

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 of Alaska-Alberta Railway Development
Corporation

DOCUMENT **APPLICATION (Expansion of Interim Receiver's
Powers, Extension of Stay, and Approval of Fees and
Activities)**

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

NOTICE TO RESPONDENT(S)

This application is made against you. You are Respondents.

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

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

Date:	October 13, 2021
Time:	2:00 p.m.
Where:	Virtual WebEx Hearing on the Edmonton Commercial List https://albertacourts.webex.com/meet/virtual.courtroom86
Before Whom:	The Honourable Justice N. Whitling

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. MNP Ltd. (“MNP”), in its capacity as the Court-appointed Interim Receiver (in such capacity, the “**Interim Receiver**”) of all of the property, assets and undertakings (collectively, the “**Property**”) of Alaska-Alberta Railway Development Corporation (“AARDC” or the “**Company**”) seeks an Order substantially in the forms attached hereto as **Schedule “A”**, for the following relief:
 - (a) Abridging the time for service of this Application and any supporting materials, waiving service on any other party, and deeming service thereof to be good and sufficient;
 - (b) Amending and Restating the Interim Receivership Order granted in the within proceedings by the Honourable Madam Justice D. L. Shelley, to expand the Interim Receiver’s powers to empower and authorize, but not obligate, the Interim Receiver to negotiate and file a proposal on behalf of AARDC (a “**Proposal**”); and
 - (c) Extending the Stay Period (as defined herein) pursuant to section 50.4(9) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended (the “**BIA**”), for an additional period of 45 days from October 15, 2021 (i.e. to November 29, 2021).

2. Further, MNP, as Interim Receiver and in its capacity as trustee under the Notice of Intention to Make a Proposal of AARDC (in such capacity, the “**Trustee**”), seeks an Order substantially in the form attached hereto as **Schedule “B”**, for the following relief:
 - (a) Abridging the time for service of this Application and any supporting materials, waiving service on any other party, and deeming service thereof to be good and sufficient;
 - (b) Approving the fees and disbursements of the Interim Receiver and the Trustee, and their legal counsel and directing that the same be paid without the necessity of a formal passing of accounts of any of the Interim Receiver, the Trustee, or their legal counsel; and

- (c) Ratifying and approving the First Report to the Court of the Interim Receiver dated August 17, 2021 and the Second Report to the Court of the Interim Receiver dated October 7, 2021, and the activities of the Interim Receiver as set out therein.
3. Such further and other relief as counsel may request and this Honourable Court may deem just and reasonable in all of the circumstances.

Grounds for Making this Application:

Background

4. On June 18, 2021, AARDC filed a Notice of Intention to Make a Proposal (the “**NOI**”) under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the *BIA*). MNP consented to act as trustee under the NOI (in such capacity, the “**Trustee**”).
5. As a result of AARDC filing the NOI, all proceedings against AARDC and its assets were automatically stayed for an initial period of thirty (30) days (the “**Initial Stay Period**”), to July 18, 2021.
6. AARDC’s operations were undertaken to advance the Company’s stated purpose of building and operating a railway that would extend from Alberta to Alaska and allow for the transport of resource commodities to global markets via the ports of Southcentral Alaska (the “**Railway**”). To the Interim Receiver’s knowledge some of AARDC’s most notable milestones with respect to realizing the Railway project include obtaining a Presidential Permit issued by former U.S. President, Donald J. Trump, granting permission to AARDC to construct, connect, operate and maintain railway facilities at the international border of United States and Canada (the “**Presidential Permit**”) and the execution of a master agreement with the Alaska Railroad Corporation that includes cooperation in permitting, selection of right-of-way, economic terms and authorization to operate on their track and extend several portions of their system (the “**ARC Agreement**”).
7. To the Interim Receiver’s knowledge, AARDC’s assets consist of intangible and intellectual property and confidential, technical, and proprietary information related to the development of the Railway, including the Presidential Permit and the ARC Agreement.

8. AARDC's primary secured creditor is Bridging Income Fund LP ("**Bridging**"). AARDC is indebted to Bridging in the amount of approximately \$212.9 million pursuant to a non-revolving credit facility (the "**AARDC Loan**"). As security for the AARDC Loan, Bridging holds a security interest over all of AARDC's present and after-acquired property. The Trustee's counsel has reviewed Bridging's security over AARDC and has provided an opinion that Bridging's security interest is valid and enforceable, subject to certain assumptions and qualifications.
9. On April 30, 2021, the Ontario Superior Court of Justice (the "**Ontario Court**") appointed PricewaterhouseCoopers Inc., LIT ("**PwC**"), as receiver and manager (in such capacity, the "**Bridging Receiver**") of, *inter alia*, Bridging. An Additional Appointment Order (Appointment of Receiver) was issued by the Ontario Court on May 3, 2021, appointing the Bridging Receiver as receiver and manager of three additional entities.
10. Following AARDC's filing of the NOI, MNP Ltd., as Trustee, and the Bridging Receiver engaged in various discussions regarding the best path forward in respect of AARDC.
11. These discussions resulted in the Bridging Receiver applying to this Honourable Court on July 12, 2021 in accordance with section 47.1 of the *BIA* to appoint MNP as interim receiver of AARDC's Property, to protect and safeguard AARDC's assets and the interest of the creditors and other stakeholders of AARDC. MNP consented to act in that capacity. The Bridging Receiver's application was successful, and by an Order dated July 12, 2021 (the "**Interim Receivership Order**"), MNP was appointed as the Interim Receiver of the Property, with certain powers (in such capacity, the "**Interim Receiver**").
12. On each of July 12, 2021 and August 26, 2021, the Interim Receiver, successfully applied to this Honourable Court under section 50.4(9) of the *BIA* for extensions of the Initial Stay Period up to and including October 15, 2021 (as extended, the "**Stay Period**").
13. The Bridging Receiver supported the Interim Receiver's applications to extend the Stay Period, in order to preserve the value of AARDC's assets while the Interim Receiver took possession of the same, with a view to determining if there is a benefit to continuing AARDC's proceedings under the NOI, particularly given that the impact of bankruptcy on the Presidential Permit is unknown.

Expansion of Interim Receiver's Powers

14. The Interim Receiver is not expressly authorized by the Interim Receivership Order to negotiate and file a Proposal on behalf of AARDC; however, the sole director of AARDC, Sean McCoshen, has resigned and there is no one to authorize or direct the negotiation or filing of a Proposal on behalf of AARDC.
15. A review of AARDC's assets by the Interim Receiver and its legal counsel suggests that, for those assets to yield any value on realization, AARDC must be preserved as a viable corporate entity. This is only possible if AARDC avoids bankruptcy by filing a Proposal before December 18, 2021.
16. Further, as set out in the Second Report of the Interim Receiver, AARDC has sufficient cash on hand to fund their operations during the Extension, but not the payment of professional fees following September 30, 2021. The Interim Receiver is currently in discussions with the Bridging Receiver regarding the nature and extent of the potential sponsorship of an AARDC Proposal by the Bridging Receiver, which Proposal is still being developed, and which may include further payment of professional fees post-September 30, 2021.
17. Therefore, a Proposal must be filed in the near future to allow AARDC to avoid bankruptcy and maintain the ability of the Interim Receiver or, alternatively, the Bridging Receiver, to realize on AARDC's assets for the benefit of its creditors.
18. For the foregoing reasons, it is fair and appropriate for this Honourable Court to grant an order authorizing the Interim Receiver to continue working towards the possibility of filing a Proposal on behalf of AARDC.
19. This Honourable Court has jurisdiction to grant the relief sought pursuant to subsections 47.1(2)(c) and (d) of the *BIA*, which authorize this Honourable Court to direct the Interim Receiver to "exercise such control over [the debtor's] property, and over the debtor's business, as the court considers advisable," and to "take conservatory measures."

20. Filing a Proposal constitutes an exercise of control over the debtor's property and business, and also constitutes a conservatory measure, to protect and enable the realization of AARDC's assets for the benefit of its creditors.

Extension of Stay Period and Approval of Fees and Activities

21. The Interim Receiver is of the view that AARDC, under the oversight of the Interim Receiver, is acting in good faith and with due diligence towards developing a Proposal.
22. An extension of the Stay Period under section 50.4(9) of the *BIA* is necessary to preserve AARDC's business and property while the Interim Receiver continues to work with the Bridging Receiver to discuss the possibility of the Interim Receiver filing the Proposal. As noted, the Interim Receiver is currently in discussions with the Bridging Receiver about its potential sponsorship of the Proposal; however, in the event these discussions do not result in the Proposal being filed on behalf of AARDC, AARDC will likely be deemed bankrupt.
23. An extension of the Stay Period will not cause material prejudice to any creditor. Rather, an extension will allow the Interim Receiver to continue its discussions with the Bridging Receiver in relation to the Proposal, which, if filed, will allow AARDC to avoid bankruptcy and preserve the value of its assets for the benefit of its stakeholders.
24. The Bridging Receiver, as receiver of the only creditor with an economic interest in AARDC's property, supports the extension of the Stay Period.
25. The Interim Receiver seeks approval of its fees and disbursements, including the fees and disbursements of its legal counsel.
26. The Interim Receiver's fees are for time and services provided at market rates for firms providing similar services on matters of similar complexity in Alberta and the work was properly delegated to the appropriate seniority level.
27. The Interim Receiver believes that, based on its review, the fees and disbursements billed by its legal counsel, Lawson Lundell LLP, were properly incurred, fair and reasonable, consistent with market rates for firms providing similar services on matters of similar complexity in Alberta.

28. Finally, the Interim Receiver seeks an order approving the Interim Receiver's First and Second Reports to this Honourable Court, and the activities of the Interim Receiver as set out therein

Material or Evidence to be Relied On:

29. The Second Report of the Interim Receiver, dated October 7, 2021;
30. The Third Report of the Trustee, dated October 7, 2021;
31. All pleadings, affidavits and other materials filed in this Action; and
32. Such further and other material or evidence as counsel may advise and this Honourable Court may permit.

Applicable Rules:

33. *Alberta Rules of Court*, Alta Reg 124/2010, as amended.

Applicable Acts and Regulations:

34. The *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, and in particular, subsections 47.1(2)(c) and (d), and 50.4(9), thereof; and
35. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

36. None.

How the Application is proposed to be heard or considered:

37. In person, via WebEx videoconference, before the Honourable Justice N. Whitting, sitting in Edmonton Commercial List chambers, with some or all of the parties present.

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 rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE "A"

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 ALBERTA RAILWAY DEVELOPMENT CORPORATION

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

DOCUMENT **ORDER (Extension of Stay and Approval of Fees and Activities)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTIES FILING THIS DOCUMENT
LAWSON LUNDELL LLP
Barristers and Solicitors
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Calgary, AB T2P 1N2
Attention: Alexis Teasdale
Telephone: (403) 218-7564
Fax: (403) 269-9494
Email: ateasdale@lawsonlundell.com
File No.: 26420-158262

DATE ON WHICH ORDER WAS PRONOUNCED: October 13, 2021

NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Justice N. Whitting

LOCATION OF HEARING: Edmonton, Alberta

UPON THE APPLICATION of MNP Ltd. in its capacity as interim receiver (in such capacity, the “**Interim Receiver**”) of the current and future assets, undertakings and property of Alaska-Alberta Railway Development Corporation (“**AARDC**”); **AND UPON HAVING READ:** (i) the Notice of Intention to Make a Proposal of AARDC under section 50.4 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended (the “**BIA**”), which resulted in an automatic stay of proceedings against AARDC or its property for 30 days from the date of filing (“**Initial Stay Period**”); (ii) the Interim Receivership Order granted by the Honourable Justice D.L. Shelley on July 12, 2021; (iii) the Order granted by the Honourable Justice R.A. Neufeld on

August 26, 2021, extending the Initial Stay Period until October 15, 2021 (as extended, the “**Stay Period**”); (iv) the First Report of the Interim Receiver dated August 17, 2021 (the “**First IR Report**”) (v) the Second Report of the Interim Receiver, dated October 7, 2021 (the “**Second IR Report**”); and (vi) the Third Report of the Trustee dated October 7, 2021; **AND UPON** noting the Affidavit of Service of Sherry Stern, affirmed on October [●], 2021, to be filed; **AND UPON** it appearing that all interested and affected parties have been served with notice of the Application; **AND UPON** hearing the submissions of counsel for the Interim Receiver, and any other counsel or interested parties present;

IT IS HEREBY ORDERED THAT:

Service

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

Extension of Stay Period

2. The Stay Period in respect of Alaska-Alberta Railway Development Corporation is extended for an additional period of forty-five (45) days from October 15, 2021, until November 29, 2021.

Approval of Fees, Disbursements, and Activities

3. The fees and disbursements of the Interim Receiver as set out in the Second IR Report are hereby approved without the necessity of a formal passing of accounts.
4. The fees and disbursements of the Interim Receiver’s legal counsel as set out in the Second IR Report are hereby approved without the necessity of a formal passing of accounts.
5. The First IR Report and the Second IR Report and the activities of the Interim Receiver set out therein are hereby approved.

General

6. 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 "B"

Clerk's Stamp:



COURT FILE NUMBER

24-2746532

COURT

COURT OF QUEEN'S BENCH OF ALBERTA
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE OF

EDMONTON

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF ALASKA - ALBERTA
RAILWAY DEVELOPMENT ^CORPORATION

DOCUMENT

AMENDED AND RESTATED
INTERIM RECEIVERSHIP ORDER

CONTACT INFORMATION OF PARTY
FILING THIS DOCUMENT:

LAWSON LUNDELL LLP
1100, 225 – 6th Avenue SW
Brookfield Place
Calgary, AB T2P 1N2

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File No.: 158262

**DATE ON WHICH ORDER WAS
PRONOUNCED:**

October 13, 2021

**NAME OF JUDGE WHO MADE THIS
ORDER:**

Mr. Justice N. Whitting

LOCATION OF HEARING:

Edmonton

UPON the application, on July 12, 2021, of **PRICEWATERHOUSECOOPERS INC.**, in its capacity as court-appointed receiver and manager of Bridging Finance Inc., Bridging Income Fund LP, and certain related entities and investment funds (the “**Applicant**”), in respect of **ALASKA - ALBERTA RAILWAY DEVELOPMENT CORPORATION** (the “**Debtor**”); **AND UPON** having read the Application, the Affidavit of Graham Page sworn July 7, 2021, filed; **AND UPON** reading the consent of **MNP LTD.** to act as interim receiver (in such capacity, the “**Interim Receiver**”) of the Debtor, filed; **AND UPON** the subsequent application, on October 13, 2021, of the Interim Receiver; **AND UPON** reading the Second Report to the Court of the Interim Receiver dated October [●], 2021; **AND UPON** hearing counsel for the Applicant, 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. Pursuant to section 47.1 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”), MNP Ltd. is hereby appointed Interim Receiver, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”).

INTERIM RECEIVER'S POWERS

3. 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 Interim Receiver is hereby expressly empowered and authorized to do any of the following where the Interim Receiver considers it necessary or desirable:
 - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property,
 - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
 - (c) to manage, operate and carry on the business of the Debtor, including the power to incur any obligations in the ordinary course of business, and, in consultation with the Applicant,

the powers to enter into any agreements, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (d) to apply to the Court, on behalf of the Debtor, for an extension of the time period in which the Debtor may file proposal in the proposal proceeding commenced by the Debtor bearing Court No. 24-2746532, in accordance with section 50.4(9) of the BIA;
- (d.1) to negotiate and file a proposal on behalf of the Debtor in accordance with section 62 of the BIA, and take all other steps required or authorized under the BIA in connection with such proposal as the Interim Receiver deems necessary or advisable;
- (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 Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) subject to prior approval of the Applicant, to settle, extend or compromise any indebtedness owing to or by the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Interim Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) subject to prior approval of the Applicant, to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Interim 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 Interim Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;
- (j) 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 interim receivership, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable;

- (k) 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 Debtor and not in its personal capacity;
- (l) 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 Interim Receiver, in the name of the Debtor;
- (m) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (n) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (o) 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 Debtor, and without interference from any other Person (as defined below).

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

4. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the 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.

5. 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 Debtor, and any computer programs, computer tapes, computer disks or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the 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 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the 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.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the 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

7. 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 Interim Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Interim Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that

nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph; and (ii) affect a Regulatory Body's investigation in respect of the debtor or an action, suit or proceeding that is taken in respect of the debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. "**Regulatory Body**" means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a Province.

NO EXERCISE OF RIGHTS OF REMEDIES

9. All rights and remedies of any Person, whether judicial or extra-judicial, statutory or non-statutory (including, without limitation, set-off rights) against or in respect of the Debtor or the 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 nothing in this Order shall:
- (a) empower the Debtor to carry on any business that the Debtor is not lawfully entitled to carry on;
 - (b) prevent the filing of any registration to preserve or perfect a security interest;
 - (c) prevent the registration of a claim for lien; or
 - (d) exempt the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment.
10. Nothing in this Order shall prevent any party from taking an action against the 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

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

CONTINUATION OF SERVICES

12. All persons having:

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

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

INTERIM RECEIVER TO HOLD FUNDS

13. 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 Interim 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 Interim Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

EMPLOYEES

14. Subject to employees' rights to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Interim Receiver, on the Debtor's 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").

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. (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 a 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 Interim 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

16. 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

17. 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.
18. 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, which charge shall not exceed an aggregate amount of \$200,000, 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 including all professional fees and disbursements incurred by the Interim Receiver in its capacity as trustee under the Notice of Intention to Make a Proposal of the Debtor (including the professional fees and disbursements of the Interim Receiver's counsel), and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any person but subject to sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.
19. The Interim Receiver and its legal counsel shall pass their accounts from time to time.
20. 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 INTERIM RECEIVERSHIP

21. 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 \$100,000 (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) of the BIA.
22. 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.
23. The Interim Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Interim Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.
24. 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.
25. 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

26. 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 the Interim Receiver's Borrowings Charge amongst the various assets comprising the Property.

GENERAL

27. 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.
 28. 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.
 29. Nothing in this Order shall prevent the Interim Receiver from acting as a receiver, a receiver and manager or a trustee in bankruptcy of the Debtor.
 30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction to give effect to this Order and to assist the 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 Interim Receiver and its agents in carrying out the terms of this Order.
 31. 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 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.
 32. The Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis, including legal costs on a solicitor-client full indemnity basis, to be paid by the Interim Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
 33. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the 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.
7. filing

34. The Interim Receiver shall establish and maintain a website in respect of these proceedings at <https://mnpdebt.ca/en/corporate/corporate-engagements/alaska-alberta-railway-development-corporation> (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.
35. Service of this Order shall be deemed good and sufficient by:
- (a) serving the same on:
 - (i) the persons listed on the service list created in these proceedings or otherwise served with notice of these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order; and
 - (b) posting a copy of this Order on the Interim Receiver’s Website
- and service on any other person is hereby dispensed with.
36. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

Justice of the Court of Queen’s Bench of Alberta

SCHEDULE "A"
INTERIM RECEIVER'S CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that **MNP LTD.**, the interim receiver (in such capacity, the "**Interim Receiver**") of all of the assets, undertakings and properties of **ALASKA - ALBERTA RAILWAY DEVELOPMENT CORPORATION** appointed by Order of the Court of Queen's Bench of Alberta and Court of Queen's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "**Court**") dated the [day] day of [month], [year] (the "**Order**") made in action numbers [●], has received as such Interim Receiver from the holder of this certificate (the "**Lender**") the principal sum of [\$], being part of the total principal sum of [\$] that the Interim 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 Interim 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 Interim 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 Interim 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 Interim 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 Interim 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__.

MNP LTD., solely in its capacity as Interim Receiver of the Property (as defined in the Order), and not in its personal capacity

Per: _____
Name:
Title: