

COURT/ESTATE NUMBER 24-2746532
 COURT COURT OF QUEEN'S BENCH OF ALBERTA
 JUDICIAL CENTRE EDMONTON

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
 ALASKA-ALBERTA RAILWAY DEVELOPMENT
 CORPORATION

APPLICANT MNP LTD., in its capacity as Court-appointed Interim Receiver
 under the Proposal of Alaska-Alberta Railway Development
 Corporation

DOCUMENT **ORDER (Approval of Proposal and Reorganization)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF
 PARTIES FILING THIS DOCUMENT
 LAWSON LUNDELL LLP
 Barristers and Solicitors
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 File No.: 26420-158262

DATE ON WHICH ORDER WAS PRONOUNCED: December 16, 2021

NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Mr. Justice M.J. Lema

LOCATION OF HEARING: Edmonton, Alberta

UPON THE APPLICATION of MNP Ltd. (“**MNP**”), in its capacity as Trustee under the Division I Proposal (in such capacity, the “**Trustee**”) of Alaska-Alberta Railway Development Corporation (“**A2A**”); **AND UPON HAVING READ** the previously filed Reports to the Court of the Trustee, and the Reports of MNP in its capacity as the Court-appointed interim receiver of A2A; **AND UPON READING** the Proposal filed with the Office of the Superintendent of Bankruptcy Canada (the “**OSB**”) on October 27, 2021 (the “**Proposal**”) and described to the general meeting of creditors held on November 9, 2021 (the “**Meeting**”); **AND UPON** being satisfied that the Proposal is made in good faith, and that its terms are reasonable and calculated

to benefit the general body of A2A's creditors, and that the reorganization of A2A's share capital complies with all statutory requirements and is fair and reasonable; **AND UPON HEARING** from counsel for the Trustee, counsel for PricewaterhouseCoopers Inc., in its capacity as Court-appointed receiver of, *inter alia*, Bridging Finance Inc. (the "**Bridging Receiver**"), and any other parties present at the hearing of the Application directly or through counsel; **AND UPON NOTING** the provisions in the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**") and the *Alberta Business Corporations Act*, RSA 2000, c B-9 (the "**ABCA**");

IT IS HEREBY ORDERED THAT:

Definitions and Service

1. All capitalized terms not otherwise defined in this Order shall have the meaning given to them in the Proposal or the Notice of Application for this Order, as applicable.
2. With respect to service of notice of this application and all accompanying materials, the dissemination of the Proposal to A2A's creditors, as well as the Trustee's service of notice of the Creditors' Meeting, and all other matters of technical compliance under the *BIA*:
 - (a) Service of notice of the Approval Application and all supporting materials is abridged and is hereby deemed to be good and sufficient;
 - (b) Proper notice of the Creditors' Meeting was given to the creditors of A2A in accordance with the provisions of the *BIA*;
 - (c) The Creditors' Meeting was convened and held pursuant to the provisions of the *BIA*; and
 - (d) The Creditor Package, the Trustee's Form 40 Report, and all other materials required by the *BIA* to be sent to A2A's creditors were duly sent by the Trustee in accordance with the provisions of the *BIA*.

Approval of the Proposal

3. The Proposal is made in good faith and its terms are fair and reasonable and are calculated to benefit the general body of Creditors.

4. The Proposal has been agreed to and approved by a majority in number and two-thirds in value of A2A's Affected Creditors present and voting either in person or by proxy at the Creditors' Meeting, as required by the *BIA*.
5. The Proposal attached hereto as **Schedule "A"** is hereby approved and sanctioned, is effective in accordance with its terms and is binding upon and enures to the benefit of A2A, the Affected Creditors, and all other Persons and parties named or referred to in, affected by, or subject to the Proposal, including their respective heirs, administrators, executors, legal representatives, successors and assigns, as provided in the Proposal, and in this Order.
6. Pursuant to and in accordance with the Proposal, all Proven Claims shall be final and binding on A2A and all Affected Creditors, including without limitation any and all other Preferred Creditors and Ordinary Unsecured Creditors, who do not provide notice of a claim by the later of the Effective Date or 30 days from the date on which the Trustee sends a notice pursuant to section 149 of the *BIA*, shall be and are hereby forever barred from making any Claims against A2A and shall not be entitled to a distribution under the Proposal, and all other Claims shall be and are hereby forever extinguished, except for any Claims held by Unaffected Creditors.
7. A2A and the Trustee are hereby authorized and directed to take all further actions or steps necessary or appropriate to implement and complete the Proposal, including but not limited to taking possession of the Dividend Fund and making all payments and distributions required to be made under the terms of the Proposal, and such steps and actions taken are hereby approved.
8. From and after the date of the Proposal, each Affected Creditor of A2A and any other Person affected by the Proposal shall hereby be deemed to have consented and agreed to all of the provisions of the Proposal.

Approval of the Reorganization

9. The reorganization of A2A sought pursuant to section 192 of the *ABCA* is hereby authorized, and articles of reorganization substantially in the form attached hereto as **Schedule "B"** (the "**Articles of Reorganization**") and the amendment of the articles of

incorporation of A2A in accordance with the Articles of Reorganization is hereby approved.

10. The Alberta Registrar of Corporations is hereby directed to file the Articles of Reorganization upon receipt of this Order, notwithstanding that the appeal period in respect thereof has not expired, and the effective date of the Articles of Reorganization shall be the date of issuance of the certificate of amendment in accordance with sections 192 and 267 of the *ABCA*.
11. This Order is the only authorization required to proceed with the reorganization sought pursuant to the Articles of Reorganization, and no shareholder's meeting or approval is required to proceed with the reorganization or the Proposal, nor is A2A's shareholder entitled to dissent as a result of the amendment to A2A's articles of incorporation in accordance with the Articles of Reorganization.
12. In accordance with the Articles of Reorganization (as attached to the Proposal), upon Court Ratification, 10 New Common Shares shall be deemed to have been issued in the name of Bridging Income Fund LP, and the Bridging Receiver is hereby authorized to update the minute book of A2A to reflect the said share issuance.
13. Upon the granting of this Order, Brian Champ shall be appointed as a director of A2A and shall be authorized and empowered to act in such capacity from and after the date of this Order.

General

14. A2A and the Trustee are hereby granted leave to apply to this Court for such further advice and direction or assistance as may be necessary to give effect to the terms of this Order and the Proposal.
15. Pursuant to the *BIA*, this Order shall have full force and effect in all provinces and territories of Canada against all persons, firms, corporations, governmental, municipal and regulatory authorities against whom it may be enforceable.
16. This Court requests the aid and recognition of any court or any judicial, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to

this Order and the Proposal, and to assist A2A, the Trustee, and their respective 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 Trustee as an officer of this Court, as may be necessary or desirable to give effect to this Order and the Proposal or to assist A2A, the Trustee, and their respective agents in carrying out the terms of this Order or the Proposal.

17. Service of this Order shall be deemed good and sufficient by serving the same on:

- (a) the persons listed on the service list created in these proceedings;
- (b) any other person serviced with notice of the Application for this Order;
- (c) any other parties attending or represented at the Application for this Order;

and service on any other person is hereby dispensed with.

18. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courtier. 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"
Proposal

**IN THE MATTER OF THE PROPOSAL OF
ALASKA – ALBERTA RAILWAY DEVELOPMENT CORPORATION
OF EDMONTON, ALBERTA**

PROPOSAL

Alaska – Alberta Railway Development Corporation, a company existing under the laws of the Province of Alberta (“**A2A**” or the “**Debtor**”) hereby submits the following Proposal to all of its Creditors pursuant to Part III, Division I of the BIA.

**ARTICLE 1
DEFINITIONS**

1.1 Definitions

In this Proposal:

“**Administration Charge**” means the priority Administration Charge over the property of the Debtor in favour of the Interim Receiver and its legal counsel in the maximum amount of \$200,000 as granted by the Court pursuant to the Interim Receivership Order dated July 12, 2021;

“**Administrative Fees and Expenses**” means the proper fees, expenses and legal fees and disbursements of the Trustee and the Interim Receiver on and incidental to the administration of the Interim Receivership, the negotiation, preparation, presentation, amendments to, consideration, creditor and Court approval of and implementation of the Proposal and all proceedings and matters relating to or arising out of the Proposal or in related bankruptcy proceedings, if any;

“**Affected Claim**” means all Claims that are not Unaffected Claims;

“**Affected Creditor**” means a Creditor having an Affected Claim;

“**Approval Order**” means an Order of the Court approving the Proposal;

“**Articles of Reorganization**” means the articles of reorganization of A2A to become effective on the Implementation Date attached hereto as Schedule “A”;

“**BIA**” means the *Bankruptcy and Insolvency Act*, RSC 1985, c.B-3;

“**Bridging Loan Agreement**” means the loan agreement between the Unaffected Secured Creditor and A2A dated December 11, 2015, as amended from time to time;

“**Business Day**” means each day other than a Saturday or Sunday or a statutory or civic holiday on which banks are open for business in Calgary, Alberta, Canada;

“**Claim**” means any right of any Person against A2A whether or not asserted in connection with any indebtedness, liability or obligation of any kind whatsoever owed to a Person, including any indebtedness, liability or obligation owed to such Person as a result of any duty (including any legal, statutory, equitable

or fiduciary duty), any right of ownership of or title to, or to a trust or deemed trust against, any of the property or assets of A2A, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, under-secured, unsecured, preferred, perfected, unperfected, present, future, direct or indirect, known or unknown, by guarantee, by surety or otherwise, at law or in equity, and whether or not such a right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts which existed prior to the NOI Date;

“Convertible Debenture” means the Convertible Debenture in the principal amount of \$30,630,000 issued on June 1, 2019 by the Unaffected Secured Creditor to A2A;

“Court” means the Court of Queen’s Bench of Alberta;

“Court Ratification” means (a) the approval of the Proposal by Order of the Court and (b) the expiry of all appeal periods in relation to such Order of the Court;

“Creditor” means any Person that has a Claim;

“Creditors’ Meeting” means any meeting of the Affected Creditors, in person or virtually, called by the Trustee for the purpose of considering and voting upon the Proposal;

“Creditors’ Meeting Date” means 10:00 a.m. Mountain Time on the date and time as may be called by the Trustee in consultation with the Official Receiver pursuant to Section 7.2 of the Proposal;

“Crown Claims” means an amount due to Her Majesty in Right of Canada or a Province and that are of a kind that could be subject to a demand under:

- a) subsection 224(1.2) of the Income Tax Act;
- b) any provision of the Canada Pension Plan or of the Employment Insurance Act that refers to subsection 224(1.2) of the Income Tax Act and provides for the collection of a contribution, as defined in the Canada Pension Plan, or an employee’s premium, or employer’s premium, as defined in the Employment Insurance Act, and of any related interest, penalties or other amounts; or
- c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the Income Tax Act, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
 - i) has been withheld or deducted by a Person from a payment to another Person and is in respect of a tax similar in nature to the income tax imposed on individuals under the Income Tax Act, or
 - ii) is of the same nature as a contribution under the Canada Pension Plan if the province is a “province providing a comprehensive pension plan” as defined in

subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a “provincial pension plan” as defined in that subsection;

“**Date of Court Approval**” means the date on which the Proposal is approved by Order of the Court;

“**Date of Proposal**” means the date of the filing of the Proposal with the Official Receiver;

“**Disputed Claims**” means any Proof of Claim which has been received by the Trustee in accordance with the terms of this Proposal and the BIA but has not been accepted as proven in accordance with section 135 of the BIA or which is being disputed in whole or in part by the Trustee, or any other Person entitled to do so and has not been resolved in accordance with the BIA;

“**Dividend Fund**” means the lesser of the amount required to make the Proposal Payment to all Ordinary Unsecured Creditors with a Proven Claim plus the Levy and \$50,000, which will be held by the Trustee for the benefit of the Ordinary Unsecured Creditors. The Dividend Fund shall be created, first from A2A’s cash on hand, subject to the maintenance of applicable reserves for the completion of the Proposal as of the Implementation Date. To the extent A2A does not have sufficient cash available to it for this purpose, any shortfall between the amount of cash available from A2A and the amount required to create the Dividend Fund will be paid to the Trustee in cash by the Unaffected Secured Creditor on the Date of Court Approval;

“**Equity Claim**” means a Claim that is an “equity claim” within the meaning of section 2 of the BIA with respect to A2A;

“**Equity Interest**” means an “equity interest” within the meaning of section 2 of the BIA with respect to A2A;

“**Existing Shares**” means all issued preferred and common shares of A2A and any and all, warrants, options, instruments, rights or entitlements which have the capacity to be converted into or exchanged for, or give the right to acquire, shares of A2A in existence on the Implementation Date, but excluding the Convertible Debenture;

“**First Secured Debt**” means the indebtedness of A2A to the Unaffected Secured Creditor in connection with the Bridging Loan Agreement that is subject to a first secured charge on the property, assets and undertakings of A2A;

“**Implementation Date**” means the date upon which the conditions set forth in Section 10.4 have been satisfied;

“**Income Tax Act**” means *Income Tax Act*, RSC 1985, c. 1 (5th Supp.);

“**Inspectors**” means one or more Inspectors appointed pursuant to section 116(1) of the BIA, as provided for in the Proposal;

“**Interim Receiver**” means MNP Ltd., solely in its capacity as interim receiver of A2A pursuant to the Interim Receivership Order, and not in its personal capacity;

“Interim Receivership Order” means the Amended and Restated Interim Receivership Order granted by the Court in Court File No. 24-2746532 on October 13, 2021;

“Lessor” means the holder of a commercial real property lease that was disclaimed or resiliated pursuant to Section 65.2(1) of the BIA following the NOI Date;

“Levy” means the levy payable to the Superintendent of Bankruptcy pursuant to section 147 of the BIA;

“New Common Shares” means the shares of A2A to be issued to the Unaffected Secured Creditor on the Implementation Date;

“NOI Date” means June 18, 2021, the date on which A2A filed a Notice of Intention to Make a Proposal with the Official Receiver;

“Official Receiver” shall have the meaning ascribed thereto in the BIA;

“Order” means any award, writ, injunction, judgment, order or decree entered, issued, made or rendered by the Court;

“Ordinary Unsecured Creditors” means those Persons with Claims that are proved in respect of debts and liabilities present or future to which A2A was subject at the NOI Date or to which A2A may become subject by reason of obligations incurred before the NOI Date except for those Claims:

- a) that are by the Unaffected Secured Creditor;
- b) that are Crown Claims;
- c) that have been finally and conclusively disallowed or found by the Court not to be provable Claims;
- d) that are by Preferred Creditors; or
- e) that are for Administrative Fees and Expenses;

“Person” is to be broadly interpreted and includes any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, government authority or any agency, officer or instrumentality thereof or any other entity, wherever situated or domiciled, and whether or not having legal status;

“Post-Filing Claim” means any Claims arising in respect of Post-Filing Goods and Services;

“Post-Filing Goods and Services” means in respect of this Proposal, the goods supplied or services rendered to A2A on and after the NOI Date and up to and including Court Ratification;

“Preferred Claims” means any Claims by Preferred Creditors;

“Preferred Creditors” means those persons with Claims that are provable and proved under the BIA and which are required by Section 136 of the BIA to be paid in priority to the Claims of Ordinary Unsecured Creditors;

“Proof of Claim” shall mean the proof of claim required by the BIA to be mailed to each known Creditor prior to the Creditors’ Meeting;

“Proposal” means this proposal together with any amendments or additions thereto;

“Proposal Payment” means the lesser of the amount of the Proven Claim of an Ordinary Unsecured Creditor and \$1,000;

“Proven Claim” of a Creditor means the amount of the Affected Claim of such Creditor finally determined in accordance with BIA;

“Section 95-101 Claims” shall have the meaning assigned to them in section 9.1 herein.

“Secured Claim” means a Claim related to a mortgage, hypothec, charge, pledge, charge or lien on or against the property or assets of the Debtor as security for a debt due or accruing;

“Trustee” means MNP Ltd., or its duly appointed successor or successors, solely in its capacity as Trustee under the Notice of Intention to Make a Proposal of A2A and under this Proposal, and not in its personal capacity;

“Unaffected Claims” means the claim of the Unaffected Secured Creditor, Administrative Fees and Expenses, Post-Filing Claims and any Claims of the Unaffected Secured Creditor in relation to the payment of the Dividend Fund, the payment of the Crown Claims or the payment of Claims by Preferred Creditors;

“Unaffected Secured Creditor” means Bridging Finance Inc., in its capacity as agent on behalf of Bridging Income Fund LP and the related investment funds from time to time acting as lender in connection with the Bridging Loan Agreement and the First Secured Debt;

“Voting Claim” means the amount of the Proven Claim of the Affected Creditors, as determined for voting purposes in accordance with the provisions of the BIA;

“Voting Letter” shall mean the voting letter required by section 51(1) of the BIA to be mailed to each known Creditor prior to the Creditors’ Meeting; and

1.2 Articles of Reference

The terms “hereof”, “hereunder”, “herein” and similar expressions refer to the Proposal and not to any particular article, section, subsection, clause or paragraph of the Proposal and include any agreements supplemental hereto. In the Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of the Proposal.

1.3 Interpretation Not Affected by Headings

The division of the Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of a table of contents and headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.4 Date for Any Action

In the event that any date on which any action is required to be taken hereunder is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.5 Time

All times expressed herein are local time in Edmonton, Alberta, Canada unless otherwise stipulated. Where the time for anything pursuant to the Proposal on a particular date is unspecified herein, the time shall be deemed to be 5:00 p.m. local time in Edmonton, Alberta, Canada.

1.6 Numbers, Gender

In the Proposal, where the context requires, a word importing the singular number will include the plural and vice versa and a word or words importing gender will include all genders.

1.7 Currency

Unless otherwise stated herein, all references to currency in the Proposal are to lawful money of Canada.

1.8 Statutory References

Except as otherwise provided herein, any reference in the Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.9 Successors and Assigns

The Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in the Proposal.

1.10 Including

The word "including", or any variation thereof means "including without limitation", and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

ARTICLE 2 PURPOSE OF THE PROPOSAL

2.1 Purpose of the Proposal

The purpose of the Proposal is to allow the Debtor to effect the restructuring of its indebtedness in the manner contemplated herein and as permitted by the BIA in the expectation that all Affected Creditors will derive greater benefit from the restructuring than they would otherwise receive from a bankruptcy of the Debtor and to provide for:

- a) the distributions by the Trustee to pay the Crown Claims and the Proven Claims of Preferred Creditors;
- b) the distribution by the Trustee of the Proposal Payments from the Dividend Fund to the Ordinary Unsecured Creditors on account of their Affected Claims that are Proven Claims;
- c) the effective redemption or cancellation of all Existing Shares; and
- d) the issuance of New Common Shares to the Unaffected Secured Creditor.

The Proposal provides for the foregoing consideration in exchange for the full compromise and final satisfaction of all Affected Claims. The Proposal applies to all Affected Creditors, whether or not any such Affected Creditor proves a Claim against the Debtor under this Proposal but does not apply to the Unaffected Claims.

ARTICLE 3 CLASSIFICATION OF CREDITORS

3.1 Classes of Creditors

For the purposes of voting on the Proposal, the Affected Creditors of the Debtor shall be comprised of a single class.

ARTICLE 4 TREATMENT OF CREDITORS

4.1 Administrative Fees and Expenses

On the Implementation Date, all Administrative Fees and Expenses incurred to that date which remain unpaid shall be paid by the Trustee in full from funds on hand at A2A or paid by the Unaffected Secured Creditor to the Trustee in addition to the Dividend Fund. The Administration Charge secures such Administrative Fees and Expenses, in accordance with the terms of the Interim Receivership Order.

4.2 Binding Effect and Distribution

Pursuant to section 62 of the BIA, this Proposal shall become binding on all Affected Creditors in respect the Debtor upon acceptance by the Affected Creditors pursuant to section 7.6 hereof and Court Ratification. Thereafter:

- a) The Trustee shall pay all Crown Claims pursuant to this Proposal and in accordance with section 59 of the BIA;
- b) The Trustee shall make all distributions to Preferred Creditors pursuant to this Proposal and in accordance with section 136 of the BIA; and
- c) The Trustee shall make the Proposal Payments from the Dividend Fund to Ordinary Unsecured Creditors pursuant to this Proposal.

4.3 Interest on Claims

Interest will not accrue or be paid on Affected Claims after or in respect of the period following the NOI Date and no Affected Creditor will be entitled to any interest in respect of its Claim accruing on or after or in respect of the period following the NOI Date.

4.4 Crown Claims

Unless Her Majesty in Right of Canada agrees otherwise, the Crown Claims shall be paid by the Trustee to Her Majesty in Right of Canada forthwith after having received the funds describe in 4.6(a)(i) upon Court Ratification from the Unaffected Secured Creditor, which amount shall be added to the First Secured Debt.

4.5 Claims by Lessors

Any Claim by a Lessor may be filed in an amount equal to the lesser of:

- a) The aggregate of:
 - (i) The rent provided for in the relevant lease for the first year of that lease following the date on which the disclaimer or resiliation becomes effective; and
 - (ii) Fifteen per cent of the rent for the remainder of the term of the relevant lease after that year; and
- b) Three years rent.

4.6 Obligations of the Unaffected Secured Creditor

- a) The Unaffected Secured Creditor shall, immediately upon Court Ratification:
 - (i) pay the amount required to satisfy the Crown Claims to the Trustee, provided such claims have been fully determined;
 - (ii) pay the amount required to create the Dividend Fund to the Trustee;
 - (iii) pay the amount required to satisfy any Preferred Claims to the Trustee; and
 - (iv) pay sufficient additional funds to the Trustee to enable the Trustee to pay and Post-Filing Claims incurred prior to the Implementation Date; and

- b) To the extent that A2A does not have sufficient funds to do so, the Unaffected Secured Creditor shall pay to the Trustee all Administrative Fees and Expenses up to and including the date of the Trustee's discharge in accordance with Section 8.1.

4.7 Superintendent of Bankruptcy Levy

The Office of the Superintendent of Bankruptcy shall be paid its prescribed levy as required by sections 60(4) and 147 of the BIA: (i) by the Trustee from any dividends paid to the Proven Creditors.

4.8 Treatment of Equity Claims

On the Implementation Date, all issued and outstanding Equity Interests and all Equity Claims shall be fully, finally, irrevocably and forever compromised, settled, released, discharged, extinguished, redeemed, cancelled and barred without the consent of the Creditors or any other Person holding such Equity Claims and the New Common Shares shall be issued in accordance with the terms herein.

4.9 Treatment of Unaffected Claims

Unaffected Creditors will not receive any consideration or distributions under this Proposal in respect of their Unaffected Claims and shall not be entitled to vote on this Proposal at any Creditors' Meeting in respect of their Unaffected Claims.

4.10 Disputed Claims

An Affected Creditor with a Disputed Claim shall not be entitled to receive any distribution hereunder with respect to such Disputed Claim unless and until such Claim becomes a Proven Claim. Distributions made pursuant to this Proposal shall be made in respect of any Disputed Claim that is finally determined to be a Proven Claim. The procedure for resolving any Disputed Claims will be as set forth in the BIA.

4.11 Post-Filing Claims

Post-Filing Claims will be paid in full by the Interim Receiver until Court Ratification and, following that, by the Debtor in the ordinary course of business and on regular trade terms, or as may otherwise be arranged with the holders of such Post-Filing Claims.

4.12 Timing of Payments

The Unaffected Secured Creditor will fund the Proposal by providing sufficient funds to pay the Crown Claims, the Preferred Claims, the amount required to create the Dividend Fund and any outstanding Administrative Fees and Expenses upon Court Ratification of the Proposal.

**ARTICLE 5
REORGANIZATION**

5.1 Issuance of Shares to the Unaffected Secured Creditor

Upon Court Ratification, in further consideration for its agreement to pay the Crown Claims, the Claims of Preferred Creditors, the Dividend Fund and Administrative Fees and Expenses, the Unaffected Secured Creditor shall be issued the New Common Shares, as further set out in the Articles of Reorganization.

**ARTICLE 6
PROCEDURE FOR VALIDATION OF CLAIMS**

6.1 Allowance or Disallowance of Claims by the Trustee

Upon receipt of a completed Proof of Claim, the Trustee shall examine the Proof of Claim and shall deal with each Proof of Claim in accordance with the provisions of the BIA.

**ARTICLE 7
MEETING OF CREDITORS**

7.1 Creditors' Meeting

On the Creditors' Meeting Date, the Trustee shall hold the Creditors' Meeting in order for the Affected Creditors to consider and vote upon the Proposal.

7.2 Time and Place of Meeting

The Creditors' Meeting shall be held on the Creditors' Meeting Date at a time and place to be established by the Trustee in consultation with Official Receiver, or the nominee thereof, and confirmed in its notice of meeting to be mailed by the Trustee pursuant to the BIA. All Proofs of Claim shall be delivered in accordance with the provisions of the Proposal, the BIA and any Order which may be issued by the Court in respect of the procedure governing the Creditors' Meeting, subject at all times to (i) further Order of the Court, including any Order respecting COVID-19 related creditor meeting protocols; and (ii) any COVID-19 related creditor meeting directive issued by the Official Receiver.

7.3 Conduct of Meetings

The Official Receiver, or the nominee thereof, shall preside as the chair of the Creditors' Meeting and will decide all matters relating to the conduct of the Creditors' Meeting. The only Persons entitled to attend the Creditors' Meeting are those Affected Creditors, including the holders of proxies, entitled to vote at the Creditors' Meeting and their respective legal counsel, if any, the officers, directors, auditors and legal counsel of the Debtor, one or more representatives of and legal counsel to the Unaffected Secured Creditor, together with such representatives of the Trustee and representatives of the Trustee's legal counsel as the Trustee may appoint in its discretion, and such scrutineers as may be duly appointed by the chair of such meeting. Any other Person may be admitted on invitation of the chair of the Creditors' Meeting or with the consent of the Creditors.

7.4 Adjournment of Meetings

The Creditors' Meeting may be adjourned in accordance with Section 52 of the BIA.

7.5 Voting by Affected Creditors

To the extent provided for herein, and as prescribed in the BIA, each Affected Creditor will be entitled to vote to the extent of the amount which is equal to the amount accepted by the chair of the Creditors' Meeting for voting purposes or such amount as may be agreed to by the Trustee for voting purposes at or prior to the Creditors' Meeting (dollar amounts to be voted by Affected Creditors in accordance with the foregoing are referred to as "Voting Claims").

7.6 Approval by Creditors

In order for the Proposal to be binding on the Affected Creditors in accordance with the BIA, it must first be accepted by a majority in number of the Affected Creditors with Voting Claims, who are present (in person or by proxy) at the Creditors' Meeting or have filed a Voting Letter, representing two-thirds in value of the Voting Claims of the Affected Creditors who actually have filed Claims approved by the chair for voting and are present (in person or by proxy) at the Creditors' Meeting or have filed a Voting Letter. Approval of the Proposal by the class of Affected Creditors shall bind such class with regard to all Affected Claims against the Debtor.

7.7 Appointment of Inspectors

In accordance with section 56 of the BIA, at the Creditors' Meeting, the Affected Creditors may appoint up to five (5) Inspectors who will have the powers set out in the BIA. Any decision, direction or act of the Inspectors may be referred to the Court by the Trustee, the Affected Creditors or the Inspectors and the Court may confirm, reverse or modify the decision, direction or act and make such Order as it thinks just.

The authority and term of office of the Inspectors will terminate upon the full performance of the Proposal.

7.8 Valuation of Claims

The procedure for valuing Claims of Creditors and resolving disputes with respect to such Claims will be as set forth in Article 6 and the BIA.

ARTICLE 8 COMPLETION OF THE PROPOSAL

8.1 Discharge of Trustee

Upon distribution by the Trustee to pay the Crown Claims, the Preferred Claims and to make the Proposal Payments and the Trustee having issued the certificate of full performance, this Proposal shall be fully performed. The Trustee will proceed to apply for its discharge thereafter in due course.

The Trustee is acting in its capacity as Trustee under the BIA and not in its personal capacity and no officer, director, employee or agent of the Trustee, or the Trustee, shall incur any liabilities or obligations in

connection with the Proposal, in respect of the business or obligations of the Debtor or the Unaffected Secured Creditor and will be exempt from any personal liability in fulfilling any duties or exercising any powers conferred upon it by this Proposal unless such acts have been carried out in bad faith and constitute a wilful misconduct or gross negligence.

8.2 Completion of the Proposal

The payment, compromise, extinguishment or other satisfaction of any Affected Claim under the Proposal will be binding upon each Affected Creditor, its heirs, executors, administrators, successors and assigns, for all purposes, and as and from the Implementation Date all Affected Claims against the Debtor shall be forever discharged and released, excepting only the obligations to make distributions in respect of such Affected Claims in the manner and to the extent provided for in this Proposal.

ARTICLE 9 PREFERENCES, TRANSFERS AT UNDERVALUE, ETC.

9.1 Sections 95-101 of the BIA

In conformity with Section 101.1 of the BIA, all of the rights, remedies and recourses under Sections 95-101 of the BIA and any provincial statute related to preferences, fraudulent conveyances, transfers at undervalue, or the like (the “**Section 95-101 Claims**”) shall be exclusively assigned to the Unaffected Secured Creditor upon Court Ratification of the Proposal and no other Creditor shall have any rights, remedies or recourses related to the Section 95-101 Claims.

9.2 Recourse

As a result of and in accordance with Section 9.1 hereof and all of the rights, remedies, recourses and Affected Claims described therein:

- a) all such rights, remedies and recourses related to the Section 95-101 Claims will not be available to the Affected Creditors. For greater certainty, the rights of the Unaffected Secured Creditor to pursue any Section 95-101 Claims will not be affected; and
- b) all of the Affected Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced any rights, remedies and recourses related to the Section 95-101 Claims upon Court Ratification of the Proposal.

ARTICLE 10 MISCELLANEOUS

10.1 Modification of Proposal

Subject to obtaining the prior written consent of the Trustee and the Unaffected Secured Creditor, the Debtor may propose one or more alterations or modifications to the Proposal prior to the conclusion of the Creditors’ Meeting called to consider the Proposal.

10.2 Appointment of New Directors

Upon Court Ratification, a new director shall be appointed for A2A by the Unaffected Secured Creditor.

10.3 Consents, Waivers and Agreements

As at 12:01 a.m. on the Implementation Date, each Affected Creditor will be deemed to have:

- a) executed and delivered to the Debtor all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Proposal in its entirety;
- b) waived any default by the Debtor in any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Debtor that has occurred on or prior to the Implementation Date;
- c) agreed, in the event that there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Debtor as at the Implementation Date (other than those entered into by the Debtor on, or with effect from, the Implementation Date) and the provisions of the Proposal, that the provisions of this Proposal shall take precedence and priority and the provisions of such agreement or other arrangement shall be amended accordingly; and
- d) released the Debtor and the Trustee and all of the Trustee's respective affiliates, employees, agents, directors, officers, shareholders, advisors, consultants and solicitors from any and all Claims and any other demands, actions, causes of action, counter-claims, suits, debts, sums of money, accounts, covenants, damages, judgements, expenses, executions, liens, set off rights and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Person may be entitled to assert, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Implementation Date, relating to or arising out of or in connection with the matters herein.

10.4 Conditions to Proposal Implementation

The implementation of the Proposal by the Debtor will be conditional upon the fulfilment or satisfaction of the following conditions:

- a) approval of the Proposal by the Affected Creditors pursuant to Section 7.6;
- b) Court Ratification; and
- c) confirmation that the amount required for the Proposal Payments will not exceed the maximum amount of the Dividend Fund; and
- d) the payment by the Unaffected Secured Creditor of an amount sufficient to pay the Crown Claims, the Claims by Preferred Creditors, the Dividend Fund, any unpaid Post-Filing Claims and the Administrative Fees and Expenses.

10.5 Effect of Proposal Generally

As at 12:01 a.m. on the Implementation Date, the treatment of all Claims under the Proposal shall be final and binding the Debtor and all Affected Creditors (along with their respective heirs, executors, administrators, legal personal representatives, successors and assigns) and the Proposal shall constitute (i) a full, final and absolute settlement of all rights of the holders of the Affected Claims affected hereby; and (ii) an absolute release and discharge of all indebtedness, liabilities and obligations of the Debtor of or in respect of such Affected Claims.

10.6 Notices

Any notices or communication to be made or given hereunder shall be in writing and shall refer to this Proposal and may, subject as hereinafter provided, be made or given by personal delivery, by prepaid mail or by receipted email (except for Proofs of Claim which may only be sent by personal delivery, receipted email or registered mail) addressed to the respective parties as follows:

- a) if to a Creditor, to the address or email address for such Creditor specified in the Proof of Claim filed by Creditor or, if no Proof of Claim has been filed, to such other address or email address at which the notifying party may reasonably believe that the Creditor may be contacted; and
- b) if to the Trustee, the Interim Receiver or the Debtor:

MNP Ltd.
1500, 640 – 5 Avenue SW
Calgary, Alberta T2P 3G4

Attention: Vanessa Allen and Jacqueline Shellon
Email: vanessa.allen@mnp.ca; jacqueline.shellon@mnp.ca

With a copy to:

Lawson Lundell LLP
Suite 1100, 225 – 6th Avenue SW
Calgary, Alberta T2P 1N2

Attention: Alexis Teasdale
Email: ateasdale@lawsonlundell.com

or to such other address or email address as any party may from time to time notify the others in accordance with this section. In the event of any strike, lock-out and other event which interrupts postal service in any part of Canada, all notices and communications during such interruption may only be given or made by personal delivery or by receipted email and any notice or other communication given or made by prepaid mail within the five (5) Business Day period immediately preceding the commencement of such interruption will be deemed not to have been given or made. All such notices and communications will be deemed to have been received, in the case of notice by email or by delivery prior to 5:00 p.m. (local time) on a Business Day, when received or if received after 5:00 p.m. (local time) on a Business Day or at any time on a non-Business Day, on the next following Business Day and in the case of notice mailed as

aforesaid, on the fifth (5th) Business Day following the date on which such notice or other communication is mailed. The unintentional failure to give a notice contemplated hereunder to any particular Creditor will not invalidate this Proposal or any action taken by any Person pursuant to this Proposal.

10.7 Assignment of Claims

No assignment of a Claim by an Affected Creditor is effective to give the assignee any rights in respect of the Proposal unless written notice of the assignment is given to the Debtor and the Trustee in accordance with the requirements of Section 10.6. The assignment of the Claim will not be effective for a period of five (5) Business Days from the date of effective receipt of the notice of assignment by the Debtor and by Trustee as determined in accordance with Section 10.6.

10.8 Foreign Currency Obligations

For purposes of this Proposal, Claims denominated in a currency other than Canadian funds will be converted to Canadian Dollars at the closing spot rate of exchange of the Bank of Canada on the NOI Date.

10.9 Applicable Law

The Proposal shall be construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein and shall be treated in all respects as an Alberta contract.

10.10 Non Severability

It is intended that all material provisions of this Proposal shall be fully binding on and effective between all Persons named or referred to in this Proposal and in the event that any material provision or provisions of the Proposal is or are found by the Court to be void, voidable or unenforceable for any reason whatever, then the remainder of this Proposal and all other provisions shall be void and of no force or effect.

The remainder of this page intentionally left blank.

10.11 Deeming Provisions

In the Proposal, the deeming provisions are not rebuttable and are conclusive and irrevocable.

DATED at the City of Calgary, in the Province of Alberta, this 27th day of October 2021.

**MNP LTD. in its capacity as Interim Receiver of
Alaska – Alberta Railway Development
Corporation and not in its personal or corporate
capacity**



Per: _____
Name:
Title:

SCHEDULE "B"
Articles of Reorganization

This information is collected in accordance with the *Business Corporations Act*. It is required to update an Alberta corporation's articles for the purpose of issuing a certificate of amendment. Collection is authorized under s. 33(a) of the *Freedom of Information and Protection of Privacy Act*. Questions about the collection can be directed to Service Alberta Contact Centre staff at cr@gov.ab.ca or 780-427-7013 (toll-free 310-0000 within Alberta).

1. Name of Corporation

2. Corporate Access Number

Alaska-Alberta Railway Development Corporation	2017880994
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3. In accordance with the Order for Reorganization, the Articles of Incorporation are amended as follows:

Share Structure: all issued and unissued shares of the Corporation of any class existing at the date of these Articles of Reorganization are cancelled and the Share Structure set out in Schedule "A" to the Articles of Incorporation is replaced by the Share Structure set out in Schedule "A" annexed hereto.

Restrictions on Share Transfers: the Share Transfers Restrictions set out in Schedule "B" to the Articles of Incorporation is replaced by the Share Transfers Restrictions set out in Schedule "B" annexed hereto.

Number, or minimum and maximum number of directors: the minimum number of directors shall remain at 1, and the maximum number of directors shall be 10.

4. Authorized Representative/Authorized Signing Authority for the Corporation

Last Name, First Name, Middle Name (optional)

Relationship to Corporation

Telephone Number (optional)

Email Address (optional)

Date of submission (yyyy-mm-dd)

Signature

Articles of Reorganization

Business Corporations Act

INSTRUCTIONS

Use this form to collect information to submit to an authorized Corporate Registry service provider. The information will be filed with the Registrar of Corporations in accordance with the *Business Corporations Act*.

- Item 1. Enter the full legal name of the corporation.
- Item 2. The corporate access number **must** be entered. It is printed at the top of the:
- Certificate of Incorporation.
 - Certificate of Continuance.
 - Certificate of Amalgamation.
- Item 3. Enter the amendments to the Articles of Incorporation, Continuance or Amalgamation, in accordance with the court order pursuant to Section 192 of the Act. Any amendment must conform to and have continuity with the paragraph and subparagraph references in the existing articles.
- Item 4.
- Enter the first and last name of the authorized individual. The middle name is optional.
 - Select the appropriate relationship to the corporation.
 - Enter the telephone number of the signing authority.
 - Enter the email address of the signing authority.
 - Enter the date of submission.
 - Ensure the form is signed.

The articles must be submitted with:

- A copy of the court order.
- Notice of Change of Address, if applicable.
- Notice of Change of Directors, if applicable.

Note: The authorized representative of the corporation must present their identification to the Corporate Registry service provider in order to register this information.

SCHEDULE “A”
(share structure)

The Corporation is authorized to issue an unlimited number of a shares of a class designated as “**New Common Shares**”. The rights, privileges, conditions and restrictions attached to these shares are as follows:

1. NEW COMMON SHARES

- (a) **Payment of Dividends:** The holders of the New Common Shares will be entitled to receive dividends if, as and when declared by the board of directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends in such amounts and payable in such manner as the board may from time to time determine. Subject to the rights of the holders of any other class of shares of the Corporation entitled to receive dividends in priority to or concurrently with the holders of the New Common Shares, the board may in its sole discretion declare dividends on the New Common Shares to the exclusion of any other class of shares of the Corporation.
- (b) **Participation upon Liquidation, Dissolution or Winding Up:** In the event of the liquidation, dissolution or winding up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs, the holders of the New Common Shares will be entitled to receive assets of the Corporation. Such distribution will be made in equal amounts per share on all the New Common Shares at the time outstanding without preference or distinction.
- (c) **Voting Rights:** Subject to the provisions of the Act, the holders of the New Common Shares will be entitled to receive notice of and to attend all annual and special meetings of the shareholders of the Corporation and to one vote in respect of each New Common Share held at all such meetings.

SCHEDULE “B”
(restrictions on share transfers)

The right to transfer shares of the Corporation shall be restricted in that no shares shall be transferred without either:

- (a) the consent of the directors of the Corporation expressed by a resolution passed by the directors or by an instrument or instruments in writing signed by a majority of the directors, which consent may be given either prior or subsequent to the time of transfer of such shares, or
- (b) the consent of the holders of shares of the Corporation to which are attached at least a majority of the votes attaching to all shares of the Corporation for the time being outstanding carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing, expressed by resolution passed by such shareholders or by an instrument or instruments in writing by such shareholders, which consent may be given either prior or subsequent to the time of transfer of such shares.