”), the Interim Receiver was appointed as Interim Receiver of the Debtors pursuant to the Order of the Honourable Madam Justice K.M. Horner granted January 21, 2022 (the “**Interim Receivership Order**”) and pursuant to s. 47 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, s. 13(2) of the *Judicature Act*, RSA 2000, c J-2, and s. 243 of the *Business Corporations Act*, RSA 2000, c B-9.
4. The Interim Receivership Order granted the Interim Receiver powers sufficient to investigate certain allegations made with respect to the misrepresentation of certain financial statements and the financial conditions of the Debtors to CWB (the “**IR Investigation**”).
5. On February 1, 2022, the Interim Receiver provided a report with respect to its initial findings from the IR Investigation (the “**IR Report**”).

6. It is evident from the IR Report that the Debtors' collateral, which is subject to CWB's security, has been previously overstated. It is further evident from the IR Report that the Debtors are not in compliance with their margining covenants with CWB. CWB is materially under secured.
7. On January 29, 2021, CWB demanded payment of all amounts owing by the Debtors and served s. 244 notices on each of them.

Material or evidence to be relied on:

8. Affidavit of Lorraine Shewchuk sworn January 18, 2022;
9. Affidavit of Trent Erickson sworn January 24, 2022;
10. Second Affidavit of Trent Erickson sworn February 2, 2022; and
11. The First Report of the Interim Receiver dated February 1, 2022; and
12. Consent to Act as Receiver of Alvarez & Marsal Canada Inc.

Applicable rules:

13. Rules 1.2, 1.3, 1.4, 6.3 and 13.5 of the *Alberta Rules of Court*, Alta Reg 124/2010; and
14. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

15. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, including s. 47 and 244.
16. *Judicature Act*, RSA 2000, c J-2 including s. 13(2); and
17. *Business Corporations Act*, RSA 2000, c B-9 including s. 99.

Any irregularity complained of or objection relied on:

18. N/A

How the application is proposed to be heard or considered:

19. Before a Justice sitting on the Commercial List, via Webex.

WARNING

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

**SCHEDULE "A" – FORM OF ENHANCED INTERIM RECEIVERSHIP ORDER
AND RECEIVERSHIP ORDER**

Clerk's Stamp:



COURT FILE NUMBER

2201-01086

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE OF

CALGARY

PLAINTIFF

CANADIAN WESTERN BANK

DEFENDANTS

BIG BEAR ENERGY RENTALS LTD., 1509571 ALBERTA LTD., 5556300 MANITOBA LTD., BARRICADE ENVIRONMENTAL LTD., DIRECT ENVIRONMENTAL TECHNOLOGIES INC., JASON ROBERT LLOYD, KENNETH JOHN GEORGE CARSTAIRS, ROBERT CHRISTOPHER LLOYD, and DANIEL ROBERTS

DOCUMENT

**ENHANCED INTERIM RECEIVERSHIP ORDER
AND RECEIVERSHIP ORDER**

CONTACT INFORMATION OF PARTY
FILING THIS DOCUMENT:

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Phone: 780.429.1751 Fax: 780.424.5866

Lawyer's Name: Rick T.G. Reeson, Q.C.

Lawyer's Email: rreeson@millerthomson.com

File No.: 0179291.0020

DATE ON WHICH ORDER WAS PRONOUNCED:

PLACE WHERE ORDER WAS PRONOUNCED:

Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER:

UPON the application of Canadian Western Bank ("**CWB**") in respect of Big Bear Energy Rentals Ltd., 5556300 Manitoba Ltd., Barricade Environmental Ltd., Direct Environmental Technologies Inc., and 1509571 Alberta Ltd. (collectively, the "**Debtors**"); **AND UPON** having read the Application, the Affidavit of Trent Erickson sworn January 19, 2022; the Affidavit of Lorraine Schewchuk sworn January 17, 2022, the Second Affidavit of Trent Erickson sworn February 2, 2022, and the First Report of the Interim

Receiver dated February 2, 2022; and the Affidavit of Service; **AND UPON** reading the consent of Alvarez & Marsal Canada Inc. (the “**Interim Receiver**”, or the “**Receiver**” if and where applicable) to act as interim receiver of the Debtors, and the Consent to Act as receiver and receiver-manager of the Debtors, filed;

AND UPON reviewing the Interim Receivership Order (the “**IR Order**”) granted by the Honourable Madam Justice K.M. Horner on January 21, 2022, appointing the Interim Receiver, without security, of all of the Debtors’ current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”) pursuant to s. 47(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (“**BIA**”), s. 13(2) of the *Judicature Act*, RSA 2000, c J-2, s. 242(3) of *Business Corporations Act*, RSA 2000, c B-9.

AND UPON hearing counsel for Canadian Western Bank, counsel for Business Development Bank of Canada, counsel for the Debtors, counsel for the Interim 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. Effectively immediately, the terms and conditions of the IR Order shall be amended in accordance with all provisions of this Order except with respect to paragraph 5 hereof. Except as amended by this Order all other existing terms and conditions of the IR Order shall remain in full force and effect.
3. Subject to:
 - (a) the Debtors not filing a Notice of Intention to Make a Proposal pursuant to the BIA on or before February 8, 2022; or
 - (b) an Order of the Court to the contrary, being granted on or before February 8, 2022;

effective February 9, 2022, the Interim Receiver shall automatically be appointed as the Receiver of each of the Debtors, pursuant to s. 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, *Judicature Act*, RSA 2000, c J-2, s. 99(a) of the *Business Corporations Act*, RSA 2000, c B-9, and s. 65(7) of the *Personal Property Security Act*, RSA 2000, c P-7, without further order of the Court, without security, in accordance with all of the terms and conditions of this Order, including without limitation paragraph 5 hereof, and in such case the Receiver shall take possession of the Property within the meaning of subsection 243(2) of the *BIA*.

INTERIM RECEIVER AND RECEIVER'S POWERS

4. In addition to all powers and authority granted to the Interim Receiver pursuant to the Interim Receivership Order, the Interim Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
 - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
 - (c) to manage, operate and carry on the business of the Debtors, 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 Debtors;
 - (d) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
 - (e) 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 Interim Receiver's powers and duties, including without limitation those conferred by this Order;
 - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
 - (g) to settle, extend or compromise any indebtedness owing to or by the Debtors;
 - (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 Debtors, for any purpose pursuant to this Order;
 - (i) 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 Debtors, 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;

- (j) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;
- (k) to report to, meet with and discuss with such affected Persons (as defined below) as the Interim 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 Interim Receiver deems advisable;
- (l) 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 Interim 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 Interim Receiver in its capacity as Interim Receiver of the Debtors and not in its personal capacity;
- (m) 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 Debtors;
- (n) with the prior approval of the Court, file an assignment into bankruptcy for any one or more of the Debtors;
- (o) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (p) 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 Interim 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 Debtors, and without interference from any other Person (as defined below).

5. In addition the powers and authority granted to the Interim Receiver pursuant to paragraph 4 hereof and the Interim Receivership Order, in the event that the Interim Receiver is appointed

Receiver of the Debtors pursuant to paragraph 3 hereof, or otherwise, the Interim Receiver, as Receiver, shall be empowered and authorized, but not obligated, to do any of the following where the Receiver considers it necessary or desirable:

- (a) 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 **\$100,000**, 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*, R.S.A. 2000, c. P-7 or any other similar legislation in any other province or territory shall not be required;

- (b) 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;
- (c) 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;
- (d) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors; and
- (e) 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 Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE INTERIM RECEIVER AND RECEIVER

6. In the following paragraphs, where the definition "Interim Receiver" is used, it shall be read and construed as "Receiver" in the event that the Interim Receiver is appointed as Receiver pursuant to paragraph 3 hereof, or otherwise.

7. (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 Interim 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 Interim Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Interim Receiver upon the Interim Receiver's request.
8. All Persons shall forthwith advise the Interim 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 Debtors, 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 Interim Receiver or permit the Interim Receiver to make, retain and take away copies thereof and grant to the Interim 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 7 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 Interim 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.
9. 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 Interim Receiver for the purpose of allowing the Interim 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 Interim Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Interim Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Interim Receiver with all such assistance in gaining immediate access to the information in the Records as the Interim Receiver may in its discretion require including providing the Interim Receiver with instructions on the use of any computer or other system and providing the Interim 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 INTERIM RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

11. No Proceeding against or in respect of the Debtors, other than the within action commenced by the Plaintiff against the Defendants, or the Property shall be commenced or continued except with the written consent of the Interim Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors 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 Debtors or an action, suit or proceeding that is taken in respect of the Debtors 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

12. 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 Debtors or the Interim 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 this stay and suspension does not apply in respect of any "eligible financial contract" (as defined in the BIA), and further provided that nothing in this Order shall:
 - (a) empower the Debtors to carry on any business that the Debtors are 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 Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment.
13. Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to

preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Interim Receiver at the first available opportunity.

NO INTERFERENCE WITH THE INTERIM RECEIVER

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

CONTINUATION OF SERVICES

15. 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 Debtors, 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 Debtors

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 Debtors or exercising any other remedy provided under such agreements or arrangements. The Debtors 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 Debtors in accordance with the payment practices of the Debtors, or such other practices as may be agreed upon by the supplier or service provider and each of the Debtors and the Interim Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

16. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Interim 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

17. Subject to employees’ rights to terminate their employment, all employees of the Debtors shall remain the employees of the Debtors until such time as the Interim Receiver, on the Debtors’ behalf, may terminate the employment of such employees. The Interim 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 Interim Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47 (“**WEPPA**”).
18. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

- (b) Nothing in sub-paragraph (a) exempts an Interim 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 Interim Receiver to remedy any environmental condition or environmental damage affecting the Property, the Interim 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 Interim Receiver, if the order is in effect when the Interim Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Interim 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 Interim 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 Interim 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 Interim 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 INTERIM RECEIVER'S LIABILITY

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

INTERIM RECEIVER'S ACCOUNTS

21. The Interim Receiver and counsel to the Interim Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Interim Receiver and counsel to the Interim Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Interim Receiver's Charge**") on the Property, as security for their professional fees and disbursements incurred at the normal rates and charges of the Interim Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Interim 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.
22. The Interim Receiver and its legal counsel shall pass their accounts from time to time.
23. Prior to the passing of its accounts, the Interim 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 Interim 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

24. The Interim 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 **\$750,000** (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 Interim 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 "**Interim 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 Interim 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.

25. Neither the Interim Receiver's Borrowings Charge nor any other security granted by the Interim Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
26. The Interim 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.
27. The monies from time to time borrowed by the Interim Receiver pursuant to this Order or any further order of this Court and any and all Interim 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 Interim Receiver's Certificates.
28. The Interim Receiver shall be allowed to repay any amounts borrowed by way of Interim 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

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

GENERAL

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

34. The Interim 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 including without limitation Chapter 15 of the *Bankruptcy Code* (USA) and that the Interim 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.
35. 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 and own client full indemnity basis, to be paid by the Interim Receiver from the Debtors' estate with such priority and at such time as this Court may determine.
36. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Interim 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

37. The Receiver shall establish and maintain a website in respect of these proceedings at **www.alvarezandmarsal.com/bigbear** (the "**Interim Receiver's Website**") and shall post there as soon as practicable:
 - (a) all materials prescribed by statute or regulation to be made publically available; and
 - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Interim 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.
38. 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 Interim Receiver's Website

and service on any other person is hereby dispensed with.

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

Justice of the Court of Queen's Bench of Alberta

SCHEDULE "A"
INTERIM RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that **Alvarez & Marsal Canada Inc.**, the interim receiver and receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of Big Bear Energy Rentals Ltd., 5556300 Manitoba Ltd., Barricade Environmental Ltd., Direct Environmental Technologies Inc., and 1509571 Alberta Ltd. appointed by Order of the Court of Queen's Bench of Alberta (collectively, the "**Court**") dated the **21st** day of **January, 2021**, and the Order of the Court dated _____ (collectively, the "**Order**") made in action numbers, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of **[\$]**, being part of the total principal sum of **[\$]** that the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded **[daily]** **[monthly not in advance on the ● day of each month]** after the date hereof at a notional rate per annum equal to the rate of **[●]** per cent above the prime commercial lending rate of Bank of **[●]** from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at **[●]**.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20__.

ALVAREZ & MARSAL CANADA INC., solely in its capacity as Receiver of the Property (as defined in the Order), and not in its personal capacity

Per: _____
Name: _____
Title: _____