

COURT FILE NUMBER 1301-11285

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT ALIGNVEST PRIVATE DEBT LTD.

RESPONDENT SUREFIRE INDUSTRIES LTD.

DOCUMENT **THIRD REPORT OF DUFF & PHELPS CANADA
RESTRUCTURING INC., IN ITS CAPACITY AS
RECEIVER AND MANAGER OF SUREFIRE
INDUSTRIES LTD.**

October 23, 2013

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

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A. INTRODUCTION

1. Pursuant to an order (“**Initial Order**”) of the Court of Queen’s Bench of Alberta (“**Court**”) made on August 30, 2013, Surefire Industries Ltd. (“**Company**”) was granted protection under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) and Duff & Phelps Canada Restructuring Inc. (“**D&P**”) was appointed the monitor in the CCAA proceedings (“**Monitor**”).
2. Pursuant to Court orders made on September 25, 2013, the CCAA proceedings were terminated and D&P was appointed as receiver and manager (“**Receiver**”) of the Company’s assets, undertakings and properties (“**Assets**”) pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, 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 (“**ABCA**”), and 65(7) of the *Personal Property Security Act*, R.S.A. 2000, c.P-7 (“**Receivership Order**”).
3. The application to appoint D&P as Receiver was made by Alignvest Private Debt Ltd. (“**APD**”), the Company’s principal secured operating lender, as well as the Company’s debtor-in-possession financing lender in the CCAA proceedings (in such capacity, the “**DIP Lender**”). The Company’s indebtedness to APD as lender and DIP Lender totals approximately \$11.5 million plus interest, fees and costs.
4. APD continues to fund the costs of the receivership proceedings under Receiver’s Certificates.
5. The Affidavit of Michael Kemp, Chief Executive Officer of the Company, sworn August 28, 2013 (“**Kemp Affidavit**”) and filed in support of the Company’s application for CCAA protection, provides, *inter alia*, the Company’s background, including the reasons that he felt that it was necessary for the Company to file for protection under the CCAA.
6. Additional information concerning the Company and the reasons the CCAA proceedings were terminated is provided in the Monitor’s First Report to Court dated September 24, 2013 (“**Monitor’s Report**”). A copy of the Kemp Affidavit, the Monitor’s Report and other materials filed in the CCAA and receivership proceedings can be found on the Receiver’s website at:

<http://www.duffandphelps.com/intl/en-ca/Pages/RestructuringCases.aspx>

B. PURPOSES OF THIS REPORT

7. The purposes of this report (“**Report**”) are to:
 - (a) Provide background information about the Company and these proceedings;

- (b) Summarize settlements between the Receiver and certain of the Company's customers (the "**Customers**") regarding ownership and/or other priority claims with respect to work-in-process ("**WIP**") that was being built for the Customers by the Company, is located at the Company and is now in the possession of the Receiver ("**Settlements**");
- (c) Provide an update on the WIP dispute resolution process ("**WDRP**");
- (d) Summarize the results of the sale process for the Company's business and Assets ("**Sale Process**");
- (e) Summarize a proposed transaction (the "**Transaction**") for the Company's fixed assets, inventory and certain WIP (the "**Liquidation Assets**") with Hilco Asset Sales Canada Corp. (the "**Liquidator**"), whereby the Receiver is recommending that the Court approve a liquidation services agreement dated October 23, 2013 between the Receiver and the Liquidator (the "**LSA**"); and
- (f) Recommend that this Honourable Court make an order:
 - (i) approving the Settlements;
 - (ii) approving the Transaction and the LSA;
 - (iii) approving the Receiver's execution of the LSA and authorizing the Receiver to execute all other ancillary documents and agreements required to complete the Transaction;
 - (iv) vesting the Company's right, title and interest in the Liquidation Assets in the ultimate purchasers of the Liquidation Assets (at auction or otherwise); and
 - (v) sealing the Confidential Appendices to this Report until further order of this Honourable Court.

C. TERMS OF REFERENCE

- 8. Unless otherwise noted, all currency references in this Report are to Canadian dollars.
- 9. In preparing this Report, the Receiver has relied upon unaudited financial information prepared by the Company's representatives, the Company's books and records, discussions with management and discussions with the Company's advisors. The Receiver has not performed an audit or other verification of such information.

D. BACKGROUND

10. The Company designed, developed and manufactured custom oil and gas services drilling equipment. The Company also provided maintenance, repair and operational support services to its Customers.
11. The equipment that had been manufactured and serviced by the Company is highly specialized and expensive; individual units commonly cost in excess of \$1 million. Depending on the design and complexity, each unit typically took several months to complete.
12. The Company is incorporated under the ABCA. Its registered head office is in Calgary, Alberta.
13. The Company leases premises located at 4700, 47th Street SE, Calgary (the “**Premises**”). The monthly rent and occupancy costs exceed \$400,000. Estimated employee costs are presently approximately \$125,000. Accordingly, the Company’s burn rate is approximately \$525,000 per month, before other costs associated with maintaining the premises, such as insurance and incremental professional fees. The cash needs are being funded by APD under the terms of Receiver’s Certificates.
14. As at the date of the Initial Order, the Company employed 188 individuals. The Company currently has fifteen employees.
15. The Company’s two senior executives, Michael Kemp and Marc Leclerc, resigned on September 30, 2013.
16. The primary stakeholders in these proceedings are the Customers and APD; however, there are claims which presently rank in priority to APD, including unpaid sales taxes¹ (\$635,000), unpaid source deductions (\$192,000) and costs of administration, including professional costs. The Receiver has a charge over all of the property and assets of the Company under the Receivership Order. There are also approximately \$4.5 million in unsecured claims, before employee claims for severance and termination and any damages and other claims that may be advanced by the Customers, both categories of which are yet to be quantified.

¹ The Receiver is reviewing this claim.

E. WIP SETTLEMENTS

17. As set out in the reports to Court filed by the Receiver, since the date of the receivership application, the majority of the Customers and APD met to discuss their competing interests in the WIP. Discussions continued following those meetings among the Receiver, APD and certain of the Customers.
18. APD, the Receiver and each of Canyon, Step, Pioneer and Essential (each as defined below) have settled their disputes over the WIP, subject to approval of the Court (other than in the case of Essential). These settlements are detailed below.

E-1 CANYON SERVICES GROUP INC. (“Canyon”)

19. A copy of the settlement agreement dated October 22, 2013 among APD, Canyon and the Receiver (“**Canyon Agreement**”) is provided in Confidential Appendix “A”.
20. The Canyon Agreement resolves, among other things, Canyon’s application to the Court on September 23, 2013 (“**Canyon Application**”) for an order declaring that it has ownership of and title to the following units: 1466, 1468 and 1469, as well as three pumps Canyon purchased directly from a third-party manufacturer (the “**Units**”).
21. Key terms of the Canyon Agreement are as follows:
 - (a) The Canyon Agreement addresses Canyon’s title and priority claims related to the Units as well as units 1596 and 1597, which are in early stages of completion (the “**Canyon Equipment**”);
 - (b) The settlement amount and any exigible goods and services tax are to be paid by Canyon to the Receiver by certified cheque, bank draft or wire transfer;
 - (c) Within five (5) Business Days of closing of the Canyon Agreement (the “**Canyon Closing**”) (or such further period as agreed to by Canyon and the Receiver), Canyon is to remove the Canyon Equipment from the Premises. The removal of the Canyon Equipment is at Canyon’s sole risk and cost and neither the Company nor the Receiver shall have any liability in this regard;

- (d) To the extent required by Canyon, the Receiver will cause the Company's remaining employees to assist Canyon in removing the Canyon Equipment from the Premises; however, neither the Receiver nor the Company will have any liability or responsibility in any respect for having done so and Canyon is required to supervise and be responsible for the performance of such employees in carrying out the removal of the Canyon Equipment;
 - (e) Effective on the Canyon Closing, the Receiver licenses to Canyon the manuals, engineering drawings and other documentation in the possession and control of the Receiver specifically relating to the Canyon Equipment (the "**Canyon Documentation and Drawings**") on an irrevocable, non-assignable and non-exclusive basis (the "**Canyon License**"). The Canyon License requires Canyon to maintain the confidentiality of the Canyon Documentation and Drawings, subject to the right of Canyon to provide copies of the Canyon Documentation and Drawings to any party retained by Canyon for the limited purpose of completing the manufacture and assembly of the Canyon Equipment or provide any servicing required in connection with the Canyon Equipment;
 - (f) The Canyon Agreement provides for releases among Canyon, APD and the Receiver, other than: (i) Canyon's unsecured claims, if any, against the Company; and (ii) any right of set off by the Company in respect of any claims of Canyon against the Company.
22. The Receiver respectfully recommends that the Court approve the Canyon Agreement as it:
- (a) Represents a commercially reasonable settlement in respect of Canyon's priority and title claims to the Canyon Equipment;
 - (b) Considers:
 - (i) the values provided by Gordon Brothers Commercial and Industrial LLC ("**GB**");
 - (ii) the value of discontinuing the estate's litigation risks and costs had Canyon pursued the Canyon Application and sought adjudication by the Court of such application; and
 - (iii) costs related to the continued storage and maintenance of the Canyon Equipment; and
 - (c) Is supported by APD.

E-2 STEP ENERGY SERVICES LTD. (“Step”)

23. A copy of the settlement agreement dated October 22, 2013 among APD, Step and the Receiver (“**Step Agreement**”) is provided in Confidential Appendix “B”.
24. The Step Agreement resolves, among other things, Step’s application to the Court on September 24, 2013 (“**Step Application**”) for an order declaring that it has ownership of and title to the following units: 1479 and 1481, as well as a blowout preventer skid (known as unit 1541) (together, the “**Step Equipment**”).
25. Key terms of the Step Agreement are as follows:
 - (a) The settlement amount and any exigible goods and services tax are to be paid by Step to the Receiver by certified cheque, bank draft or wire transfer;
 - (b) Within five (5) Business Days of the closing of the Step Agreement (the “**Step Closing**”) (or such further period as agreed to by the Receiver and Step), Step is to remove the Step Equipment from the Premises. The removal of the Step Equipment is at Step’s sole risk and cost and neither the Company nor the Receiver shall have any liability in this regard;
 - (c) To the extent required by Step, the Receiver will cause the Company’s remaining employees to assist Step in removing the Step Equipment from the Premises; however, neither the Receiver nor the Company will have any liability or responsibility in any respect for having done so and Step is required to supervise and be responsible for the performance of such employees in carrying out the removal of the Step Equipment;
 - (d) Effective on the Step Closing, the Receiver licenses to Step the manuals, engineering drawings and other documentation in the possession and control of the Receiver specifically relating to units 1479 and 1541 of the Step Equipment (the “**Step Documentation and Drawings**”) (but excluding those relating to unit 1481) on an irrevocable, non-assignable and non-exclusive basis (the “**Step License**”). The Step License requires Step to maintain the confidentiality of the Step Documentation and Drawings, subject to the right of Step to provide copies of the Step Documentation and Drawings to any party retained by Step for the limited purpose of completing the manufacture and assembly of units 1479 and 1541 or provide any servicing required in connection with units 1479 and 1541;
 - (e) The Step Agreement provides for releases among Step, APD and the Receiver, other than: (i) unsecured claims, if any, among them and the Company; and (ii) any right of set off by the Company in respect of any claims of Step against the Company.

26. The Receiver respectfully recommends that the Court approve the Step Agreement as it:
- (a) Represents a commercially reasonable settlement in respect of Step's priority and title claims to the Step Equipment;
 - (b) Considers:
 - (i) the values provided by GB;
 - (ii) the value of discontinuing the estate's litigation risks and costs had Step pursued the Step Application and sought adjudication by the Court of such application; and
 - (iii) costs related to the continued storage and maintenance of the Step Equipment; and
 - (c) Is supported by APD.

E-3 PIONEER NATURAL PUMPING SERVICES LLC ("Pioneer")

27. A copy of the settlement agreement dated October 22, 2013 among APD, Pioneer and the Receiver ("**Pioneer Agreement**") is provided in Confidential Appendix "C".
28. The Pioneer Agreement resolves, among other things, Pioneer's title and ownership claims related to unit 1751 ("**Pioneer Equipment**").
29. Key terms of the Pioneer Agreement are as follows:
- (a) The settlement amount and any exigible goods and services tax are to be paid by Pioneer to the Receiver by certified cheque, bank draft or wire transfer;
 - (b) Within ten (10) Business Days of the closing of the Pioneer Agreement (the "**Pioneer Closing**") (or such further period as agreed to by the Receiver and Pioneer), Pioneer is to remove the Pioneer Equipment from the Premises. The removal of the Pioneer Equipment is at Pioneer's sole risk and cost and neither the Company nor the Receiver shall have any liability in this regard;

- (c) To the extent required by Pioneer, the Receiver will cause the Company's remaining employees to assist Pioneer in removing the Pioneer Equipment from the Premises; however, neither the Receiver nor the Company will have any liability or responsibility in any respect for having done so and Pioneer is required to supervise and be responsible for the performance of such employees in carrying out the removal of the Pioneer Equipment;
 - (d) The Receiver is to provide Pioneer with a manual related to the Pioneer Equipment; engineering drawings are not being provided;
 - (e) The Pioneer Agreement provides for releases among Pioneer, APD and the Receiver, other than: (i) unsecured claims, if any, among them and the Company; and (ii) any right of set off by the Company in respect of any claims of Pioneer against the Company.
30. The Receiver respectfully recommends that the Court approve the Pioneer Agreement as it:
- (a) Represents a commercially reasonable settlement in respect of Pioneer's priority and title claims to the Pioneer Equipment;
 - (b) Considers:
 - (i) the values provided by GB;
 - (ii) the value of discontinuing the estate's litigation risks and costs had Pioneer sought adjudication by the Court of its claims; and
 - (iii) costs related to the continued storage and maintenance of the Pioneer Equipment; and
 - (c) Is supported by APD.

E-4 TECHNICOIL CORPORATION AND ESSENTIAL COIL WELL SERVICES, A DIVISION OF ESSENTIAL ENERGY SERVICES LTD. ("Essential")

31. A copy of the release agreement dated October 16, 2013 among APD, Essential and the Receiver ("**Essential Agreement**") is provided in Confidential Appendix "D".

32. The Essential Agreement resolves priority disputes between the Company, APD and Essential with respect to unit 1535 (“**Unit 1535**”). Unit 1535 consists of steel subassemblies and a coil tubing reel the Company fabricated to be mounted on a 24-wheel trailer purchased and owned by Essential which was delivered to the Company prior to commencement of the CCAA proceedings. Unit 1535 was in very early stages of manufacture.
33. The deliverables associated with the Essential Agreement have been completed.
34. Key terms of the Essential Agreement are as follows:
 - (a) The settlement amount and the exigible goods and services tax were paid on October 16, 2013 by Essential to the Receiver;
 - (b) Essential removed Unit 1535 from the Premises at its sole risk and cost;
 - (c) The Company’s remaining employees, under the supervision of Essential, assisted in the removal of Unit 1535 from the Premises;
 - (d) The Essential Agreement provides for releases among Essential, APD and the Receiver, other than: (i) unsecured claims, if any, among them and the Company; and (ii) any right of set off by the Company in respect of any claims of Essential against the Company; and
 - (e) The Essential Agreement provides for payment by Essential to the Receiver below the threshold amount of \$50,000 set out in the WDRP and therefore Court approval of this settlement is not required.

E-5 CONFIDENTIALITY OF SETTLEMENT AGREEMENTS

35. The settlement agreements described above are subject to confidentiality provisions. Copies of the settlement agreements are provided in Confidential Appendices “A” to “D”. A schedule comparing the Settlements with the values provided by GB and other factors considered by the Receiver is provided in Confidential Appendix “E” (together with the settlement agreements, the “**Confidential Appendices**”)
36. The Receiver respectively requests that the Confidential Appendices be filed with the Court on a confidential basis and be sealed so that the settlement amounts are not publicly available while negotiations continue or while litigation is pursued with other Customers, as this may be prejudicial to such negotiations and/or litigation.

F. WIP DISPUTE RESOLUTION PROCESS

37. On October 8, 2013, the Court made an Order approving the WDRP for the Customers to advance ownership and/or other priority claims with respect to the WIP and potentially other assets (such as items in inventory), and for the Receiver and APD to respond to such claims (the “**WDRP Order**”). Full details of the WDRP are provided in the WDRP Order, a copy of which is attached as Appendix “A”.
38. On October 15, 2013, being the Title Claims Bar Date (as defined in the WDRP), the Receiver received claims from eight Customers (the “**Title Claims**”).
39. The Receiver reviewed the Title Claims, as required by the WDRP process. Pursuant to the WDRP, the Receiver and/or APD were required to provide notice by October 21, 2013 if they intended to dispute any of the Title Claims.
40. On October 21, 2013, the Receiver issued a Notice of Dispute of Title Claim/Right to Priority (“**Notices**”) to eight Customers, including to those Customers subject to Settlements as the settlement agreements had not been executed by that date. On the same date, APD issued Notices to the same Customers.
41. Pursuant to the WDRP, if the dispute concerning any Title Claim is not resolved on or before October 31, 2013, either the Customer, the Receiver, APD or any other interested person may apply to the Court to seek an Order determining such dispute.

G. SALE PROCESS

42. On October 8, 2013, the Court made an Order approving the Sale Process (“**Sale Process Order**”).
43. An overview of the Sale Process is as follows:
 - a) The Sale Process was intended to attract offers from strategic buyers and liquidators;
 - b) The Sale Process was expedited given the significant costs being incurred to occupy the premises and the payment of employees required to assist with the WIP issues;
 - c) Offers were due on October 15, 2013;
 - d) The Receiver contacted fifteen liquidators that, in its view, would have an interest in the Assets, as well as eight strategic parties that had previously expressed an interest in the Assets to the Company or the Receiver;

- e) The Receiver distributed a confidentiality agreement (“**CA**”) that interested parties were required to sign in order to obtain information on the Company’s business and Assets and access to an online data room containing financial information, asset and liability information, details regarding the WIP and other information considered by the Receiver to be necessary to effect a sale of the Company’s business and Assets. In total, six prospective strategic purchasers and twelve liquidators executed the CA;
- f) The Receiver facilitated site visits and meetings with Company representatives to the extent requested by interested parties. The Receiver attended these meetings to the extent appropriate and necessary; and
- g) The Receiver made available to potential purchasers a draft asset purchase agreement for strategic purchasers and a draft form of offer for liquidators. The form of offer provided to liquidators requested that parties wishing to submit liquidation offers do so on the following basis:
 - (i) by submitting a net minimum guarantee (“**NMG**”) for the fixed assets and the inventory, excluding WIP and the inventory identified by the Customers as being subject to their Title Claims²; and
 - (ii) by submitting a commission-based offer for WIP.

G-1. SALE PROCESS RESULTS

44. A summary of the Sale Process results is as follows:
- Nine parties submitted liquidation offers; and
 - Three parties submitted offers for the Company’s intellectual property (“**IP**”).
45. A summary of the liquidation offers is provided in Confidential Appendix “F”. As two of the offers were for substantially similar value, the Receiver provided those parties with an opportunity to submit a final and best offer by October 18, 2013. A summary of the revised offers is provided in Confidential Appendix “G”. The Receiver’s rationale for its request that certain information be temporarily sealed is provided in paragraph 49 below.

² The Receiver’s Second Report to Court dated October 7, 2013 indicated that NMG offers would be sought for the fixed assets and commission-based offers would be sought for the inventory and WIP. As the Customers had completed their identification of the inventory by October 9, 2013, the Receiver was advised by the liquidators that they would be able to submit NMG offers for the inventory, which was the Receiver’s preferred course of action.

46. The Receiver is in the process of finalizing a transaction related to the IP. Information related to the IP offers will be provided in a subsequent report.

H. TRANSACTION

47. A summary of the Transaction is as follows:

Assets

- The LSA contemplates the sale of all fixed assets as well as inventory and WIP either: a) not identified by Customers as being subject to their Title Claims; b) not subject to the Settlements; or c) subject to Option C as defined in the WDRP, being the option where a Customer does not elect to take possession of the WIP subject to its Title Claim (together, the “**Undisputed WIP**”) and agrees to have it realized upon at auction.
- The LSA contemplates that a schedule detailing the Undisputed WIP be filed by the Receiver with the Court at least five days prior to the Auction (as defined in the LSA).
- The LSA does not include the Company’s IP, accounts receivable or its indirect interest in Surefire Industries USA, LLC.
- The Liquidator is to sell the Liquidation Assets, on the Receiver’s behalf, either by completing private sales prior to the auction or by conducting one or more auctions at the Premises.

Basis of Offer and Payment Mechanism

- The Liquidator’s offer was submitted on a NMG basis for the fixed assets and inventory (“**Auction Assets**”) and on a zero commission basis for the WIP. All sales by the Liquidator (including sales of WIP) are subject to a 15% buyer’s premium in favour of the Liquidator, which is a standard provision of these types of transactions. For the reasons noted in paragraph 49, the Receiver is requesting that the value of the NMG and the other economic terms of the LSA be sealed.
- A deposit representing 50% of the NMG is to be paid to the Receiver by the Liquidator forthwith.

- As detailed in the LSA, the Receiver will be entitled to share in the net proceeds³ over and above the NMG plus an amount to cover the Liquidator's reasonable expenses (the "**Expense Amount**"). All proceeds from the sale of the Undisputed WIP, other than the buyer's premium and taxes, are to be deposited to an account controlled by the Receiver.
- The NMG is to be paid in full two business days prior to the Auction (the "**NMG Due Date**"). The Liquidator has advised that it expects the auction to be conducted in mid-November, 2013. Prior to the NMG Due Date, the proceeds of any private sales completed by the Liquidator are to be deposited into an account jointly controlled by the Receiver and the Liquidator. These monies are not to be distributed to the Liquidator until the NMG has been paid in full to the Receiver.

Other

- Should the Receiver not be entitled to sell any of the Auction Assets by reason of a valid claim to any such Auction Assets, the NMG would be reduced by the amount of the NMG allocated by the Liquidator to such excluded Auction Assets; the values are appended as schedules to the LSA.
- The Liquidation Assets are to be removed from the Premises by December 6, 2013 ("**Removal Deadline**").
- Within seven Business Days after the date of the Auction (as defined in the LSA), the Liquidator will prepare a detailed accounting of all proceeds realized from the sale of the Liquidation Assets. The Receiver has the right to review the accounting statement, including supporting documentation.
- The occupancy period will begin upon Court approval of the LSA (should the Court grant such approval) and will terminate on the Removal Deadline (the "**Occupancy Period**"). During the Occupancy Period, the Receiver is responsible for occupancy expenses.
- The Liquidator is responsible for the collection and remittance of all applicable taxes on the sale of assets and has indemnified the Receiver for any taxes that may be assessed against it resulting therefrom.
- The LSA contains standard provisions for the removal of the Liquidation Assets and the basis on which Regulated Materials (as defined in the LSA) are to be dealt with.

³ Represents the gross proceeds less buyer's premium and taxes collected on the sale of the Auction Assets.

- The LSA contemplates that sales to the ultimate purchasers of the Liquidation Assets are to be on an “as is, where is” basis.
 - The LSA remains subject only to the approval of this Honourable Court and the satisfaction of other conditions that are customarily included in this form of agreement, including the performance by the Receiver and Liquidator of their obligations under the LSA.
48. A redacted version of the LSA is provided in Appendix “B” and an unredacted version of the LSA is filed as Confidential Appendix “H”.

H-1 CONFIDENTIALITY

49. In the event that the Transaction does not close for any reason, another tender process is likely to be required. If the economic terms of the LSA are not sealed, future bidders would have access to the amount that was accepted by the Receiver. No party will be prejudiced if the information is sealed at this time. Accordingly, the Receiver believes the proposed sealing order is appropriate in the circumstances.

H-2 RECOMMENDATION

50. The Receiver respectfully recommends that this Honourable Court approve the execution of the LSA by the Receiver and authorize and direct it to complete the transaction contemplated by the LSA forthwith, including any ancillary documents necessary to give effect to the Transaction, for the following reasons:
- In the Receiver’s view, the Sale Process was conducted in accordance with the Sale Process Order;
 - The Receiver believes the Sale Process was appropriate in the circumstances;
 - The Transaction provides for the greatest recovery available to the estate in the circumstances;
 - The Receiver believes that the commercial terms of the LSA are reasonable, including the amount of the NMG, the NMG payment mechanism, the Expense Amount, the process whereby the Undisputed WIP will be sold, the Occupancy Period and the Removal Deadline, which significantly reduces the cash burn; and
 - APD, the Company’s principal secured creditor, has consented to the Transaction.

I. CONCLUSION AND RECOMMENDATION

51. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an Order granting the relief detailed in paragraph 7 (f) of this Report.

All of which is respectfully submitted,

Duff & Phelps Canada Restructuring Inc.

**DUFF & PHELPS CANADA RESTRUCTURING INC.
IN ITS CAPACITY AS RECEIVER AND MANAGER OF THE
ASSETS, UNDERTAKINGS AND PROPERTIES OF
SUREFIRE INDUSTRIES LTD.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”

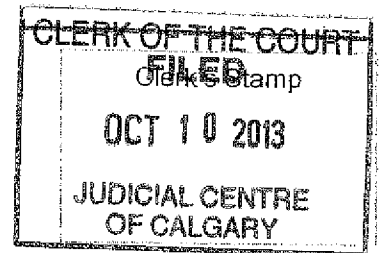
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 JUDICIAL CENTRE CALGARY

APPLICANT(S) ALIGNVEST PRIVATE DEBT LTD.
 RESPONDENT(S) SUREFIRE INDUSTRIES LTD.

DOCUMENT **ORDER APPROVING WIP DISPUTE RESOLUTION PROCESS**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
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DATE ON WHICH ORDER WAS PRONOUNCED: October 8, 2013
 NAME OF JUDGE WHO MADE THIS ORDER: Honourable Justice C.A. Kent
 LOCATION OF HEARING: Calgary, Alberta



UPON the application of Duff & Phelps Canada Restructuring Inc. ("**Duff & Phelps**"), in its capacity as the receiver and manager of the assets, properties and undertakings of Surefire Industries Ltd. (the "**Debtor**", and Duff & Phelps in such capacity, the "**Receiver**"); **AND UPON** having read the Application, the second report of the Receiver dated October 7, 2013, filed (the "**Second Report**"), the confidential supplemental report of the Receiver (the "**Confidential Supplemental Report**"); and the Affidavit of Service of Richard Comstock, filed; **AND UPON** hearing counsel for the Applicant, the Receiver and any other counsel present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of application for this order is hereby abridged and service thereof is deemed good and sufficient.

I hereby certify this to be a true copy of
 the original Order
 Dated this 20 day of Oct 2013
[Signature]
 for Clerk of the Court

Clerk's Stamp

COURT FILE NUMBER 1301-11285
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANT(S) ALIGNVEST PRIVATE DEBT LTD.
RESPONDENT(S) SUREFIRE INDUSTRIES LTD.
DOCUMENT **ORDER APPROVING WIP DISPUTE RESOLUTION PROCESS**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Gowling Lafleur Henderson LLP
1400, 700 – 2nd Street SW
Calgary, AB T2P 4V5
Tom Cumming / Clifton Prophet
Telephone: (403) 298-1938 / (416) 862-3509
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SERVICE

1. The time for service of the notice of application for this order is hereby abridged and service thereof is deemed good and sufficient.

WIP DISPUTE RESOLUTION PROCESS

2. All capitalized terms not defined herein have the meanings given to them in the dispute resolution process described on Schedule 1 to this Order (the "WDRP").
3. The WDRP is hereby approved and the Receiver is authorized and directed to implement and carry out the WDRP in accordance with its terms and to make non-material amendments to the WDRP necessary for the better implementation or efficient operation of the WDRP.
4. The Receiver is authorized and directed to sell any Disputed WIP in the circumstances contemplated in the WDRP and in accordance with a sales procedure to be approved by further Order of this Court.
5. Any Customer that does not file a Proof of Title Claim with the Receiver before the Title Claims Bar Date will be deemed to have abandoned, and will be forever barred from making or enforcing, any claim, right, title or interest in and to the Disputed WIP, and the Receiver will be at liberty to dispose of or otherwise deal with such Disputed WIP free and clear of any such claim, right, title or interest of such Customer or any Person claiming through such Customer.
6. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties under the WDRP.

GENERAL

7. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States 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 or to assist the Receiver and its agents in carrying out the terms of this Order.
8. 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.

9. 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.



Justice of the Court of Queen's Bench of Alberta

**SCHEDULE 1
WDRP**

See the attached.

SCHEDULE 1
WIP DISPUTE RESOLUTION PROCESS

CONTEXT:

A. Pursuant to a general security agreement and other security, Surefire Industries Ltd. (the “**Company**”) has granted to Alignvest Private Debt Ltd. (the “**Lender**”) a security interest (the “**Lender Security**”) over all of the Property to secure the indebtedness, liabilities and obligations of the Company under a letter loan agreement dated March 27, 2013 between the Company and the Lender.

B. Pursuant to an Order of the Court of Queen’s Bench of Alberta (together with any appellate court therefrom, the “**Court**”) in an application by the Company under the *Companies’ Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended, made on August 30, 2013, the Lender was granted a charge (the “**DIP Charge**”) over all of the Property to secure the obligations of the Company to the Lender under a commitment letter dated August 30, 2013 between the Company and the Lender creating an interim credit facility.

C. Pursuant to an Order of the Court made on September 25, 2013 (the “**Receivership Order**”), Duff & Phelps Canada Restructuring Inc. was appointed as receiver and manager of the Property (in such capacity, the “**Receiver**”) pursuant to an application by the Lender to the Court (the “**Receivership Proceedings**”). The Receivership Order grants a first ranking charge (the “**Receiver’s Charge**”) over all of the Property to secure the fees and disbursements of the Receiver and to secure borrowings made by the Receiver.

D. The Company has asserted that it is entitled to unpaid vendors’ liens and possessory liens (collectively, the “**Company Liens**”) in and to the WIP. There are also priority liens and trust claims for unpaid taxes and potentially unremitted source deductions (“**Statutory Claims**”).

E. Certain Persons who as of the date of the Receivership Order are or were customers (each, a “**Customer**”) of the Company have claimed title to and ownership of, or a security interest in, the WIP that the Company was manufacturing and assembling on their behalf (each such claim being a “**Title Claim**”), and have further claimed that their Title Claim ranks, as against the WIP, in priority to the Lender Security, the DIP Charge, the Company Liens, the

Statutory Claims and any other property or *in rem* claim in and to the WIP by any Person (a dispute over such relative priorities being a “**Dispute**”, and the Lender Security, the DIP Charge, the Company Liens, the Statutory Claims and any other property or *in rem* claim in and to the WIP being collectively referred to as the “**Competing Claims**”). It is unclear whether the Receiver’s Charge encumbers the WIP.

F. The Receiver has determined that it is in the best interests of the Customers, the Lender and the Estate that there be implemented a process to resolve Disputes and to complete the realization of the Property as expeditiously, efficiently and economically as possible by permitting the Customers within a specified period of time to elect one of the following: (i) the Customer taking possession of Identified WIP free and clear of any Competing Claims in exchange for posting security; or (ii) the Customer taking custody of the Identified WIP as agent subject to an undertaking to return the Identified WIP and compensate the Receiver on behalf of the Estate in the event that the Customer does not win its Dispute; or (iii) the Identified WIP being sold in an auction with other Property and the WIP Proceeds being held by the Receiver in lieu thereof pending the outcome of the Dispute.

DEFINED TERMS AND INTERPRETATION

1. The following terms shall have the following meanings ascribed thereto:
 - (a) “**Business Day**” means a day, other than a Saturday, a Sunday or statutory holiday in the Province of Alberta.
 - (b) “**Cash Security**” is defined in Section 16(a).
 - (c) “**Company**” means Surefire Industries Ltd.
 - (d) “**Company Liens**” is defined in Context paragraph D.
 - (e) “**Competing Claims**” is defined in the Context paragraph E.
 - (f) “**Court**” is defined in the Context paragraph B.
 - (g) “**Customer**” is defined in the Context paragraph E.

- (h) “**DIP Charge**” is defined in the Context paragraph B.
- (i) “**Dispute**” is defined in Context paragraph E.
- (j) “**Disputed WIP Proceeds**” is defined in Section 16(c).
- (k) “**Disputed WIP**” is defined in Section 4.
- (l) “**Documents and Drawings**” means copies of:
 - (i) any manuals or documentation (other than warranties by the Company) relating to the Identified WIP subject to a Customer’s Title Claim; and
 - (ii) any drawings and specifications of such Identified WIP,that are in existence and that that the Company is required to deliver to the Customer under the relevant Sale Contract or that the Company provided in the normal course to such Customer.
- (m) “**Election Deadline**” is defined in Section 16.
- (n) “**Estate**” means: (i) in the context of the Receivership Proceedings, any rights of the Receiver and the creditors of the Company to the Property or any distribution of the proceeds thereof; and (ii) in the context of any bankruptcy proceedings against the Company in connection with a bankruptcy order made against the Company under section 43 of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. W-11, as amended, the estate of the Company in bankruptcy.
- (o) “**Estimated Value**” means the estimated value of the Disputed WIP based upon:
 - (i) where Gordon Brothers has provided an estimated value of such Disputed WIP, the mid-point of the high and low value amounts provided in a report dated September 18, 2013 from Gordon Brothers delivered to the Receiver, which amount was determined based on the current state, condition and location of certain of the Disputed WIP;

- (ii) where Gordon Brothers has not provided an estimated value of such Disputed WIP, an estimate of value obtained by the Receiver from Gordon Brothers or such other valuator as is retained by the Receiver, and if the estimate provided is a range, the mid-point of high and low value amounts; or
 - (iii) such other evidence provided by a Customer (at its cost) that is acceptable to the Receiver, acting reasonably or as may be determined by Order of the Court.
-
- (p) “**Gordon Brothers**” means Gordon Brothers Commercial and Industrial, LLC.
 - (q) “**Identified WIP**” is defined in Section 9(c).
 - (r) “**Identified WIP Value Amount**” is defined in Section 16(a).
 - (s) “**Instruction Letter**” means the instruction letter to Customers, in substantially the form attached as **Schedule “A”**.
 - (t) “**Item**” is defined in Section 9(a).
 - (u) “**Lender**” means Alignvest Private Debt Ltd.
 - (v) “**Lender Security**” is defined in the Context paragraph A.
 - (w) “**Letter of Credit**” is defined in Section 16(a).
 - (x) “**License**” is defined in Section 16(a).
 - (y) “**Notice of Election**” is defined in Section 16.
 - (z) “**Option A**” is defined in Section 16(a).
 - (aa) “**Option B**” is defined in Section 16(b).
 - (bb) “**Option C**” is defined in Section 16(c).

- (cc) “**Person**” includes any individual, partnership, joint venture, trust, corporation, unincorporated organization, government or agency or instrumentality thereof, or any other juridical entity howsoever designated or constituted.
- (dd) “**Premises**” means the premises of the Company located at 4700, 47th Street SE, Calgary, Alberta.
- (ee) “**Process**” means this WIP dispute resolution process, as such process may be amended or varied from time to time by order of the Court.
- (ff) “**Proof of Title Claim**” means the form of proof of the Title Claim of the Customers in substantially the form attached as **Schedule “B”**.
- (gg) “**Property**” means all of the present and after-acquired assets, properties and undertakings of the Company from time to time.
- (hh) “**Receiver**” is defined in the Context paragraph C.
- (ii) “**Receiver’s Charge**” is defined in Context paragraph C.
- (jj) “**Receivership Order**” is defined in the Context paragraph C.
- (kk) “**Receivership Proceedings**” is defined in the Context paragraph C.
- (ll) “**Sale**” is defined in Section 23.
- (mm) “**Sale Contract**” means a purchase and sale contract between a Customer and the Company, including any master sale contract, master services contract, quotations, purchase orders, bills of sale, invoices and other documents forming part of such contract, all as amended from time to time.
- (nn) “**Statutory Claims**” is defined in context paragraph D.
- (oo) “**Supply Contract**” means a contract between the Customer and the Company under which equipment, parts and components were provided directly or

indirectly to the Company by the Customer or another Person, as amended from time to time.

- (pp) **“Title Claim”** is defined in the Context paragraph E.
- (qq) **“Title Claims Bar Date”** means 4:00 p.m. (Calgary Time) on October 15, 2013, or such later date as may be ordered by the Court.
- (rr) **“Undertaking”** is defined in Section 16(b).
- (ss) **“Warranties”** means all manufacturer warranties provided in respect of Items of Identified WIP by Persons other than the Company.
- (tt) **“WIP”** means all equipment in its current state of completion being manufactured or assembled by the Company pursuant to a Sale Contract, together with any equipment, parts and components associated therewith under the Sale Contract, or provided to the Company in connection therewith under a Supply Contract, all of which must be in the possession and control of the Receiver.
- (uu) **“WIP Dispute Resolution Package”** means a document package that includes a copy of the Instruction Letter, this Process, a Proof of Title Claim, and such other materials as the Receiver may consider appropriate or desirable.
- (vv) **“WIP Identification Inspection”** is defined in Section 9(a).

2. In this Process, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the words “including” or “includes” in this Process is to be construed as meaning “including, without limitation” or “includes, without limitation”, respectively. References in this Process to a Section or Schedule are to be interpreted as references to a Section of or Schedule to this Process unless otherwise specified. Unless otherwise specified in this Process, time periods within which or following which any action is to be taken will be calculated by excluding the day on which the period begins and including the day on which the period ends. If the last day of a time period is not a Business Day, the time period will end on the next Business Day.

3. The following Schedules are incorporated into and form part of this Process:

Schedule "A" -	Instruction Letter
Schedule "B" -	Proof of Title Claim
Schedule "C" -	Form of License

WIP TO WHICH THIS PROCESS APPLIES

4. This Process applies to any WIP in respect of which a Customer has a Title Claim pursuant to a Sale Contract and/or Supply Contract (such WIP being "**Disputed WIP**").

RECEIVER'S ROLE

5. The Receiver shall administer the Process and assist the Court, the Lender and the Customers in the determination, or the negotiation of the resolution and settlement, of any Disputes.

6. The Receiver will provide access to the Lender and any Customer party to a Dispute to all of the documentary information and oral evidence in the possession or control of the Receiver pertaining to that Dispute and the relevant Disputed WIP other than information that is subject to privilege in favour of the Company.

7. The Receiver will immediately following the Receivership Order attempt to facilitate negotiations between Customers and the Lender to determine if a basis exists for a settlement of all or any of the Disputes. Any settlement of a Dispute must be in writing and consented to by the Receiver, and if the Estimated Value of the Disputed WIP subject to such settlement exceeds Cdn. \$50,000, such settlement will be conditional upon approval by order of the Court.

8. The determination by the Court or the settlement by the relevant parties of a Dispute shall be final for all purposes.

WIP IDENTIFICATION

9. If a Customer wishes to make an election in respect of Disputed WIP it has a Title Claim to pursuant to Sections 16(a) or 16(b), the Customer shall identify such Disputed WIP in accordance with the following procedures and shall prove its Title Claim in accordance with Sections 11 and 13:

- (a) The Customer shall attend the Premises with a list of such Disputed WIP by no later than October 9, 2013 and will specifically enumerate, identify and tag each item (each such item being an “**Item**”) forming, making up or included in such Disputed WIP (such attendance being a “**WIP Identification Inspection**”).
- (b) The Receiver will make available Employees of the Company to assist in the WIP Identification Inspection.
- (c) An Item shall only qualify as Disputed WIP in respect of which the Customer with a Title Claim therein may make an election under Section 16 if:
 - (i) the Item is
 - (A) specifically described in or identified in and specifically appropriated to a Sale Contract;
 - (B) specifically and physically identified with, or identifiable with or ascertainable to, and appropriated to a Sale Contract; or
 - (C) specifically identified in a Supply Contract;

(including where such Item is labeled with the Customer’s name or project number or is painted with the Customer’s proprietary brand of paint (assuming no other Customer uses such paint)) between the Customer and the Company (all such Items making up the Disputed WIP subject to such Title Claim being the “**Identified WIP**”). For certainty, but subject to Section 9(c)(i)(B), non-specific, general descriptions in the relevant Sale Contract and/or Supply Contract that do not specifically identify an Item shall not form a sufficient basis for qualifying an Item as Identified WIP; and
 - (ii) the Item of Identified WIP is tagged in accordance with this Section 9.
- (d) In order to tag an Item hereunder as Identified WIP, a Customer must have *prima facie* evidence that such Item qualifies as Identified WIP under Section 9(c),

which identification tagging will only be for the purposes of this Process and will be without prejudice to the rights of the Receiver, the Lender or any other Person claiming an interest therein to object under Section 9(e) or to any right, title or interest of the Receiver, the Estate, the Lender or any other Person having an interest therein except as specifically provided for herein.

- (e) If the Receiver, the Lender or any other Person having an interest do not agree that an Item tagged by the Customer qualifies as Identified WIP, then any such party or Person may apply to the Court for a determination thereof. The Receiver shall endeavor to schedule a Court date to determine any such disputes to be held on or before October 25, 2013.
- (f) To the extent that a Customer claims that it has a Title Claim against an Item that does not qualify as Identified WIP under Section 9(c), such failure to qualify shall be without prejudice to any unsecured claims of such Customer against the Company in respect thereof.

NOTICE TO CUSTOMERS

10. The Receiver shall:

- (a) no later than one Business Day following the approval of this Process by the Court, post a copy of the WIP Dispute Resolution Package on its website, and send or cause to be sent to each Customer identified on the Company's WIP schedule a copy of the WIP Dispute Resolution Package; and
- (b) deliver as soon as reasonably possible a copy of the WIP Dispute Resolution Package to any Person claiming to be a Customer and requesting such material prior to the Title Claims Bar Date.

PROOFS OF TITLE CLAIM

11. Each Customer wishing to prove a Title Claim to Disputed WIP, any Documents and Drawings thereof, and that any Items thereof qualify under Section 9(c) as Identified WIP shall file a Proof of Title Claim together with all relevant documents and materials in support of such

Title Claim with the Receiver in the manner provided herein. Any Customer that does not file a Proof of Title Claim with the Receiver before the **Title Claims Bar Date** will be deemed to have abandoned, and will be forever barred from making or enforcing, any claim, right, title or interest in and to the Disputed WIP and Documents and Drawings, including the Title Claim, unless otherwise permitted by the Court, and the Receiver will be at liberty to dispose of or otherwise deal with such Disputed WIP and Documents and Drawings free and clear of any such claim, right, title or interest of such Customer or any Person claiming through such Customer. The filed Proof of Title Claim shall be in final form and cannot be amended subsequent to it being filed.

12. The Receiver may waive strict compliance with the requirements of this Process as to completion and execution of a Proof of Title Claim (other than, for greater certainty, the Title Claims Bar Date).

13. The Receiver shall review each Proof of Title Claim filed on or before the Title Claims Bar Date. At any time, the Receiver may request in writing that the Customer provide additional information with respect to the Title Claim of a Customer to Disputed WIP and Documents and Drawings, which additional information will be provided to the Receiver by the later of the Title Claims Bar Date or five (5) Business Days subsequent to such request being sent by the Receiver. If the Customer fails to provide additional information within such period, the Customer will be barred from relying on such information in these or any subsequent proceedings.

14. The Receiver will have status in all proceedings in respect of Disputes and shall be entitled to conduct and require examinations of Persons having information or documentation with respect to the Disputed WIP, the related and Documents and Drawings, and the competing claims thereto. The Lender and the affected Customer may attend such examinations and the Lender and affected Customer may examine Persons having information or documentation with respect to the Disputed WIP, the Title Claim and the Competing Claims. All parties to such proceedings shall be obliged to disclose all relevant evidence in their possession and control relating to their Dispute, notwithstanding the summary nature of the proceedings.

15. If a Customer provides a Proof of Title Claim prior to the Title Claims Bar Date together with any other information required by the Receiver under Section 13, then to the extent that

there is a Dispute in respect thereof by the Receiver and/or the Lender, the Receiver and/or Lender shall have till October 21, 2013 to give notice in writing thereof to the relevant Customer.

CUSTOMER ELECTION OF DELIVERY OR SALE

16. A Customer that has complied with Sections 9 and 11 will be entitled to elect any one of the following options by no later than noon on October 25, 2013 (the “**Election Deadline**”) in respect of Identified WIP to which it has a Title Claim by delivering a notice in writing to the Receiver before the expiry of the Election Deadline (a “**Notice of Election**”):

- (a) **Option A** – The Customer may take possession of some or all of its Identified WIP by paying cash in trust (the “**Cash Security**”), or delivering a letter of credit (a “**Letter of Credit**”), to the Receiver in an amount equal to the Estimated Value of such Identified WIP (the “**Identified WIP Value Amount**”) and by removing such Identified WIP from the Premises by no later than October 31, 2013, provided that such removal shall be at the sole cost and risk of the Customer and the Customer being liable for any damages resulting from such removal to the Premises, other WIP or other Property (the option described in this Subsection 16(a) is referred to as “**Option A**”). The Customer may also take possession by such date of copies of the Documents and Drawings in respect of such Identified WIP provided that it enter into a license agreement with the Receiver in respect of such Documents and Drawings substantially in the form attached as **Schedule “C”** or in a form otherwise agreeable to the Customer and the Receiver or as may be ordered by the Court (a “**License**”). At the request of the Customer, the Receiver will assign the Warranties relating to such Identified WIP to the Customer on an “as is” and without recourse basis; or
- (b) **Option B** – The Customer may take custody of some or all of its Identified WIP, which custody will be as agent for and on behalf of the Company and the Receiver (it being the intent that constructive possession of the Identified WIP shall for all purposes remain with the Company and the Receiver) and without prejudice to any right, title or interest in that Identified WIP that the Receiver, the Estate, the Lender or any other Person may have pursuant to the Competing

Claims (the option described in this Subsection 16(b) is referred to as “**Option B**”), and subject to such Customer bearing and paying all costs of taking custody of such Identified WIP, removing such Identified WIP from the Premises by no later than October 31, 2013, and undertaking in writing as follows (an “**Undertaking**”):

- (i) the Customer will not will not use, modify or change in any way the Identified WIP and will store the Identified WIP in a shrink wrapped or otherwise similar secure manner that is acceptable to the Receiver, acting reasonably;
- (ii) the Customer will store the Identified WIP in a secure location that is in, or within ten (10) kilometers of, the City of Calgary, or is in such other location that is acceptable to the Receiver (acting reasonably) or permitted by the Court, is stored under conditions acceptable to the Receiver (acting reasonably), and will be subject to inspection by the Receiver at any time and from time to time (subject to reasonable notice to the Customer);
- (iii) in the event that the Court determines by final order that the Title Claim is not valid or that any of the Competing Claims take priority to the Title Claim of the Customer with respect to all or any of the Identified WIP:
 - (A) the Customer will deliver at its sole cost to a location in, or within ten (10) kilometers of, the City of Calgary (or that is otherwise determined by the Receiver, acting reasonably) the Identified WIP or the portion subject to such priority determination, or, if such final order determines that (1) the Customer has a valid Title Claim but one or more Competing Claims rank in priority to such Title Claim, the Customer will have the option of paying to the Receiver the amount of such Competing Claim(s) in full; or (2) the Customer does not have a valid Title Claim, the Customer will have the option of paying to the Receiver the Estimated Value of such Identified WIP;

- (B) the Customer will promptly pay the Receiver all reasonable damages, costs, losses, liabilities, fees, expenses and disbursements (including all reasonable legal fees and disbursements on a full indemnity basis) incurred or suffered by the Receiver as a result of the Customer taking custody of the Identified WIP pursuant to this Option B instead of the Receiver selling the Identified WIP pursuant to Option C, including future storage costs, insurance, possession and maintenance costs, and costs of realization of the Identified WIP, and including any professional fees, disbursements and other costs of realization;
- (iv) the Customer shall covenant, acknowledge and undertake that the Customer's obligations under the Undertaking will not be subject to any claim of set-off, cross-claim or counterclaim that the Customer may have against any Person,

which Undertaking will be in form and substance acceptable to the Receiver, acting reasonably (and in the event of any dispute as to its terms, the parties will seek the advice and direction of the Court). If, after a final order contemplated in Section 16(b)(iii) is made, and the Customer wishes to exercise the options in Section 16(b)(iii)(A)(1) or 16(b)(iii)(A)(2), and the Customer wishes to obtain (1) any Documents and Drawings in respect of such Identified WIP subject thereto, the Customer will execute and deliver to the Receiver a License to Documents and Drawings in respect of such Identified WIP, and upon such Customer executing and delivering such License to the Receiver, the Receiver will permit the Customer to take possession of copies of any such Documents and Drawings; or (2) any Warranties relating to such Identified WIP, the Receiver will assign such Warranties to the Customer on an "as is" and without recourse basis; or

- (c) **Option C** – The Receiver will be at liberty to sell the Identified WIP in a Sale contemplated by Section 23 (the option described in this Subsection 16(c) is referred to as "**Option C**") and upon the completion of such Sale, any claim,

right, title and interest of such Customer to the Identified WIP shall be released and discharged, without prejudice to any claim, right, title and interest of the Customer, the Lender, any other Person with a Competing Claim or the Receiver on behalf of the Estate to the proceeds of realization such Identified WIP arising from such Sale (the “**Disputed Proceeds**”).

17. If a Customer elects either Option A or Option B, the Receiver will provide the Customer with reasonable access to the Premises in order to allow the Customer to remove the Identified WIP in respect of which it made such election prior to October 31, 2013.

18. If:

- (a) the Customer does not deliver a Notice of Election to the Receiver by the expiry of the Delivery Deadline; or
- (b) the Customer elects Option A but fails to remove its Identified WIP from the Premises and deliver the Cash Security or Letter of Credit and a Licence (if the Customer requires Documents and Drawings in respect of such Identified WIP) by October 31, 2013; or
- (c) the Customer elects Option B but fails to remove its Identified WIP from the Premises and deliver an executed Undertaking by October 31, 2013,

then the Customer will be deemed to have elected Option C.

19. The Disputed Proceeds, the Cash Security or the Letter of Credit, as the case may be, will stand in lieu and in place of the Identified WIP and will be held by the Receiver pending further order of the Court with respect to the Dispute. The Sale of any Identified WIP and its replacement by Disputed Proceeds will be without prejudice to any position in fact or law of the Customers or any other Person and any matter that would be adjudicated as if the Identified WIP were still in the possession of the Receiver, including as to the appropriate quantum of the Estimated Value.

20. Any Letter of Credit must be provided by a financial institution acceptable to the Receiver and be on general terms and otherwise in form and content acceptable to the Receiver.

The call terms on the Letter of Credit will provide that the Receiver will be entitled to payment under the Letter of Credit subject to any one of the following terms:

- (a) a final order determining that the Title Claim of the Customer posting the Letter of Credit is not valid or that the Competing Claims rank in priority to such Title Claim; or
- (b) An agreement between the Customer posting the Letter of Credit and the Receiver as to the entitlement to the proceeds of the Letter of Credit.

21. In order to draw on the Letter of Credit, the Receiver shall provide a statutory declaration confirming that the call terms of this Process have been satisfied. The Letter of Credit will also provide that the Letter of Credit shall be terminated and revoked upon the occurrence of the following:

- (a) a final order determining that the Title Claim of the Customer posting the Letter of Credit is valid or that the Competing Claims are subordinate in priority to such Title Claim; or
- (b) An agreement between the Customer posting the Letter of Credit and the Receiver to terminate the Letter of Credit.

The Customer and the Receiver shall act reasonably in settling the terms of the Letter of Credit.

22. The Identified WIP Value Amount (if in the form of Cash Security) and Disputed Proceeds in respect of Identified WIP subject to a Customer's Title Claim shall be held in trust by the Receiver in lieu and in place of the Identified WIP and shall be released only upon the agreement of the Customer and the Receiver, with the consent of the Lender, or pending further order of the Court with respect to the relevant Dispute.

23. The Receiver will be at liberty to apply to the Court for an order authorizing and directing it to sell the Identified WIP in respect of which a Customer has elected or been deemed to have elected Option C together with such other Property (for greater certainty, including any Disputed WIP that is not subject to Option A or Option B) that the Receiver deems advisable, including any Disputed WIP other than such Identified WIP (the "Sale"), and upon such Sale of the

Identified WIP and such other Property ownership thereof shall vest in the purchaser thereof free and clear of any claim, right, title and interest of the Customer or any other Person.

24. If any Dispute remains unresolved by October 31, 2013, any of the Customer, the Lender, the Receiver or any other Person with an interest therein may apply to the Court for a determination thereof on such terms or in accordance with such procedure as the Court may direct. Any determination by the Court shall be by way of hearing *de novo*.

TIMELINE

25. The following is a summary of the principal actions which must be taken, or the time within which such actions must be taken, under this Process:

ACTION	DATE
Hearing to approve this Process	October 8, 2013, at 2:00 pm
WIP Identification Inspections ¹	Up to October 9, 2013
Title Claims Bar Date	October 15, 2013 by 4:00 pm
Notice by Receiver or Lender to Customers of intention to dispute a Title Claim	October 21, 2013
Election Deadline for submitting a Notice of Election	October 25, 2013 at noon
Re-attendance before Court to deal with any disputes over whether Items qualify as Identified WIP	Before October 30, 2013 (subject to availability of the Court)
Where Customer elects: (a) Option A, deadline for removing Identified WIP from Premises and posting Cash Security or Letter of Credit; and (b) Option B, deadline for removing Identified WIP from Premises and delivering Undertaking	October 31, 2013

PROTECTIONS FOR RECEIVER

26. In carrying out the terms of this Process:

- (a) the Receiver shall have all of the protections given to it by the Receivership Order, under applicable law and as an officer of the Court, including the stay of proceedings in its favour;

¹ The WIP Identification Inspections commenced immediately following the oral reasons of Madame Justice Kent on October 2, 2013. The WIP Identification Inspections are substantially advanced as most Customers have attended at the Premises and tagged Disputed WIP subject to their Title Claims.

- (b) the Receiver shall incur no liability or obligation as a result of the carrying out of the provisions of this Process; and
- (c) the Receiver shall be entitled to rely on the books and records of the Company, and oral testimony from management or former management of the Company, and shall not be liable for any claims or damages resulting from any errors or omissions in such books and records or testimony.

DIRECTIONS

27. The Customers, the Lender, the Receiver or any other Person with an interest in Identified WIP may, at any time, and with such notice as the Court may require, seek directions from the Court with respect to this Process, including the forms attached as Schedules.

SERVICE AND NOTICE

28. The Receiver may deliver the WIP Dispute Resolution Package, and any letters, notices or other documents to the Customers or other interested Persons, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission to such Persons at the address as last shown on the records of the Company or on the service list maintained by the Receiver, and any such service or notice by courier, personal delivery or electronic or digital transmission shall be deemed to be received on the next Business Day following the date of forwarding thereof, or if sent by mail, on the second Business Day after mailing. Notwithstanding anything to the contrary in this Section 28, Dispute Notices shall be sent only by courier, with a copy by electronic or digital transmission.

29. Any notice or other communication (including, without limitation, Proofs of Title Claim) to be given under this Process by a Customer to the Receiver or the Lender shall be in writing in substantially the form, if any, provided for in this Process and will be sufficiently given only if given by courier, personal delivery or electronic or digital transmission addressed to:

- (a) If to the Receiver:

Duff & Phelps Canada Restructuring Inc.
Bay Adelaide Centre
333 Bay Street

14th Floor
Toronto Ontario M5H 2R2

Attention: Noah Goldstein
E-mail: Noah.Goldstein@duffandphelps.com
Fax: (647) 497-9473

With a copy to:

Gowling Lafleur Henderson LLP
1400, 700 – 2nd Street SW
Calgary, AB T2P 4V5

Attention: Tom Cumming / Clifton Prophet
Telephone: (403) 298-1938 / (416) 862-3509
Fax: (403) 695-3538
Email: Tom.Cumming@gowlings.com / Clifton.Prophet@Gowlings.com

(b) If to the Lender:

McCARTHY TÉTRAULT LLP
Barristers & Solicitors
Suite 3300, 421-7th Avenue S.W.
Calgary AB T2P 4K9

Attention: Sean F. Collins
Telephone: (403) 260 3531
Fax: (403) 260-3501
Email: scollins@mccarthy.ca

Any such notice or other communication by a Customer shall be deemed received only upon actual receipt thereof during normal business hours on a Business Day.

SCHEDULE "A"

LETTER OF INSTRUCTION WIP DISPUTE RESOLUTION PROCESS SUREFIRE INDUSTRIES LTD. (THE "COMPANY")

TO: The Persons who are current or former customers (the "Customers") of the Company

A. WIP Dispute Resolution Process

By Order of the Court of Queen's Bench of Alberta (together with any appellate court therefrom, the "Court") made on September 25, 2013 (the "Receivership Order") in an application by the Lender to appoint a receiver filed on September 24, 2013, Duff & Phelps Canada Restructuring Inc. was appointed as receiver of the undertaking, property and assets of the Company (in such capacity, the "Receiver"). Pursuant to a further Order of the Court made on October 8, 2013, the Receiver was authorized to administer a WIP dispute resolution process (the "Process").

A copy of the Process is enclosed with this Letter of Instruction.

The Process is intended for any Person with a Title Claim to or in respect of WIP and who claims that an Item is Identified WIP subject to its Title Claim to which it is entitled to attach a tag under Section 9 of the Process. Please review the Process for the complete definitions of Title Claim, Item, Identified WIP and WIP.

If you have any questions regarding the Process, please consult the website of the Receiver at:

<http://www.duffandphelps.com/intl/en-ca/Pages/RestructuringCases.aspx?caseId=862>

or contact the Receiver at the address provided below.

B. For Customers Submitting a Proof of Title Claim

If you believe that you have a Title Claim against WIP or show an Item qualifies as Identified WIP, you will have to file a Proof of Title Claim with the Receiver at the following address:

Duff & Phelps Canada Restructuring Inc.
Bay Adelaide Centre
333 Bay Street
14th Floor
Toronto Ontario M5H 2R2

Attention: Noah Goldstein
E-mail: Noah.Goldstein@duffandphelps.com
Fax: (647) 497-9473

With a copy to:

Gowling Lafleur Henderson LLP
1400, 700 – 2nd Street SW
Calgary, AB T2P 4V5

Attention: Tom Cumming / Clifton Prophet
Telephone: (403) 298-1938 / (416) 862-3509
Fax: (403) 695-3538
Email: Tom.Cumming@gowlings.com / Clifton.Prophet@Gowlings.com

The Proof of Claim must be received by 4:00 p.m. (Calgary Time) on October 15, 2013, the Title Claims Bar Date.

Additional Proof of Title Claim forms and other information, including a copy of the Receivership Order, can be obtained from the Receiver's website at:

<http://www.duffandphelps.com/intl/en-ca/Pages/RestructuringCases.aspx?caselid=862>

or by contacting the Receiver at the telephone and fax numbers indicated above and providing particulars as to your name, address and facsimile number.

It is your responsibility to ensure that the Receiver receives your Proof of Title Claim by the above-noted time and date.

Regards,

**DUFF & PHELPS CANADA RESTRUCTURING INC.
IN ITS CAPACITY AS RECEIVER AND RECEIVER AND MANAGER OF
SUREFIRE INDUSTRIES LTD.
AND NOT IN ITS PERSONAL CAPACITY**

SCHEDULE "B"

**PROOF OF TITLE CLAIM
SUREFIRE INDUSTRIES LTD. (THE "COMPANY")**

TO: **Duff & Phelps Canada Restructuring Inc.**, in its capacity as receiver and manager of the assets, properties and undertakings of the Company (in such capacity, the **"Receiver"**)

RE: WIP Dispute Resolution Process (the **"Process"**) created pursuant to the Order of the Court of Queen's Bench of Alberta made on October 8, 2013 (unless otherwise defined herein, capitalized terms have the meanings assigned to them in the Process)

Please read carefully the enclosed Instruction Letter delivered in connection with the Process for completing this Proof of Title Claim.

A. PARTICULARS OF CUSTOMER:

1. Full Legal Name of Customer: _____

(the **"Customer"**).

2. Full Mailing Address of the Customer:

3. Telephone Number: _____

4. E-Mail Address: _____

5. Facsimile Number: _____

6. Attention (Contact Person): _____

B. PROOF OF TITLE CLAIM:

7. I, _____ (*name of Customer or representative of Customer*), of _____ (*city and province*) do hereby certify:

(a) that I am the _____ (*state position or title*) of _____ (*name of Customer*);

(b) that I have knowledge of all the circumstances connected with the Title Claim referred to below;

- (c) the Customer asserts its Title Claim against the WIP described on Exhibit 1;
- (d) Other than as already set out herein, the particulars of the undersigned's Title Claim, and the evidence that particular Items qualify as Identified WIP under Section 9 of the Process, are attached as Exhibit 2, together with all relevant documents and materials in support of such Title Claim.

(Provide all particulars of the Title Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Title Claim, and amount and copies of all invoices, particulars of all credits, discounts, etc., a description of any security taken against any WIP, granted by the Company and estimated value of such security. Also provide evidence that each Item claimed to be Identified WIP by the Customer qualifies as Identified WIP under Section 9 of the Process.)

C. FILING OF CLAIM

This Proof of Title Claim must be received by the Receiver by no later than 4:00 p.m. (Calgary Time) on October 15, 2013, being the Title Claims Bar Date, by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission at the following address:

Duff & Phelps Canada Restructuring Inc.
Bay Adelaide Centre
333 Bay Street
14th Floor
Toronto Ontario M5H 2R2
Attention: Noah Goldstein
E-mail: Noah.Goldstein@duffandphelps.com
Fax: (647) 497-9473

With a copy to:

Gowling Lafleur Henderson LLP
1400, 700 – 2nd Street SW
Calgary, AB T2P 4V5
Attention: Tom Cumming / Clifton Prophet
Telephone: (403) 298-1938 / (416) 862-3509
Fax: (403) 695-3538
Email: Tom.Cumming@gowlings.com / Clifton.Prophet@Gowlings.com

Failure to file your proof of claim as directed by 4:00 p.m., on October 15, 2013 (Calgary time) will result in your Title Claim being barred and in you being prevented from making or enforcing a Title Claim against the Disputed WIP or any other Property.

Dated at _____ this _____ day of _____, 2013.

Name of Customer

Signature of Authorized Signing Officer of
the Customer

SCHEDULE "C"
FORM OF LICENSE

This license agreement dated as of _____, 2013 between Duff & Phelps Canada Restructuring Inc. ("**Duff & Phelps**"), in its capacity as receiver and manager of the assets, properties and undertakings of Surefire Industries Ltd. (in such capacity, the "**Receiver**") and _____ (the "**Customer**")

Recitals:

A. Surefire Industries Ltd. (the "**Company**") designed, developed and manufactured custom oil and gas services drilling equipment.

B. Pursuant to an Order of the Court of Queen's Bench of Alberta (the "**Court**") made on September 25, 2013, Duff & Phelps was appointed as Receiver of the assets, properties and undertakings of the Company.

C. Pursuant to an Order of the Court dated October 8, 2013, the Court approved a process (the "**WDRP**") for customers to prove their claims to WIP pursuant to their Sale Contracts and/or Supply Contracts with the Company, to identify WIP as Identified WIP, and to elect (i) to take possession of Identified WIP upon posting Cash Security or a Letter of Credit to stand in lieu thereof, (ii) to take custody as agent for and on behalf, *inter alia*, of the Receiver upon delivering an Undertaking, or (iii) for the Receiver to sell the Identified WIP together with other Property and hold the WIP Proceeds until there is a determination by the Court or agreement among the relative parties as to entitlement thereto.

D. The Customer requires copies of the Documentation and Drawings pertaining to the Identified WIP described in Schedule "A". The Receiver is providing copies of the Documents and Drawings to the Customer pursuant to the WDRP and this License.

Now therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Customer and the Receiver agree as follows:

1. Unless otherwise defined herein, capitalized terms have the meanings given to them in the WDRP. The following terms are defined as follow:
 - (a) "**License**" means this license agreement and Schedule "A", as amended from time to time.
 - (b) "**Confidential Information**" means: (i) the Documents and Drawings; (ii) all information, data and material that is contained in or forms part of the Documents and Drawings; and (iii) all reproductions of the Documents and Drawings made by or for Customer in accordance with Section 3.
 - (c) "**Intellectual Property**" means trade-marks and trade-mark applications, trade names, certification marks, patents and patent applications, copyrights, domain names, industrial designs, trade secrets, know-how, formulæ, processes,

inventions, technical expertise, research data and other similar property, all associated registrations and applications for registration, and all associated rights, including moral rights.

2. In this License, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the words “including” or “includes” in this License is to be construed as meaning “including, without limitation” or “includes, without limitation”, respectively. References in this License to a Section or Schedule are to be construed as references to a Section or Schedule of or to this License unless otherwise specified. This License is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Alberta and the laws of Canada applicable in that Province.
3. The Receiver hereby grants to the Customer a royalty-free, paid-up, world-wide, perpetual, irrevocable, non-exclusive, non-assignable license to reproduce, or have reproduced, the Documents and Drawings in any format whatsoever, solely and exclusively for the purpose of: (a) manufacturing or assembling the Identified WIP, (b) completing the manufacture or assembly of the Identified WIP, or (c) repairing or otherwise servicing the Identified WIP (collectively the “**Permitted Use**”). The Customer shall reproduce all proprietary rights notices on any such reproductions, in the same manner in which such notices were set forth in or on the original. The Receiver shall provide copies of the Documents and Drawings in connection with such License.
4. The Customer shall not sub-license the rights granted under Section 3 without the prior written consent of the Receiver, which consent may be withheld by the Receiver in its absolute discretion.
5. The Receiver may at any time and without restriction license, sell or otherwise dispose of any Intellectual Property licensed to the Customer hereunder and any Confidential Information provided that any such license, sale or other disposition is subject to the license granted hereby and the Permitted Use.
6. The Customer:
 - (a) may use the Confidential Information in connection with the Permitted Use, or otherwise as approved by the Receiver in writing, but for no other purpose whatsoever;
 - (b) shall protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information using at least those measures that it takes to protect its own most highly confidential information, but in no circumstances less than reasonable care;
 - (c) shall not disclose any Confidential Information to any Person other than the Customer’s officers, employees, consultants, contractors, service providers and legal advisors who require access to such Confidential Information in connection with the Permitted Use, and who have agreed to be bound by obligations of confidentiality that are no less restrictive than those set forth herein; and

- (d) shall not make any copies of the Confidential Information, except as may be reasonably required in connection with the Permitted Use and only where the Customer has reproduced all proprietary rights notices on any such copies, in the same manner in which such notices were set forth in or on the original.
7. The Customer acknowledges that a breach of the terms of this License may cause irreparable harm to the Estate, the extent of which would be difficult to ascertain and quantify. Accordingly, the Customer agrees that, in addition to any other remedies to which the Receiver may be legally entitled, the Receiver shall be entitled to immediate injunctive relief from a court of competent jurisdiction in the event of a breach of this License by the Customer or any of its officers, employees, consultants, contractors, service providers, legal advisors or other agents. The parties to this License further agree that no bond or other security shall be required in obtaining such equitable relief.
 8. The Confidential Information will remain the exclusive property of Company. No rights, licenses, title or interests in the Documents and Drawings or the Confidential Information are granted by the Receiver to the Customer outside the express license granted in Section 3 and the right to the Permitted Use, nor shall any be implied.
 9. No amendment, discharge, modification, restatement, supplement, termination or waiver of this License or any Section is binding unless it is in writing and executed by the party to be bound. No waiver of, failure to exercise, or delay in exercising, any Section of this License constitutes a waiver of any other Section (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.
 10. Each party to this License will execute and deliver any further agreements and documents and provide any further assurances, undertakings and information as may be reasonably required by the requesting party to give effect to this License.
 11. Subject to Section 5, this License, the Intellectual Property, the Confidential Information and any right or obligation under this License may be assigned, sold or otherwise disposed of by the Receiver without the prior written consent of the Customer. Neither this License nor any right or obligation under this License may be assigned by the Customer without the prior written consent of the Receiver. This License enures to the benefit of and is binding upon the parties hereto and their respective successors and permitted assigns.
 12. This License may be executed and delivered by the parties hereto in one or more counterparts, each of which will be an original, and each of which may be delivered by facsimile, e-mail or other functionally equivalent electronic means of transmission, and those counterparts will together constitute one and the same instrument.

Each of the parties to this License has executed and delivered this License, as of the date noted at the beginning of the License.

Name of Customer

Signature of Authorized Signing Officer
of the Customer

DUFF & PHELPS CANADA RESTRUCTURING INC.,
in its capacity as receiver and manager of the assets,
properties and undertakings of Surefire Canada Ltd.,
and not in its personal capacity
By:

Name:
Title:

SCHEDULE "A"
DESCRIPTION OF IDENTIFIED WIP

Appendix “B”

LIQUIDATION SERVICES AGREEMENT

THIS AGREEMENT is made as of this 23rd day of October, 2013.

B E T W E E N:

DUFF & PHELPS CANADA RESTRUCTURING INC. (“D&P”),
in its capacity as the court-appointed receiver and manager of
Surefire Industries Ltd.,
and not in its personal or corporate capacity

(the “**Receiver**”)

- and -

HILCO ASSET SALES CANADA CORP.,
a corporation incorporated under the laws of the Province of Nova Scotia

(the “**Liquidator**”)

RECITALS:

- A. Pursuant to an Order of the Court of Queen’s Bench of Alberta (the “**Court**”) dated September 25, 2013 (the “**Receivership Order**”), D&P was appointed as receiver and manager, without security, of all of the assets, undertakings and properties of Surefire Industries Ltd. (the “**Debtor**”);
- B. Pursuant to the Receivership Order and an Order made by the Court on October 8, 2013, the Receiver was empowered and authorized to market any or all of the Debtor’s property, including advertising and soliciting offers in respect of the property and negotiating such terms and conditions of sale as the Receiver, in its discretion, deemed appropriate; and
- C. The Liquidator and the Receiver have agreed to enter into this Agreement respecting the sale of the Assets (as defined herein) by the Liquidator as agent for and on behalf of the Receiver, upon the terms and conditions hereinafter set forth.

NOW THEREFORE IN CONSIDERATION of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to the terms and conditions set forth below.

ARTICLE 1- INTERPRETATION

1.01 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

- (a) “**Accounts Receivable**” means all accounts, debts, dues, demands and choses in action howsoever arising that are now due, owing or accruing due to the Debtor, including, without limitation, all accounts receivable pertaining to the Business, including tax refunds receivable.
- (b) “**Additional Excluded Assets**” has the meaning ascribed thereto in Section 2.01(b).
- (c) “**Agreement**” means this agreement, including its recitals and schedules, as amended from time to time.
- (d) “**Applicable Law**” means, at any time, with respect to any Person, property, transaction or event, all applicable laws, statutes, regulations, treaties, judgments and decrees and (whether or not having the force of law) all applicable official directives, rules, consents, approvals, by-laws, permits, authorizations, guidelines, order and policies of any Governmental Authority having authority over that Person, property, transaction or event.
- (e) “**Approval Order**” means an Order of the Court in a form acceptable to the Liquidator and the Receiver, acting reasonably, authorizing the Receiver to enter into this Agreement and providing for the matters set out in Section 2.10.
- (f) “**Assets**” has the meaning ascribed thereto in Section 2.01(a).
- (g) “**Auction**” has the meaning ascribed thereto in Section 2.01(c).
- (h) “**Business**” means the business formerly carried on by the Debtor, including, without limitation, the business of manufacturing oil field services equipment.
- (i) “**Business Day**” means any day excluding a Saturday, Sunday or statutory holiday in the Province of Alberta, and also excluding any day on which the principal chartered banks located in the City of Calgary are not open for business during normal banking hours.
- (j) “**Buyer’s Premium**” has the meaning ascribed thereto in Section 2.04.
- (k) “**Claims**” means all losses, damages, expenses, liabilities (whether accrued, actual, contingent, latent or otherwise), interest, penalties, costs, claims, complaints and demands of whatever nature or kind, including all legal fees and costs on a substantial indemnity basis.
- (l) “**Condition Date**” means the date on which all of the conditions set out in Article 6 have been satisfied or waived.

- (m) **“Court”** has the meaning set out in the recitals to this Agreement.
- (n) **“Debtor”** has the meaning set out in the recitals to this Agreement.
- (o) **“Deposit”** has the meaning ascribed thereto in Section 2.02(d).
- (p) **“Excluded Assets”** means:
 - (i) the right, title, interest or benefit, if any, of the Debtor in connection with any leased or licensed assets used in the Business and the right, title, interest or benefit, if any, of the Debtor in any lease, license or other agreement relating thereto;
 - (ii) the books and records of the Debtor which do not relate to the Assets;
 - (iii) the Debtor’s interest in its subsidiary;
 - (iv) any of the Debtor’s causes of action;
 - (v) the Accounts Receivable;
 - (vi) the Software;
 - (vii) the Intellectual Property;
 - (viii) all fixtures which are attached to any Premises; and
 - (ix) the Additional Excluded Assets, if any.
- (q) **“Expense Amount”** means \$ [REDACTED].
- (r) **“Force Majeure”** has the meaning ascribed thereto in Section 7.01.
- (s) **“Governmental Authority”** means:
 - (i) any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority and any subdivision of the foregoing exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory or taxing authority or power of any nature; or
 - (ii) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing.
- (t) **“Gross Proceeds”** means, collectively, the proceeds of sale from the Inventory and the Machinery and Equipment, including the Buyer’s Premium and all Transfer Taxes.

- (u) **“Intellectual Property”** means all applications and registrations (whether domestic or foreign) for the trademarks, copyrights, patents, patent applications, industrial designs, engineering drawings and tooling designs owned by the Debtor, all trade secrets, trade dress, trade styles or other logos owned by the Debtor and all licenses related to the foregoing.
- (v) **“Inventory”** means the Debtor’s inventory located at the Premises and set out in Schedule 1 attached hereto.
- (w) **“Inventory Assets”** has the meaning ascribed thereto in Section 2.01(a).
- (x) **“Liquidator Expenses”** means all sale expenses that are to be charged to the account of the Liquidator, without mark-up, limited to the following:
 - (i) commissions payable to third party agencies;
 - (ii) all advertising, promotional and signage expenses related to the Liquidation Period and the Auction;
 - (iii) the Liquidator’s legal fees and insurance costs related to the Liquidation Period and the Auction;
 - (iv) the costs and expenses associated with the Liquidator’s supervision and travel;
 - (v) credit card fees, charge backs and discounts and other credit card related expenses, bank service charges relating to the transfer of proceeds; and
 - (vi) other expenses as mutually agreed upon between the Receiver and the Liquidator.
- (y) **“Liquidation Period”** has the meaning ascribed thereto in Section 2.01(c).
- (z) **“Machinery and Equipment”** means the Debtor’s machinery and equipment located at the Premises and set out in Schedule 2 attached hereto.
- (aa) **“M&E Assets”** has the meaning ascribed thereto in Section 2.01(a).
- (bb) **“Net Minimum Guarantee”** has the meaning ascribed thereto in Section 2.02(a).
- (cc) **“Net Proceeds”** means the Gross Proceeds excluding the Buyer’s Premium and all Transfer Taxes.
- (dd) **“Net WIP Proceeds”** means the WIP Proceeds excluding the Buyer’s Premium and all Transfer Taxes.
- (ee) **“Occupancy Costs”** has the meaning ascribed thereto in Section 3.02(c).
- (ff) **“Occupancy Period”** has the meaning ascribed thereto in Section 3.02(a).

- (gg) **“Person”** means an individual, body corporate, sole proprietorship, partnership or trust or unincorporated association, unincorporated syndicate, unincorporated organization, or another entity, and a natural person, acting in his or her individual capacity or in his or her capacity as executor, trustee, administrator or legal representative, and any Governmental Authority.
- (hh) **“Premises”** means the real property described municipally as 4700, 47th Street SE, Calgary, Alberta.
- (ii) **“Purchaser”** means a Person who purchases any Assets from the Liquidator and **“Purchasers”** means all of them.
- (jj) **“Receiver Indemnified Parties”** has the meaning ascribed thereto in Section 5.02(a).
- (kk) **“Receivership Order”** has the meaning set out in the recitals to this Agreement.
- (ll) **“Regulated Materials”** means any substance or material that is or becomes prohibited, controlled or regulated by any Governmental Authority, including, without limitation, any paints, solvents, PCB’s, asbestos, contaminants, pollutants, dangerous substances, toxic substances, designated substances, controlled products, wastes, hazardous wastes, subject wastes, regulated materials, dangerous goods or petroleum, its derivatives, by-products or other hydrocarbons, all as defined in or pursuant to Applicable Laws.
- (mm) **“Removal Deadline”** means December 6, 2013, or such later date as may be agreed to in writing by the Receiver and the Liquidator.
- (nn) **“Sales”** means, collectively, all of the sales of the Assets to the Purchasers at the Auction.
- (oo) **“Sales Statement”** has the meaning ascribed thereto in Section 2.05(a).
- (pp) **“Software”** means all software owned by the Debtor relating to the Business, including all versions thereof, and all related documentation, manuals, source code and object code, program files, data files, computer related data, field and data definitions and relationships, data definition specifications, data models, program and system logic, interfaces, program modules, routines, sub-routines, algorithms, program architecture, design concepts, system designs, program structure, sequence and organization, screen displays and report layouts, and all other material related to such software.
- (qq) **“Survival Date”** means the date that the Receiver is discharged in that capacity by the Court.
- (rr) **“Transfer Taxes”** has the meaning ascribed thereto in Section 2.05(b).

- (ss) “**WIP**” means the work-in-process that had been performed by the Debtor for its customers in the possession of the Receiver and located at the Premises as well as all other assets located at the Premises not specifically identified on Schedule 1 or Schedule 2, provided that the Receiver confirms to the Liquidator that all such assets form part of and are to be included in the Assets and which are detailed on Schedule 3 to be prepared by the Receiver and the Liquidator and filed by the Receiver with the Court on or before five (5) Business Days before the Auction;
- (tt) “**WIP Proceeds**” means the proceeds generated from the sales of WIP, including the Buyer’s Premium and all Transfer Taxes.

1.02 Headings

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Schedules are to Articles and Sections of and Schedules to this Agreement.

1.03 Extended Meanings

In this Agreement words importing the singular number only include the plural and *vice versa*, words importing any gender include all genders and the term “including” means “including without limiting the generality of the foregoing”.

1.04 Statutory References

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

1.05 Currency

All references to currency herein are to lawful money of Canada.

1.06 Schedules

The following are the Schedules to this Agreement:

Schedule 1 -	Inventory
Schedule 2 -	Machinery and Equipment
Schedule 3 -	WIP

ARTICLE 2- SALE OF ASSETS

2.01 Appointment of Liquidator

- (a) Upon and subject to the terms and conditions hereof, the Liquidator agrees to sell as agent for and on behalf of the Receiver, and the Receiver appoints the Liquidator as its exclusive agent to sell to Purchasers, all of the right, title, benefit and interest of the Debtor, if any, in and to all of the Debtor's Inventory (collectively, the "**Inventory Assets**"), all of the Debtor's Machinery and Equipment and all relevant books, records and manuals related thereto (collectively, the "**M&E Assets**") and the Debtor's WIP (the "**WIP Assets**"), and, together with the Inventory Assets and the M&E Assets, the "**Assets**"), but excluding the Excluded Assets and any Additional Excluded Assets.
- (b) In the event that the Receiver, through no fault of its own, is not entitled to sell any of the Assets by reason of a third party claim to any such Assets, or otherwise, the Receiver will advise the Liquidator in writing and such items will be excluded from the Assets to be sold by the Liquidator (the "**Additional Excluded Assets**") and the Net Minimum Guarantee, if applicable, shall be reduced in accordance with Section 2.02(c).
- (c) The Liquidator shall be entitled to sell the Assets to Purchasers from the Premises on an on-going basis through to November 18, 2013 ("**Liquidation Period**") subject to the terms of this Agreement. Any Assets remaining at the end of the Liquidation Period shall be sold by the Liquidator to Purchasers by way of an unreserved public auction conducted at the Premises on or before November 20, 2013 (the "**Auction**"). All Assets shall be removed by the Purchasers by the Removal Deadline.
- (d) The Liquidator shall be entitled to use the names "Surefire Canada" or "Surefire Industries Ltd." for the purpose of the Sales, including marketing materials, which shall be approved by the Receiver in advance. Marketing materials shall be approved within two (2) days from the date of presentment, unless the Receiver and the Liquidator agree otherwise. The Liquidator will not, and will have no authority to, incur any liability or obligation on behalf of the Receiver. The sole authority of the Liquidator, as agent of the Receiver, is to conduct the Sales and thereby convey to Purchasers, as agent for the Receiver, the right, title, interest and benefit, if any, of the Debtor in and to the Assets to the Purchasers.

2.02 Net Minimum Guarantee

- (a) Subject to Section 2.08, the Liquidator covenants and guarantees in favour of the Receiver that the Net Proceeds will not be less than \$ [REDACTED] (the "**Net Minimum Guarantee**").

- (b) In the event that the Receiver advises the Liquidator in accordance with Section 2.01(b) as to any Additional Excluded Assets, the Net Minimum Guarantee will be reduced by an amount equal to the Net Minimum Guarantee allocated to the respective Additional Excluded Assets on Schedules 1 and 2.
- (c) Upon the execution of this Agreement, the Liquidator shall pay to the Receiver \$ [REDACTED] (“**Deposit**”), which will be held in trust by the Receiver pending the issuance of the Approval Order. After the issuance of the Approval Order the Deposit shall be credited and applied against the Net Minimum Guarantee.
- (d) All collections of the Net WIP Proceeds will be deposited into bank accounts controlled by the Receiver for the benefit of the Receiver; the Buyer’s Premium and Transfer Taxes related to the WIP will be deposited to the Liquidator’s bank accounts. Net WIP Proceeds will not be applied against the Net Minimum Guarantee.
- (e) The Receiver shall receive an amount equal to the Net Minimum Guarantee (less any adjustment as provided in this Agreement), less the Deposit, from Net Proceeds as sales are generated; provided that in the event the Net Proceeds are insufficient to pay the Net Minimum Guarantee (less any adjustment as provided in this Agreement), less the Deposit, the Liquidator shall pay the shortfall to the Receiver two (2) Business Days prior to the Auction. All collections related to Sales of Inventory and Machinery and Equipment will be deposited into bank accounts controlled by the Receiver until the Net Minimum Guarantee has been paid to the Receiver in full. Thereafter, all collections shall be turned over on a weekly basis by the Receiver to the Liquidator, up to the Expense Amount, after which payments shall be made as set out in Section 2.05.
- (e) Subject to Section 2.08, if the liquidation of the Assets does not take place because of a breach by the Liquidator of a covenant contained in this Agreement, the Receiver may draw the full amount of the Deposit on account of liquidated damages. If the liquidation of the Assets does not take place for any other reason, the Deposit shall be returned to the Liquidator.

2.03 Expenses

- (a) The Liquidator shall be responsible for the Liquidator Expenses commencing on the date of this Agreement.
- (b) The Receiver shall be responsible for the Occupancy Costs as detailed in Section 3.02(c).

2.04 Buyer's Premium

The Liquidator shall be entitled to charge and retain, free of any claim of the Receiver, a buyer's premium in the amount of 15% of the selling price of any Asset with the buyer's premium considered to be included in the sale price of each Asset (the "**Buyer's Premium**"). For greater certainty, the Buyer's Premium shall not form part of the Net Proceeds or the Net WIP Proceeds nor be subject to the proceeds sharing formula set out in Section 2.05(c).

2.05 Proceeds of Sales and Payment of Taxes

- (a) The Liquidator will be responsible for the collection of the Gross Proceeds and the WIP Proceeds. The Liquidator will prepare and provide a Sales statement setting out the Gross Proceeds, the WIP Proceeds and the amounts payable under Section 2.05(c) (the "**Sales Statement**") to the Receiver no later than Wednesday of each week for Sales occurring in the period prior week and no later than seven Business Days after the date of the Auction. The Receiver shall have the right to audit the Sales Statement.
- (b) The Liquidator will collect from the Purchasers and will remit, or cause to be remitted and paid, any applicable state, federal and provincial sales taxes, goods and services taxes or harmonized sales taxes payable under any Applicable Law on or with respect to any of the Sales (collectively, "**Transfer Taxes**"). The Liquidator will pay the Transfer Taxes in accordance with the relevant taxing legislation when due and deliver to the Receiver evidence confirming the Liquidator's payment of, or exemption from payment of, the Transfer Taxes in form and substance reasonably acceptable to the Receiver. The Liquidator will prepare and file any affidavits or returns required in connection with the foregoing at its own cost and expense. To the extent that any Transfer Taxes are required to be paid by or are imposed upon the Receiver, the Liquidator will reimburse to the Receiver such taxes within five Business Days of payment of such taxes by the Receiver. The Liquidator will indemnify and hold the Receiver harmless in respect of any Transfer Taxes, penalties, interest and other amounts that may be assessed against the Receiver under any Applicable Law as a result of the sale of the Assets.
- (c) Without limiting the Liquidator's liability to pay and after payment of the Net Minimum Guarantee, taking into account the Deposit, the Net Proceeds will be paid in the following order of priority, unless otherwise agreed in writing between the Liquidator and the Receiver:
 - (i) first, to the Liquidator, the Expense Amount; and
 - (ii) second, to the Receiver, 85% of any Net Proceeds and to the Liquidator, 15% of any Net Proceeds.

Net Proceeds generated from the Auction, in excess of the Net Minimum Guarantee, shall be paid in accordance with the above listed order of priorities,

within fifteen (15) days of delivery of the Sales Statement. For greater certainty, all Net WIP Proceeds shall be paid to the Receiver as set out in Section 2.02 (d).

2.06 All Sales to be “As Is, Where Is”

- (a) Notwithstanding any other provision of this Agreement, the Liquidator acknowledges that it has inspected the Assets and, except as otherwise expressly provided in this Agreement, no representation, warranty or condition whether statutory (including under the *Sale of Goods Act* (Alberta) and the *International Sale of Goods Contracts Convention Act* (Canada) or any international equivalent act which may be applicable to the subject matter pursuant to the provisions of this Agreement, including the United Nations Convention on Contracts for the International Sale of Goods, expressed or implied, oral or written, legal, equitable, conventional, collateral or otherwise will be given by the Receiver as to title, outstanding liens or encumbrances, description, fitness for purpose, merchantability, quantity, condition, quality, suitability, durability, assignability, or marketability thereof or any other matter or thing whatsoever, and all of the same are expressly excluded. The Liquidator acknowledges and agrees that it has inspected the Assets and has relied on its own investigations as to the matters set out above and in determining to enter this Agreement.
- (b) The Liquidator agrees that all Sales of the Assets to the Purchasers will be on an “as is, where is” basis in accordance with Section 2.06(a) and shall be final. The Liquidator will ensure that all advertising signs and promotional materials in connection with the Assets advise Purchasers that all sales are made on an “as is, where is” basis and are final, and the Liquidator agrees that all receipts or bills of sale will contain similar language.
- (c) The Liquidator agrees that no representation or warranty will be given by it or the Receiver to Purchasers, whether statutory, express or implied, oral or written, legal, equitable, collateral or otherwise, as to fitness for purpose, suitability, durability, marketability, condition, quantity or quality of the Assets or in respect of any other matter or thing whatsoever.

2.07 Obligations and Liabilities Not Assumed

- (a) Except as provided in this Agreement, by Applicable Law or as a result of an action or commitment made by the Liquidator, the Liquidator does not assume and shall not be liable for any obligations or liabilities of the Receiver or the Debtor whatsoever, including, without limitation, any and all environmental obligations or liabilities of the Debtor relating to the Assets or the Premises, any taxes or duties which may be or become payable by the Receiver or the Debtor including any income taxes, corporate taxes, realty taxes, source deductions, employee obligations or customs duties which may be or become payable by the Receiver of the Debtor resulting from or arising as a consequence of the sale of the Assets to the Purchasers save and except for any Transfer Taxes as provided in Section 2.05(b).

2.08 Title to the Assets and Risk of Loss

- (a) Until sold to Purchasers, title to the Assets shall remain vested in the Receiver, and the Assets shall remain at the risk of the Receiver. In the event of any loss of or damage to some or all of the Assets prior to the sale of such Assets to Purchasers:
- (i) where all or substantially all of the Assets (other than the WIP) are lost or damaged, for the purposes of this Agreement, the Liquidator shall have the option to: (A) accept the insurance proceeds, if any, which shall be considered Gross Proceeds from the sale of Assets (other than the WIP) for the purpose of the calculation of the Net Minimum Guarantee and complete the transaction contemplated herein; or (B) terminate this Agreement, in which case both parties shall be released from all obligations hereunder other than the obligation of the Receiver to refund the Deposit to the Liquidator and any Liquidator Expenses paid or reimbursed by the Liquidator, to the Liquidator. The Liquidator Expenses shall only be reimbursed to the Liquidator upon receipt of the insurance proceeds by the Receiver. In the event that there is a shortfall and the Receiver is unable to reimburse the full amount the Liquidator Expenses, the un-reimbursed amount would be an unsecured claim in the estate. Further, the Receiver would be entitled to the benefit of Sales made prior to the termination of this Agreement; and
 - (ii) in the event of the loss of or damage to some but not all or substantially all of the Assets, an amount equal to the amount of insurance proceeds received in respect of such lost or damaged Assets shall be deducted from the Net Minimum Guarantee and such lost or damaged Assets (other than the WIP) shall become Excluded Assets (and, for greater certainty, the insurance proceeds of such Excluded Assets shall accrue to the benefit of the Receiver).
- (b) The Receiver will maintain first party all risk property insurance and boiler and machinery insurance in accordance with the form and extent of coverage that the Receiver had in place as of the date of its appointment pursuant to the Receivership Order.

2.09 Liquidator Dealing with Assets

The Liquidator will deal with the Assets in accordance with proper liquidation industry practices using qualified personnel, processes and systems to maximize realization.

2.10 Approval Order

Forthwith upon execution of this Agreement by the Liquidator and the Receiver, the Receiver shall bring a motion to the Court to obtain the Approval Order authorizing the Liquidator and the Receiver to implement the transactions contemplated by the Agreement in accordance with the terms hereof. The Receiver shall obtain issuance and entry of the Approval Order. The Approval Order shall provide, among other things, that:

- (a) the terms of this Agreement (and the transactions contemplated hereby) are approved;

- (b) the Liquidator and the Receiver shall be authorized to take any and all actions as may be necessary or desirable to implement this Agreement and the transactions contemplated hereby;
 - (c) the Liquidator shall be entitled to sell all Assets hereunder free and clear of all liens, claims and encumbrances thereon, whether contractual, statutory, by operation of law or otherwise, including, without limitation, the Court-ordered charges granted by the Court under the Receivership Order (including the Receiver's Charge and the Receiver's Borrowings Charge) (collectively the "**Possible Claims**"), which Possible Claims will attach instead to the Net Proceeds and the Net WIP Proceeds and other amounts received or to be received by the Receiver under this Agreement, in the same order and priority as they existed on the Assets immediately prior to commencement of the Liquidation Period;
 - (d) no Possible Claims shall attach to the portion of the Net Proceeds, after the Net Minimum Guarantee has been paid in full, that are payable to the Liquidator under this Agreement, or to any amounts that must be paid or reimbursed by Receiver to Liquidator in the event that Liquidator over-funds any amounts due to Receiver and Receiver will pay such amounts to Liquidator, and the Liquidator will retain such amounts free and clear of all Possible Claims;
 - (e) notwithstanding:
 - (i) the pendency of these receivership proceedings of the Debtor;
 - (ii) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
 - (iii) any assignment in bankruptcy made in respect of the Debtor;
- the vesting of the Assets in a Purchaser shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation; and
- (f) all other provisions customarily provided for in Orders for such similar transactions.

ARTICLE 3- POSSESSION, DELIVERY AND REMOVAL OF ASSETS

3.01 Delivery of the Assets

The Assets sold by the Liquidator shall be surrendered following the sale of the Assets to the Purchasers.

3.02 Access to the Premises and Occupancy Costs

- (a) For the purposes of viewing and inspecting the Assets, showing the Assets to prospective purchasers and preparing for and conducting the liquidation of the Assets during the Liquidation Period, conducting the Auction and the removal of the Assets, the Receiver shall provide the Liquidator and its agents, employees and representatives with unrestricted access (other than the right of the Receiver and the Debtor's employees to have reasonable on-going access) to the Premises from the date of this Agreement to the Removal Deadline (the "**Occupancy Period**").
- (b) Upon the grant of the Approval Order as described in Section 2.10 of this Agreement and receipt of the Deposit, the Receiver shall deliver to the Liquidator keys to the Premises and the particulars of any alarm codes.
- (c) During the Occupancy Period, the Receiver agrees to pay any rent and shall be responsible for the continued supply of all utilities to the Premises, including, without limitation, gas, water, heat, hydro and telephone, and for the maintenance of fire and third-party liability insurance on the Premises (the "**Occupancy Costs**").
- (d) An extension of the Occupancy Period can be negotiated between the Liquidator and the Receiver; however, in the event that the Occupancy Period is extended, the Occupancy Costs during the extension period will be to the Liquidator's account, unless otherwise agreed by the parties in writing.

3.03 Conduct of Sales Over the Liquidation Period and at the Auction

The Receiver acknowledges that the Liquidator intends to sell the Assets during the Liquidation Period and at the Auction. The Receiver hereby consents to the use by the Liquidator of the phrase "Public Auction Sale, Surefire Canada", "Going out of Business Sale", and the use of any other trade names or trade-marks owned by the Debtor in advertisements for sale of the Assets, including the Auction. The Liquidator will seek the prior consent of the Receiver to all advertising, such consent not to be unreasonably withheld; provided that upon presentation by the Liquidator to the Receiver, any advertising materials shall be approved within two (2) days from the date of presentment to the Receiver, unless the Receiver and the Liquidator agree otherwise

3.04 Removal of Assets

- (a) The Liquidator shall be responsible for removing the Assets from the Premises by the Removal Deadline and shall leave the Premises in an orderly and broom-swept condition following such removal including removal of any debris arising from or caused by the Auction.
- (b) The Receiver shall be entitled to be present during the removal of the Assets from the Premises.
- (c) During the Liquidation Period and after completion of the Auction, the Liquidator shall supervise the removal of all of the Assets from the Premises, which removal shall be done in a workmanlike manner, consistent with good industrial practice, and completed by the Removal Deadline, or such later date as may be agreed to by the Receiver and the Liquidator.
- (d) Any Asset requiring disassembling and moving will be done at the expense of the Liquidator. Should the Liquidator abandon, fail to remove or fail to cause any Assets to be removed, the Liquidator shall reimburse the Receiver for the reasonable costs incurred by the Receiver with the preparation, removal and shipping of such Assets. The Liquidator shall have no obligation to remove or disassemble Excluded Assets or remove or dispose of any paper, materials, books, records or other similar items which are not included in the Assets from the Premises.
- (e) The Liquidator shall, at its own cost, clean any spills or oil, lubricants, grease or any other liquid remaining after removal of any of the Assets, as a result of any spill that occurs during the Occupancy Period, including during the removal of the Assets or any of them, which is caused by the Liquidator its agents, employees, invitees and guests.
- (f) The Liquidator shall remedy or repair any condition resulting from the removal of Assets, including without limitation, removing or capping all electrical wires and air/water/other lines to the buss bar/nearest wall and all bolts "blown off", placing safety barriers around any pits. The Liquidator shall have no responsibility to remedy any damages or condition to the Premises existing prior to the date of its access thereto. Furthermore, the cost of the removal and disposal of any oils, lubricants or fluids contained in any of the machines comprising the Assets together with all garbage and debris located at the Premises shall be for the Receiver's account.

3.05 Regulated Materials

- (a) No provision of this Agreement shall be construed so as to require the Liquidator to investigate, clean up, remove or remedy any adverse or other environmental condition existing at the Premises, or to be responsible for any environmental liabilities, or be liable for the investigation, clean up or remediation of any environmental liabilities, including any cost relating to any investigation, clean up or remediation of such environmental condition or liability or any Regulated Materials or other adverse environmental condition existing at, under, on or near the Premises, or contained in the Assets save and except to the extent that the Liquidator or its agents, employees, invitees and guests have caused such adverse or other environmental condition at, under, on or near the Premises.

- (b) Nothing in this Agreement shall oblige the Liquidator and the Liquidator shall not, in fact, be liable for any environmental obligations or liabilities which are existing obligations or liabilities of the Debtor.

ARTICLE 4- REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGEMENTS

4.01 Receiver's Representations and Warranties

The Receiver represents and warrants to the Liquidator that:

- (a) the Receiver has good and sufficient power, authority and right to enter into and deliver this Agreement and to complete the transactions to be completed by the Receiver contemplated hereunder;
- (b) the Receiver has not encumbered, sold or agreed to sell any of the Assets;
- (c) the recitals to this Agreement are true and correct;
- (d) to the best of the knowledge of the Receiver, the Debtor is registered under Part IX of the *Excise Tax Act* (Canada) with registration number 80570 4673 RT0001; and
- (e) the Receiver is not a non-resident Person within the meaning of section 116 of the *Income Tax Act* (Canada).

4.02 Survival of Receiver's Representations, Warranties and Covenants

- (a) The representations and warranties of the Receiver set forth in Section 4.01 will survive the completion of the transactions contemplated hereunder. However, the Receiver will not be liable to the Liquidator for any inaccuracy or misrepresentation in any representation or warranty set forth in Section 4.01 after the Survival Date.
- (b) The covenants of the Receiver set forth in this Agreement will survive the transactions contemplated hereunder and, notwithstanding such completion, will continue in full force and effect for the benefit of the Liquidator in accordance with the terms of this Agreement until the Survival Date.

4.03 Liquidator's Representations, Warranties and Acknowledgements

The Liquidator represents, warrants and acknowledges to the Receiver that:

- (a) the Liquidator is a corporation duly incorporated, organized and subsisting under the laws of the Province of Nova Scotia and has all the necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder;
- (b) the Liquidator has good and sufficient power, authority and right to enter into and deliver this Agreement and to complete the transactions to be completed by the Liquidator contemplated hereunder;
- (c) this Agreement constitutes a valid and legally binding obligation of the Liquidator, enforceable against the Liquidator in accordance with its terms;

- (d) neither the entering into nor the delivery of this Agreement nor the completion of the transactions contemplated hereby by the Liquidator will result in a violation of: (i) any of the provisions of the constating documents or by-laws of the Liquidator; (ii) any agreement or other instrument to which the Liquidator is a party or by which the Liquidator is bound; or (iii) any Applicable Law;
- (e) no authorizations, consents or approvals of, or filing with or notice to, any Governmental Authority is required in connection with the execution, delivery or performance of this Agreement;
- (f) the Liquidator is registered under Part IX of the *Excise Tax Act* (Canada) with registration number 815510821;
- (g) the Liquidator acknowledges that it or its representatives have been furnished with all information regarding the Assets that the Liquidator requires to enable it to enter into this Agreement; and
- (h) The Liquidator has the financial capacity to honour all of the financial commitments in this Agreement.

4.04 Survival of Liquidator's Representations, Warranties and Covenants

- (a) The representations and warranties of the Liquidator set forth in Section 4.03 will survive the completion of the transactions contemplated hereunder. However, the Liquidator will not be liable to the Receiver for any inaccuracies or misrepresentations of the representations and warranties set forth in Section 4.03 after the Survival Date.
- (b) The covenants of the Liquidator set forth in this Agreement will survive the completion of the transactions contemplated hereunder and, notwithstanding such completion, will continue in full force and effect for the benefit of the Receiver in accordance with the terms of this Agreement until the Survival Date.

ARTICLE 5- OTHER COVENANTS OF LIQUIDATOR AND RECEIVER

5.01 Additional Covenants of Liquidator

- (a) The Liquidator will, during the Occupancy Period, preserve and ensure that the Receiver has full access to the books and records of the Debtor, to the extent that any such books and records are located at the Premises. The Liquidator shall not dispose or destroy any of the Debtor's books and records.
- (b) The Liquidator will provide to the Receiver copies of all filings or notices to any Governmental Authority relating to the transaction contemplated by the Agreement.
- (c) The Liquidator will promptly notify the Receiver of any material fact or circumstance that would prevent it from satisfying the conditions precedent set out in this Agreement.

- (d) The Liquidator shall pay the Net Minimum Guarantee personally in the event that the Inventory and the Machinery and Equipment do not generate sufficient proceeds to pay the Net Minimum Guarantee or any other obligations of the Liquidator under this Agreement.

5.02 Indemnities

- (a) The Liquidator agrees to indemnify and save harmless the Receiver and its representatives and advisors from and against all Claims, suffered or incurred by any of them from and after the date hereof as a result of or arising directly or indirectly out of or in connection with any negligence or wilful misconduct of the Liquidator or its employees, contractors, licensees, agents or invitees, which shall exclude the employees, contractors, licensees, agents or invitees of the Debtor or the Receiver (the “**Receiver Indemnified Parties**”), including all Claims incurred by the Receiver Indemnified Parties, directly or indirectly, as a result of the Liquidator not collecting or remitting the Transfer Taxes. The provisions of this Section 5.02 will inure to the benefit of the Receiver and its representatives and advisors and their respective successors and assigns.

5.03 Cooperation on Tax Matters

- (a) The Liquidator and the Receiver agree to make, execute and file with the appropriate taxing authorities all elections or purchase exemption certificates as the parties hereto agree are mutually desirable, if any, in prescribed form and within the prescribed time.
- (b) The Receiver and the Liquidator will furnish or cause to be furnished to each other, at the expense of the requesting party, as promptly as practicable, such information and assistance, and provide additional information and explanations of any material provided, relating to the Assets as is reasonably necessary for the filing of any tax returns, for the preparation of any audit, and for the prosecution or defence of any claim, suit or proceeding relating to any adjustment or proposed adjustment with respect to Transfer Taxes.

ARTICLE 6- CONDITIONS

6.01 Conditions for the Benefit of the Liquidator

- (a) The transactions contemplated hereunder are subject to the following conditions, which are for the exclusive benefit of the Liquidator and which are to be performed or complied with at or prior to the Condition Date:
 - (i) the representations and warranties of the Receiver set forth in Section 4.01 will be true and correct with the same force and effect as if made at and as of such time;
 - (ii) the Receiver will have performed or complied with all of the terms, covenants and conditions of this Agreement to be performed or complied with by the Receiver;
 - (iii) the Court shall have granted the Approval Order as contemplated herein;

- (iv) no order will have been made to restrain, enjoin or prohibit the purchase and sale of all or substantially all of the Assets; and
 - (v) no material damage by fire or other hazard to all or substantially all of the Assets will have occurred from the date hereof.
- (b) In case any material term or covenant of the Receiver or material condition to be performed or complied with for the benefit of the Liquidator at or prior to the Condition Date has not been performed or complied with at or prior to the Condition Date, the Liquidator, without limiting any other right that the Liquidator has, may at its sole option acting reasonably, either:
- (i) terminate this Agreement by notice to the Receiver, and, in such event, the Liquidator will be released from all obligations hereunder; or
 - (ii) waive compliance with any such term, covenant or condition in whole or in part with respect to any such non-compliance on such terms as may be agreed upon without prejudice to any of its rights of termination in the event of the non-performance of a term, covenant or condition in whole or in part, and, if the Liquidator terminates this Agreement pursuant to Section 6.01(b)(i), the Receiver will be released from all obligations hereunder, save and except for the Receiver's obligation to return the Deposit to the Liquidator within seven (7) days of the date of termination by the Liquidator.

6.02 Conditions for the Benefit of the Receiver

- (a) The transactions contemplated hereunder are subject to the following conditions, which are for the exclusive benefit of the Receiver and which are to be performed or complied with at or prior to the Condition Date:
- (i) the representations and warranties of the Liquidator set forth in Section 4.03 will be true and correct with the same force and effect as if made at and as of such time;
 - (ii) the Liquidator will have performed or complied with all of the terms, covenants and conditions of this Agreement to be performed or complied with by the Liquidator at such time;
 - (iii) the Court shall have granted the Approval Order as contemplated herein;
 - (iv) no order will have been made to restrain, enjoin or prohibit the purchase and sale of all or substantially all of the Assets; and
 - (v) no material damage by fire or other hazard to all or substantially all of the Assets will have occurred from the date hereof.

- (b) In case any material term or covenant of the Liquidator or material condition to be performed or complied with for the benefit of the Receiver at or prior to the Condition Date has not been performed or complied with at or prior to the Condition Date, the Receiver, without limiting any other right that the Receiver has, may at its sole option acting reasonably, either:
- (i) terminate this Agreement by notice to the Liquidator, and, in such event, the Receiver will be released from all obligations hereunder; or
 - (ii) waive compliance with any such term, covenant or condition in whole or in part with respect to any such non-compliance on such terms as may be agreed upon without prejudice to any of its rights of termination in the event of non-performance of a term, covenant or condition in whole or in part,

and, if the Receiver terminates this Agreement pursuant to Section 6.02(b)(i) the Liquidator will be released from all obligations hereunder unless the term, covenant or condition for which the Receiver has terminated this Agreement was one that the Liquidator had covenanted hereunder to ensure had been performed or complied with, in which event the Liquidator will be liable to the Receiver for any Claims incurred by the Receiver, directly or indirectly, as a result of such breach. In that event, the Assets may be resold by the Receiver and all money paid by the Liquidator under this Agreement, including the Deposit, shall be forfeited, but such forfeiture will not be deemed to constitute the full extent of liquidated damages payable by the Liquidator as a result of the Receiver's termination.

6.03 Proceeds of Sales Made Prior to Termination

In the event that the Agreement is terminated by either party pursuant to Article 6 and notwithstanding such termination:

- a) the Net WIP Proceeds of any Sales made by the Liquidator prior to the date of such termination shall be paid by the Liquidator to the Receiver; and
- b) the Net Proceeds of any Sales made by the Liquidator prior to the date of such termination shall be paid by the Liquidator to the Receiver to the extent that the Net Minimum Guarantee has not yet been paid in full. If the Net Minimum Guarantee has been paid in full, the Net Proceeds of any Sales made by the Liquidator prior to the date of termination shall be paid in accordance with Section 2.05(c). The Liquidator shall be responsible for, and remit all Transfer Taxes in respect of any Sales made by the Liquidator prior to the date of such termination.

ARTICLE 7- FORCE MAJEURE

7.01 Force Majeure

A failure by either party to perform any obligation under this Agreement as a result (in whole or in part) of *force majeure* will not constitute a default under this Agreement, and neither party will have any liability to the other as a result of any such failure to perform. A party who contends that its performance is excused by reason of *force majeure* must give prompt written notice to the other party specifying the condition constituting the same and use all commercially reasonable efforts to rectify such condition as soon as possible. For the purposes hereof, *force majeure* means any of the following: lightning, storms, earthquakes, floods, droughts, fires, explosions, shortages of labour, strikes, protests, lock-outs or other labour disturbances (whether or not under a party's control), acts of war or terrorism, riots, or any other action taken by any Person in connection therewith, expropriation, action of any government or governmental body or court, acts of God or any other cause, whether similar to or dissimilar from the foregoing, beyond the reasonable control of the party seeking to take advantage of *force majeure* and affecting performance by such party.

7.02 Assistance

The Liquidator and the Receiver will co-operate with each other in a commercially reasonable manner in the event of any labour disruption or *force majeure* that interferes with the sale of the Assets or the ability of the Liquidator to perform its obligations hereunder with a view to alleviating such interference.

ARTICLE 8- GENERAL

8.01 Further Assurances

Each of the Receiver and the Liquidator shall from time to time execute and deliver all such further documents and instruments and do all acts and things as the other party may, at such requesting party's cost, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

8.02 Time of the Essence

Time shall be of the essence of this Agreement.

8.03 Benefit of the Agreement

This Agreement shall inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and permitted assigns of the parties hereto.

8.04 Fees and Commissions

Except as expressly provided herein, each of the Receiver and the Liquidator will pay its respective legal and accounting costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses whatsoever and howsoever incurred and will indemnify and save harmless the other from and against any Claim for any broker's, finder's or placement fee or commission alleged to have been incurred as a result of any action by it in connection with the transactions under this Agreement.

8.05 Entire Agreement

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement.

8.06 Amendments and Waiver

No modification of or amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by both of the parties hereto and no waiver of any breach of any term or provision of this Agreement shall be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, shall be limited to the specific breach waived.

8.07 Assignment

This Agreement may not be assigned by either party hereto without the prior written consent of the other party.

8.08 Notices

Any demand, notice or other communication to be given in connection with this Agreement shall be given in writing and shall be given by personal delivery, by registered mail or by electronic means of communication addressed to the recipient as follows:

To the Receiver:

Duff & Phelps Canada Restructuring Inc.
333 Bay Street, 14th Floor
Toronto, ON M5H 2R2

Attention: Robert Kofman / Mitch Vininsky
Email: bobby.kofman@duffandphelps.com /
mitch.vininsky@duffandphelps.com

With a copy to:

Gowling Lafleur Henderson LLP
1400, 700 - 2 Street SW
Calgary, Alberta
T2P 4V5

Attention: Tom Cumming
Email: tom.cumming@gowlings.com

To the Liquidator:

Hilco Asset Sales Canada Corp.
24 The East Mall, #14
Etobicoke, ON M8W 4W5

Attention: Bruce Lyle
Email: blyle@hilcocanada.com

With a copy to:

Hilco Trading, LLC
5 Revere Drive, Suite 206
Northbrook, IL 60062 (USA)

Attention: Ian S. Fredericks
Email: ifredericks@hilcotrading.com

or to such other address, individual or electronic communication number as may be designated by notice given by either party to the other. Any demand, notice or other communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the fourth Business Day following the deposit thereof in the mail and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day. If the party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such demand, notice or other communication shall not be mailed but shall be given by personal delivery or by electronic communication.

8.09 Counterparts

This Agreement may be executed in several counterparts and all counterparts when taken together shall comprise one and the same instrument, and facsimile or other electronic copies of signatures shall be treated as originals for all purposes.

8.10 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein.

8.11 Attornment

This Agreement will be deemed to have been performed in the Province of Alberta for the purpose of all legal proceedings. The parties hereto each attorn to the exclusive jurisdiction of the courts of the Province of Alberta sitting in Calgary to entertain any action arising under this Agreement.

8.12 Severability

If any provision of this Agreement or any document delivered in connection with this Agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision will not affect the validity or enforceability of any other provision of this Agreement, all of which will be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction will not affect such provision validity or enforceability in any other jurisdiction.

8.13 Acknowledgement of the Liquidator

The Liquidator acknowledges that D&P has entered into this Agreement solely in its capacity as court-appointed receiver and manager of the Debtor and not in its personal or corporate capacity.


8.14 Confidentiality

The Liquidator and the Receiver shall keep confidential this Agreement and all information and documents which may have been or may hereafter be exchanged between them or their representatives or may have been retained by the Liquidator or the Receiver, except for such information and documents as are available to the public, required to be disclosed by applicable law or court order, or as required to be disclosed by the Receiver under Applicable Law. The Receiver will redact the economic terms of the transactions contemplated herein from any material to be filed with the Court and shall use its commercially reasonable efforts to obtain a sealing order for any unredacted versions.

[Remainder of page intentionally left blank]

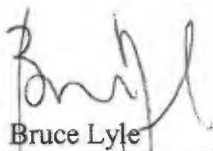
IN WITNESS WHEREOF the parties have executed this Agreement as of the date first written above.

DUFF & PHELPS CANADA RESTRUCTURING INC., in its capacity as the court-appointed receiver and manager of Surefire Industries Ltd., and not in its personal or corporate capacity

By: 
Mitch Vininsky
~~Robert Kofman~~

Managing Director

HILCO ASSET SALES CANADA CORP.

By: 
Bruce Lyle

President

SCHEDULE 1.

INVENTORY

Redacted.

**SCHEDULE 2.
MACHINERY AND EQUIPMENT**

Redacted.

SCHEDULE 3.
WIP

To be prepared.