

**COURT OF QUEEN'S BENCH OF ALBERTA
EDMONTON
(COMMERCIAL LIST)**

B E T W E E N:

ROYAL BANK OF CANADA

Applicant

- and -

MGT MANAGEMENT INC. and MGT AGGREGATE PRODUCTS INC.

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3 AS AMENDED AND SECTION 13(2) OF THE JUDICATURE ACT, R.S.A. 2000, c. J-2 AS AMENDED

**FIRST REPORT OF BDO CANADA LIMITED,
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF
MGT MANAGEMENT INC. AND MGT AGGREGATE PRODUCTS INC.**

JUNE 5, 2023

TABLE OF CONTENTS

INTRODUCTION AND PURPOSE OF THIS REPORT 3

BACKGROUND..... 5

INITIAL RECEIVERSHIP ACTIVITIES 6

RECOMMENDED DISPOSITION STRATEGY [8](#)

RECEIVER’S REQUEST TO INCREASE THE ADMINISTRATIVE CHARGE..... [10](#)

SUMMARY AND RECOMMENDATIONS 10

EXHIBITS

- A Receivership Order

INTRODUCTION AND PURPOSE OF THIS REPORT

1. MGT Management Inc. (“**Management**”) is a corporation registered under to the *Ontario Business Registry* with a registration date of February 13, 2015. MGT Aggregate Products Inc. (“**Aggregate**”) is registered under the *Alberta Corporate Registration System* with a registration date of December 4, 2015. Management together with Aggregate (collectively “**MGT**” or the “**Debtors**”) are privately owned corporations which operated a limestone quarry in Clearwater, AB.

2. Management is indebted to the Royal Bank of Canada (“**RBC**”) with respect to certain credit facilities made available by RBC pursuant to and under the terms of an Amended and Restated Loan Agreement dated May 10, 2017 and accepted on May 15, 2017; as amended by: (a) Loan Amendment Agreement dated June 30, 2020; (b) Amended and Restated Loan Agreement dated July 2, 2021; and (c) Loan Amendment Agreement dated August 10, 2021.

3. Aggregate is indebted to RBC with respect to certain credit facilities made available by RBC pursuant to and under the terms of a Credit Agreement dated July 2, 2021 and accepted on July 8, 2021.

4. On March 4, 2022, RBC made written demand on MGT for payment of the indebtedness (the “**MGT Demand Letters**”). The MGT Demand Letters were accompanied by a Notice of Intention to Enforce Security addressed to MGT and prepared pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended from time to time (“**BIA**”). At the time of the demand, MGT was indebted to RBC in the amount of approximately \$1,207,525.

5. On application by RBC, the Debtor's senior secured lender, BDO Canada Limited ("BDO") was appointed as the Receiver (the "Receiver"), without security, of all of the assets, undertakings and properties of MGT, pursuant to the order of the Honourable Justice Hollins made December 2, 2022 (the "Receivership Order"), a copy of which is annexed as **Exhibit "A"**.
6. The Receiver has retained MLT Aikins LLP as its independent legal counsel.
7. The purposes of this Report are to:
 - (a) inform this Honourable Court of the activities of the Receiver taken to date, in particular with respect to the recovery of certain equipment (the "Assets") owned by MGT and to request the Court's approval of the actions of the Receiver taken to date;
 - (b) advise of the proposed liquidation of the Assets via public auction using the liquidator recommended in the Confidential Supplemental report and to seek this Honourable Court's approval of the auction proposal (the "Sale");
 - (c) to request approval and direction to complete the Sale of the Assets via public auction with the liquidator; and
 - (d) to request a sealing order sealing the Confidential Supplemental report to this First report, in order to preserve the integrity of the sales and marketing process, until the Sale of the Assets is completed, or until further Order of this Honourable Court.

8. The Receiver reserves the right to refine or amend its comments and findings as further information is obtained or brought to its attention subsequent to the date of this First Report.

BACKGROUND

9. Management together with Aggregate are privately owned corporations which operated a limestone quarry in Clearwater, AB. Operations ceased immediately following the Receiver's appointment.

10. The Clearwater, AB quarry is owned by the Province and MGT operated from the quarry pursuant to a sublease held with the registered lessor, Burnco Rock Products Ltd. ("**Burnco**").

11. RBC was MGT's primary operating lender. As security for its obligations to RBC, MGT granted a security interest to RBC including without limitation General Security Agreements ("**GSA**") dated November 17, 2014, April 11, 2018, and February 18, 2016 along with a Security Agreement (Chattel Mortgage) dated September 13, 2018. The GSA grants to RBC a security interest in the Debtors' present and after-acquired property to secure payment of all present and future obligations of the Debtors to RBC.

12. Prior to its appointment, legal counsel representing Accord Small Business Finance Corp. ("**Accord**"), requested the Receiver forego recovery of equipment subject to an Intercreditor Agreement between Accord and RBC, advising that Accord would repossess and sell equipment subject to its security on its own. Under the Intercreditor Agreement, RBC acknowledged priority to Accord with respect to certain

pieces of equipment. The Receiver agreed to forego recovery of Accord's equipment pending an independent legal opinion relative to the Intercreditor Agreement and a future accounting of sale proceeds with any surplus to be paid to the Receiver.

INITIAL RECEIVERSHIP ACTIVITIES

13. Following the granting of the Receivership Order on December 2, 2022, the Receiver notified the principal of MGT, Mike Tomlinson, of its appointment and that it had no intention of continuing operations.

14. The Receiver engaged a liquidator, McDougall Auctioneers Ltd. ("**McDougall**"), to recover certain MGT equipment from the Clearwater, AB quarry. McDougall had familiarity with MGT's equipment having completed a prior appraisal on behalf of RBC.

15. The Receiver also engaged third party security to monitor activity at the quarry and to deter theft or vandalism to MGT's assets, given nature of the Assets (equipment and aggregate inventory) and remote location.

16. On December 3, 2022, the Receiver attended the Clearwater, AB quarry and met with Mr. Tomlinson, to discuss its mandate and to obtain pertinent information and to secure books and records located on site.

17. Recovery of MGT's equipment, excluding the Accord equipment, commenced on December 3, 2022 and was completed by McDougall over the course of several weeks with the equipment being transported to their secure facility located in Nisku, AB.

18. During this period, in the interest of maximizing recovery, the Receiver investigated a potential “turn-key” sale of MGT’s assets to another operator. This included a potential assignment/extension of the existing Operator Agreement (quarry sublease) which term expired on April 30, 2023. Following engagement with Burnco, who were not receptive to granting an extension beyond expiry of the existing term, these efforts quickly came to an end.

19. The Receiver coordinated an updated survey of aggregate quantities located on site at the Clearwater, AB quarry with a view of realizing on same. Sale of the aggregate inventory to Burnco is pending.

20. The books and records of MGT, which were not up to date, reported accounts receivable of \$3.3 million. The Receiver’s collection efforts to date have included the following:

1. Retention of former MGT bookkeeper, on a temporary contract basis, to complete customer invoicing up to the date of the Receiver’s appointment;
2. Obtained access to MGT’s accounting system, which was being administered by a third party, for purposes of generating financial reporting and customer invoices;
3. Issued 2 series of collection letters to MGT’s customers; and
4. Engaged with various customers of MGT in response to our A/R collection letters.

A total of \$109,498 has been collected to date. General feedback from MGT’s customers is as follows:

1. They have never had business dealings with MGT;
2. Payment of their account was made to MGT long ago with no balance remaining; and
3. Payment was made previously to factoring companies who had entered into agreements with MGT prior to the Receiver's appointment and without the knowledge or consent of RBC.

Based on the foregoing, prospects of recovery relative to remaining accounts receivable are not promising.

21. On December 12, 2022, the Receiver prepared and issued the prescribed notices and statements of the Receiver pursuant to sections 245 (1) and 246 (1) of the BIA, which were sent to known creditors.

RECOMMENDED DISPOSITION STRATEGY

22. Pursuant to the Receivership Order, the Receiver is authorized to market for sale any or all of MGT's property and negotiate such terms and conditions of sale as the Receiver in its discretion may deem appropriate.

23. Following recovery of the equipment, and subsequent evaluation, McDougall supplied the Receiver with an updated appraisal which is annexed as Confidential **Exhibit "A"** to the Confidential Supplement of this First Report and subject to the sealing order requested herein.

24. McDougall also supplied a liquidation proposal, dealing exclusively with equipment subject to RBC's security, which is annexed as Confidential **Exhibit "B"** to

the Confidential Supplement of this First Report and subject to the sealing order requested herein.

25. The Receiver incurred costs of \$116,837 in connection with recovery of MGT's equipment. On this basis, and when factoring McDougall's commission structure vis a vis known competitors, the Receiver elected to forego additional liquidation proposals as the incremental cost of relocating the equipment to an alternate liquidator would likely outweigh any benefit.

26. The Receiver considers McDougall's liquidation proposal to be fair and commercially reasonable as it provides for: (i) a net minimum guarantee ("NMG") for MGT's equipment subject to RBC's security; (ii) a threshold in excess of the NMG which provides more upside potential to the estate; (iii) the proposal avoids the incremental cost of relocating the equipment.

27. McDougall's proposal contemplates conducting an online auction from its secure storage facility in Nisku, AB from which the equipment is presently located. Advertising of the public auction is contemplated over a three week period consisting of notification to McDougall's existing pre-qualified buyers, internet advertising, direct mailings, and newspaper advertisements. The auction is to be completed via online bidding to maximize exposure of the equipment to the marketplace.

RECEIVER'S REQUEST TO INCREASE THE ADMINISTRATIVE CHARGE

28. Paragraph 18 of the Receivership Order granted a charge (the “**Receiver’s Charge**”) over MGT’s assets to the extent of \$200,000, as security for professional fees and disbursements.

29. The Receiver has incurred costs well in excess of \$200,000 which are summarized below (inclusive of taxes and disbursements):

1. BDO Receiver Fees - \$173,339 (April 30, 2023)
2. MLT Aikins - \$44,490 (March 31, 2023)
3. Security Costs - \$80,115
4. Equipment Recovery - \$116,837
5. Miscellaneous - \$1,293

Total - \$416,074

30. Based on the foregoing, and when factoring future costs of the receivership administration, the Receiver requests an increase to the Receiver’s Charge to \$500,000.

SUMMARY AND RECOMMENDATIONS

31. The Receiver is satisfied that its recommended disposition strategy will sufficiently expose for Sale the Assets of MGT to the marketplace. The Receiver’s recommendation is supported by RBC.

32. Accordingly, the Receiver respectfully requests an order:

- (i) Approving the Receiver’s activities as set out herein;
- (ii) Authorizing and approving McDougall’s liquidation proposal and the transaction contemplated thereby;

- (iii) Providing for the vesting of the Assets in the purchasers;
- (iv) Authorizing an increase to the Receiver's Charge in an aggregate amount of \$500,000; and
- (v) Sealing the Sealed Portion of the First Report.

All of which is respectfully submitted this 5th day of June, 2023.

BDO CANADA LIMITED
in its capacity as the Court-appointed Receiver of
MGT Management Inc. and MGT Aggregate Products Inc.
and not in its personal or corporate capacity



Per:

Name:

Title:

Christopher Mazur, CIRP, LIT
Partner/Senior Vice President

EXHIBIT "A"

CERTIFIED *E. Wheaton*
by the Court Clerk as a true copy of the
document digitally filed on Dec 7, 2022

Clerk's Stamp:



COURT FILE NUMBER

2201-13687

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE OF

CALGARY

APPLICANT:

ROYAL BANK OF CANADA

RESPONDENT(S):

MGT MANAGEMENT INC. and MGT

DOCUMENT

AGGREGATE PRODUCTS INC. CONSENT

CONTACT INFORMATION OF

RECEIVERSHIP ORDER

PARTY FILING THIS

McMillan LLP
#1700, 421 – 7th Ave SW
Calgary, AB T2P 4K9

DOCUMENT:

Attention: Kourtney Rylands/Preet Saini
Telephone: (403) 35.-3326/(403) 531.4716
Fax: (403) 531.4720
Email: RBCOS@mcmillan.ca
File No. 289096

DATE ON WHICH JUDGMENT WAS PRONOUNCED:

December 2, 2022

LOCATION WHERE THIS ORDER WAS PRONOUNCED:

Calgary, Alberta

NAME OF JUDGE WHO GRANTED THIS ORDER:

The Honourable Justice Hollins

UPON the application of Royal Bank of Canada (“RBC”) in respect of MGT MANAGEMENT INC. and MGT AGGREGATE PRODUCTS INC. (the “Debtors”); AND UPON having read the Application, the Affidavit of Natalia Naraine; and the Affidavit of Service of Irma Alvarado, filed; AND UPON reading the consent of BDO Canada Limited to act as interim receiver and receiver and manager (the “Receiver”) of the Debtors, filed; AND UPON noting the consent endorsed hereon of the Debtors; AND UPON hearing counsel for RBC, counsel for the proposed Receiver and any other counsel or other interested parties present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

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

APPOINTMENT

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

RECEIVER'S POWERS

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
 - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, which shall include the Receiver's ability to abandon, dispose of or otherwise release any interest in any of the Debtors' real property, or any right in any immovable, and any license or authorization issued by the Alberta Energy Regulator, or any other

similar government authority, in respect of such interest in real property or immovable, including pursuant to section 14.06(4) of the BIA;

- (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to or by the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such

proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;

- (k) to market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

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

- (m) to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing orders) necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other orders in respect of the Property against title to any of the Property, and when submitted by the Receiver for

registration this Order shall be immediately registered by the Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding Section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles shall accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtors and not in its personal capacity;

- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. (i) The Debtors, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “Persons” and each being a “Person”) shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property

(excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.

5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names, and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OF REMEDIES

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 Debtors or the Receiver or affecting the Property are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided, however, that nothing in this Order shall:
- (a) empower the Debtors to carry on any business that the Debtors 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 Debtors 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 Monitor at the first available opportunity.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

12. All persons having:

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

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

RECEIVER TO HOLD FUNDS

13. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever,

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

EMPLOYEES

14. Subject to employees’ rights to terminate their employment, all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtor’ behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47 (“**WEPPA**”).

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
- (i) before the Receiver's appointment; or
 - (ii) after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
- (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:
 - A. complies with the order, or
 - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
 - (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by,

- A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
 - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- (iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

LIMITATION ON THE RECEIVER'S LIABILITY

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

RECEIVER'S ACCOUNTS

18. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Property, which charge shall not exceed an aggregate amount of \$200,000, as security for their professional fees and disbursements incurred both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) of the BIA.
19. The Receiver and its legal counsel shall pass their accounts from time to time.
20. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and

charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$50,000 (or such greater amount as this Court may by further order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver's Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.
22. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
23. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “A” hereto (the “**Receiver's Certificates**”) for any amount borrowed by it pursuant to this Order.
24. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

25. The Receiver shall be allowed to repay any amounts borrowed by way of Receiver's Certificates out of the Property or any proceeds, including any proceeds from the sale of any assets without further approval of this Court.

ALLOCATION

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

GENERAL

27. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
28. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Receiver's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
29. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.
30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.
31. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is

authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

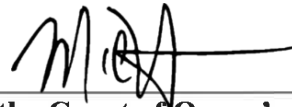
32. The Plaintiff shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis, including legal costs on a solicitor-client full indemnity basis, to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.
33. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

FILING

34. The Receiver shall establish and maintain a website in respect of these proceedings to be made publicly available and shall post there as soon as practicable:
- (a) all materials prescribed by statute or regulation to be made publicly available; and
 - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
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 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

**ALL OF THE FOREGOING CONSENTED AND AGREED TO THIS 2 DAY OF
December, 2022 BY:**

Rowanoak Law Office LLP

Per: 

Name: Harry W. Sawchuk

Counsel for MGT Management Inc. and MGT Aggregate Products Inc.

MCMILLAN LLP



Name: Kourtney Rylands

Counsel for Royal Bank of Canada

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

37. THIS IS TO CERTIFY that _____, the interim receiver and receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of **MGT MANAGEMENT INC.** and **MGT AGGREGATE PRODUCTS INC.** 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 of _____, _____ (the "**Order**") made in action numbers _____, _____, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ that the Receiver is authorized to borrow under and pursuant to the Order.
38. 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.
39. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
40. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at _____.
41. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
42. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

43. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20__.

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

Per: _____
Name:
Title: