



**Second Report to Court of
KSV Restructuring Inc.
as Receiver of Util Canada Limited**

November 17, 2023

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COURT FILE NO. CV-23-00703958-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

DEA CAPITAL ALTERNATIVE FUNDS SGR S.P.A. AS MANAGING COMPANY OF
ITALIAN CLOSED-END INVESTMENT FUND IDEA CCR (CORPORATE CREDIT
RECOVERY) I

APPLICANT

- AND -

UTIL CANADA LIMITED

RESPONDENT

IN THE MATTER OF SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*
(CANADA) R.S.C. 1985 CB.3 AS AMENDED, AND SECTION 101 OF THE *COURTS OF*
JUSTICE ACT (ONTARIO) R.S.O. 1990 C. C.43, AS AMENDED

SECOND REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER

NOVEMBER 17, 2023

1.0 Introduction

1. This report (the "Report") is filed by KSV Restructuring Inc. ("KSV") in its capacity as receiver (the "Receiver") of the property, assets and undertaking (the "Property") of Util Canada Limited (the "Company") appointed pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on August 8, 2023 (the "Receivership Order"). A copy of the Receivership Order is provided as Appendix "A".
2. KSV is also the licensed insolvency trustee (the "Trustee") of the Company's bankruptcy estate pursuant to an assignment in bankruptcy filed by the Company on August 4, 2023 pursuant to section 49 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended.
3. The primary purpose of the receivership proceeding is to maximize value for the Company's stakeholders by conducting a sale process for the Property (the "Sale Process").
4. In accordance with an Order of the Court made on September 15, 2023 (the "Sale Process Order"), the Receiver carried out the Sale Process. A copy of the Sale Process Order is attached as Appendix "B".

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Company;
 - b) summarize the results of the Sale Process;
 - c) summarize a transaction (the “Perfection Transaction”) between the Receiver and Perfection Global LLC (“Perfection”) whereby Perfection will conduct an auction from the Premises (as defined below) of substantially all the Property, other than the equipment referenced in (d) below, pursuant to an Auction Services Agreement dated October 30, 2023 (the “ASA”);
 - d) summarize a transaction (the “Barrie Transaction”) between the Receiver and Barrie Welding & Machine (1974) Limited (“Barrie”) whereby Barrie will purchase two “fine blanking” presses pursuant to an Agreement of Purchase and Sale dated October 26, 2023 (the “APS”);
 - e) discuss the rationale for sealing the Offer Summary, as defined in Section 3.2 below, and sealing the ASA; and
 - f) recommend that the Court make the following orders:
 - i. an Approval and Vesting Order consisting of the following substantive relief (the “Perfection AVO”):
 1. approving the ASA and the Perfection Transaction; and
 2. vesting the Purchased Assets (as defined in the Perfection AVO) in the corresponding purchasers at the auction, free and clear of encumbrances, upon delivery to them of the applicable Purchaser Bill of Sale (as defined in the Perfection AVO);
 - ii. an Approval and Vesting Order consisting of the following substantive relief (the “Barrie AVO”):
 1. approving the APS and the Barrie Transaction; and
 2. vesting the Purchased Assets (as defined in the Barrie AVO) in Barrie, free and clear of encumbrances, upon execution and delivery of a certificate confirming completion of the Barrie Transaction; and
 - iii. an Ancillary Order (the “Ancillary Order”):
 1. authorizing certain additional assets to be sold at auction, as discussed below in this Report;
 2. sealing the confidential appendices to this Report (the “Confidential Appendices”);

3. approving the fees and disbursements of the Receiver and its legal counsel, Aird & Berlis LLP (“Aird & Berlis”), for the periods referenced in the attached fee affidavits; and
4. approving the Receiver’s activities as described in this Report.

1.2 Currency

1. All references to currency in this Report are expressed in Canadian Dollars, unless otherwise noted.

1.3 Restrictions

1. In conducting its review and preparing this report, the Receiver has relied upon the Company’s unaudited financial statements, books and records and discussions with certain of the Company’s representatives.
2. The Receiver has not performed an audit or otherwise attempted to verify the accuracy or completeness of the financial information relied on in a manner that complies with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the Company’s financial information should perform its own diligence.
3. With the exception of the Court, the Receiver accepts no responsibility for any reliance placed by any third party on the Company’s financial information presented herein.

2.0 Background

1. The Company is owned by Util Industries S.p.A. (“Util Italy”), based in Italy.
2. The Company provided a secured guarantee of the indebtedness owing by Util Italy to Illimity Bank S.p.A. (“Illimity”) and DeA Capital Alternative Funds SGR S.p.A. (“DEA”) totalling approximately \$54 million¹. Util Italy is continuing to operate in the normal course and its loans from Illimity and DEA do not mature until 2027. It is unclear at this time whether the Company’s guarantee will be called upon to satisfy any amounts owing to Illimity and DEA. It is possible that this may not be known until the DEA and Illimity loan maturity dates.
3. Prior to its bankruptcy, the Company manufactured “fine blanking” parts for automotive braking system back plate components and was a global provider of braking systems and other solutions for the automotive and other industrial segments, including plates for combustion engines in the agricultural sector and scaffolding disks for the construction industry. Fine blanking technology is principally demanded by original equipment vehicle manufacturers. The Company also used conventional blanking technology, particularly in its aftermarket division, where manufacturing tolerances are less stringent and pricing is the customer’s primary consideration.

¹ Estimated balances converted from Euros to Canadian dollars.

4. Immediately prior to its bankruptcy on August 4, 2023, the Company employed approximately 180 individuals, including 140 members of Unifor Local 112 ("Unifor"). The Company generally operated around the clock 5-6 days per week. Upon the Company's bankruptcy, all of the employees were immediately terminated. The Receiver has retained several former employees on a term-and-task basis to assist with the administration of the receivership proceedings. The Receiver has been administering the process contemplated under the *Wage Earner Protection Program Act* for the Company's former employees.
5. The Company operated from leased premises located at 270 Spinnaker Way, Concord, Ontario (the "Premises"). The lease was disclaimed by the Trustee. Prior to the disclaimer, the Receiver, the Trustee and the landlord entered into an occupation agreement pursuant to which the Receiver is now occupying the Premises (the "Occupation Agreement"). Monthly occupancy costs exceed \$300,000, including rent, utilities and insurance.
6. Additional information about the Company and its background is available in the materials filed in these proceedings, which can be found on the Receiver's website at <https://www.ksvadvisory.com/experience/case/utilcanada> (the "Receiver's Website").

3.0 Sale Process

3.1 Background

1. The Sale Process was conducted in accordance with the Sale Process Order and is summarized as follows:
 - a) the Sale Process was intended to attract end-users, strategic purchasers, equipment dealers and liquidators ("Prospective Purchasers");
 - b) on September 1, 2023, the Receiver distributed an interest solicitation letter (the "ISL") detailing the opportunity to over 90 Prospective Purchasers. A copy of the ISL is provided as Appendix "C";
 - c) the Receiver advised all Prospective Purchasers that offers were to be submitted by October 5, 2023 (the "Bid Deadline");
 - d) twenty-four (24) Prospective Purchasers signed a form of confidentiality agreement ("CA"). Execution of the CA was required to obtain access to a virtual data room (the "VDR");
 - e) the VDR contained information concerning the Company, including all available financial information, contracts, equipment listings and other information that had been provided to the Receiver by the Company's former employees;
 - f) the VDR also included a form of Template Asset Purchase Agreement (the "Template APA"). Prospective purchasers were encouraged to submit offers in the form of the Template APA, together with any changes to the offer blacklined against the Template APA; and
 - g) the Receiver facilitated site visits for 12 Prospective Purchasers.

3.2 Sale Process Results

1. 13 Prospective Purchasers² submitted offers by the Bid Deadline, none of which contemplated the continued operation of the business on a going-concern basis.
2. A summary of the offers is provided in Confidential Appendix “1” (the “Offer Summary”). The Receiver’s rationale for seeking an order sealing this information is provided in Section 3.4 below.

3.3 Perfection Transaction³

1. A summary of the key terms and conditions of the Perfection Transaction is as follows:
 - a) Auctioneer: Perfection, a liquidator based in Elk Grove Village, Illinois.
 - b) Auction Date: On or about December 12, 2023 or such other date as the Receiver and Perfection, acting reasonably, may agree in writing.
 - c) Guaranteed Amount:
 - Perfection is to pay the Receiver the Guaranteed Amount, subject to reduction for any Assets not available to be sold on the basis of the allocation set out in Schedule “B” of the ASA; and
 - Perfection paid the Deposit on November 2, 2023 and is to pay the balance of the Guaranteed Amount no later than five (5) business days following issuance of the proposed Perfection AVO.
 - d) Buyer’s Premium: Perfection is entitled to an 18% Buyer’s Premium from each purchaser at the auction, and retains the right to waive the Buyer’s Premium on any individual sale at the auction at its sole discretion. All proceeds in excess of the Guaranteed Amount (including, without limitation, the Buyer’s Premium to the extent it exceeds the Guaranteed Amount) shall be retained by Perfection.
 - e) Assets: the equipment and inventory listed on Schedule B of the ASA (excluding, for greater certainty, the two pieces of equipment and any associated assignable warranty rights subject to the APS).
 - f) Expenses:
 - the Receiver will be responsible for providing Perfection with access to the Premises at no cost to Perfection until February 29, 2024. Occupancy costs beyond that date to March 31, 2024 are to the account of Perfection (if Perfection elects in writing to continue to access the Premises during this period, and if the Receiver is still able to provide Perfection access to the Premises pursuant to the terms of the Occupation Agreement);

² One party that submitted a bid did not tour perform a site visit.

³ Terms not defined in this section have the meaning provided to them in the ASA, unless otherwise defined herein.

- Perfection will be responsible for, *inter alia*, the advertising, marketing, preparation of Assets for sale, cleaning, detailing, setup, cataloguing, preview, inspection arrangements, collection, invoicing, supervision of the release period following the Auction and the timing and duration of the Auction, as well as for the removal of the Assets from the Premises (including, without limitation, any unsold Assets); and
 - Perfection will also be responsible to clean any spills or oil, lubricants, grease, or any other liquids remaining following the removal of Assets. Additionally, Perfection is required to remove or cap all electrical wires, air, water, or other lines to the nearest point close to the Assets, and all bolts “blown off”, and to place safety barriers around any pits;
- g) Termination: the ASA may be terminated:
- by mutual written consent of the Receiver and Perfection;
 - by Perfection if the Perfection AVO is not obtained by November 30, 2023;
 - by Perfection if the Receiver fails to comply with any of its material obligations under the ASA, subject to Perfection providing the Receiver with three (3) business days to remedy such failure; or
 - by the Receiver if Perfection fails to comply with the provisions of the ASA in any material respect, subject to the Receiver providing Perfection with five (5) business days to remedy such failure.
- h) Conditions: the only material condition precedent to the transaction is the granting of the proposed Perfection AVO by November 30, 2023. The proposed Perfection AVO will authorize the Receiver to (a) retain Perfection on the terms set forth in the ASA; (b) enter into and consummate the transactions set forth in the ASA; and (c) transfer title to the Assets to any purchasers free and clear of liens, claims and encumbrances.
- i) Other: The ASA is consistent with standard insolvency transactions, i.e., to be completed on an “as is, where is” basis, without any material representations or warranties.
2. A copy of the ASA is provided as Confidential Appendix “2”. An unredacted copy of the ASA is provided as Appendix “D”. The only redactions are to the Guaranteed Amount and the Schedule “B” allocations.

3.4 Confidentiality

1. In the event that the ASA is breached or terminated for any reason, another sale process may be required. If the purchase price and allocation of value by Asset in the ASA is not sealed, future bidders would have access to the amount that was accepted by the Receiver. Similarly, if the Offer Summary is not sealed, future bidders would have access to offer details.
2. 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.
3. The salutary effects of sealing such information from the public record greatly outweigh the deleterious effects of doing so under the circumstances. The Receiver is of the view that the sealing of the Confidential Appendices is consistent with the decision in *Sherman Estate v. Donovan*, 2021 SCC 25. Accordingly, the Receiver believes the proposed sealing of the Confidential Appendices is appropriate in the circumstances.

3.5 Perfection Transaction Recommendation

1. The Receiver respectfully recommends that this Court approve the ASA for the following reasons:
 - a) the Sale Process was conducted in accordance with the Sale Process Order;
 - b) the Receiver believes the Sale Process was commercially reasonable and appropriate in the circumstances;
 - c) the Perfection Transaction provides for the greatest recovery available in the circumstances;
 - d) the Receiver is of the view that additional time marketing the Property will not result in a superior transaction and would impair value given the occupancy costs associated with the Premises;
 - e) the Receiver believes that the commercial terms of the ASA are reasonable; and
 - f) DEA and Illimity do not oppose the proposed Perfection AVO.

3.6 Barrie Transaction

1. The key terms and conditions of the Barrie Transaction include the following:
 - a) Overview:
 - The APS between the Receiver and Barrie is for two pieces of equipment and any associated assignable warranty rights (collectively, the “Barrie Equipment”) which were excluded from the ASA. Prior to the receivership proceedings, Barrie was engaged by the Company to repair the Barrie Equipment and rendered invoices totalling \$360,942, of which \$210,949 remains outstanding.

- Following the bankruptcy, Barrie registered two liens in respect of the Barrie Equipment pursuant to the *Repair and Storage Liens Act* (the “Barrie Liens”).
 - Barrie submitted a bid for the Barrie Equipment with a purchase price that satisfies the Barrie Liens and has a cash component, as referenced below.
 - Aird & Berlis reviewed the Barrie Liens and confirmed their validity over the Barrie Equipment in priority to general secured claims.
- b) Purchaser: Barrie, an equipment manufacturer based in Barrie, Ontario.
- c) Purchase Price: The purchase price is comprised of cash in the amount of \$39,051 and satisfaction of the Barrie Liens.
- d) Purchased Assets: the Barrie Equipment.
- e) Closing Date: the later of: (i) the first business day following the tenth date after the granting of the proposed Barrie AVO; and (ii) the first business day following the date on which any appeals or motions to set aside or vary the Barrie AVO have been finally determined, or, if the parties agree, such other date as agreed in writing by the parties.
- f) Termination: the APS may be terminated:
- by mutual written consent of the Receiver and Barrie;
 - by one party, if closing does not occur because of a breach of the Barrie AVO by the other party;
 - by Barrie, in the event of substantial physical damage or destruction of the Barrie Equipment by fire, casualty or otherwise;
 - by either of the parties, in writing to the other, if the Barrie AVO is not issued by the Court on or before November 30, 2023; and
 - automatically, should closing not have occurred prior to the Receiver’s discharge, unless the Receiver’s interest in the APS has been assigned prior to (or as part of) the Receiver’s discharge.
- g) Conditions: the only material condition precedent to the transaction is the granting of the proposed Barrie AVO.
2. A copy of the APS is provided as Appendix “E”.

3.7 Barrie Transaction Recommendation

1. The Receiver respectfully recommends that this Court approve the APS for many of the same reasons set out in Section 3.5 above and the following:
 - a) the Barrie Transaction provides for the greatest recovery available for the Barrie Equipment in the circumstances and exceeds the amount that Perfection was prepared to pay for these assets; and
 - b) the Receiver believes that the commercial terms of the APS are reasonable.

4.0 Customer Update

1. As noted in the Receiver's First Report dated September 6, 2023 (the "First Report"), both the Trustee and the Receiver were advised by several of the Company's customers (the "Customers") that they were reliant on the Company for the uninterrupted supply of braking system components which they then supplied on a just-in-time basis to several North American automotive original equipment manufacturers. Substantially all the Customers initially expressed the urgent need for the Company to continue to operate for a period of time to ensure the continuous supply of products. The Receiver then spent several weeks attempting to complete an agreement that would result in participating Customers fully funding a resumption for the Company's operations for a limited period of time, at their risk and expense, with a portion of the revenue being for the benefit of the Company's creditors.
2. While negotiating with the Receiver, it appears that either (i) most Customers were able to resource their production; or (ii) other Customers lost the programs to which they were supplying. Accordingly, as of the date of the First Report, all Customers had advised the Receiver that they would not require the Company to manufacture parts for them. Additional information about the initial urgency expressed by the Customers for the Company to resume production is available in the materials filed in these proceedings, which can be found on the Receiver's Website, including the First Report.
3. Since the date of the First Report, the Receiver has been liaising with the Customers to have them confirm any tooling or other assets at the Premises belonging to them, demonstrate proof of ownership and make the necessary arrangements with the Receiver to ensure proper removal.
4. During the second half of October 2023, emails were sent to Customers that the Receiver identified as potentially still having assets at the Premises. A sample of such email, sent to Nisshinbo Automotive Manufacturing Inc. ("NAMI") on October 23, 2023, is provided as Appendix F. In substance, these emails asked the Customers to:
 - Provide evidence of ownership of any such remaining assets to the Receiver within five business days; and
 - Make arrangements with the Receiver (at the Customers' sole cost) to remove the assets from the Premises within ten days of the Receiver confirming the adequacy of the ownership evidence.

5. Most of the Customers have been working collaboratively with the Receiver to demonstrate ownership and remove assets. The Receiver has encountered certain challenges with NAMI during this process, as set out in the letter from the Receiver's counsel to NAMI's counsel dated November 14, 2023 (which is provided as Appendix G) and the responding letter from NAMI's counsel dated November 15, 2023 (which is provided as Appendix H).
6. In short, this correspondence sets out that NAMI has not demonstrated its ownership of approximately 42 manufacturing moulds, retrieved three tools for which it has demonstrated ownership and paid the Receiver's costs of packing and preparing these three tools for NAMI in September 2023, which costs were previously agreed between the Receiver and NAMI. NAMI has had representatives at the Premises on multiple occasions since the Receiver's appointment.
7. By the time the within motion is heard by the Court on November 28, 2023, the Receiver anticipates that it will simply no longer have access to the necessary personnel and/or equipment to engage with NAMI concerning these assets. For example, each of the approximately 42 manufacturing moulds requires:
 - receipt and review of proof of ownership, invoice and proof of payment, which, as a practical matter, requires the knowledge and therefore ongoing involvement (and remuneration) of one or more former employees of the Company;
 - the location and identification of each mould, which also requires such knowledge and specialization;
 - the removal of each mould from the shelving using specialized equipment, which equipment and shelves are now being sold or prepared for auction;
 - the disassembly of each mould to ensure all parts are included, and, where necessary, the location of any missing parts/components by one or more former employees of the Company; and
 - the reassembly of each mould, placement on pallets, wrapping for shipping and loading on trucks.
8. Under these circumstances, and absent a resolution with NAMI prior to the motion being heard on November 28, 2023, the Receiver believes it has no practical alternative but to recommend to the Court that the Receiver be authorized to treat these assets as abandoned and sell them (likely at auction) without further approval of the Court. Should NAMI disagree with this approach, NAMI and the Receiver can each make submissions to the Court at a later date about what amount, if any, NAMI ought to be entitled to receive from their sale.

5.0 Fee Approval

1. The fees and disbursements of the Receiver and Aird & Berlis (before taxes) since the commencement of these proceedings are summarized below.

Firm	Period	(\$)			Average Hourly Rate
		Fees	Disbursements	Total	
KSV	August 2023 – October 2023	528,421	2,877	532,298	513
Aird & Berlis	August 2023 – October 2023	132,525	582	133,107	537
Total		660,946	3,459	664,405	

2. Detailed invoices are provided in exhibits to the fee affidavits provided in Appendices “I” and “J” filed by representatives of KSV and Aird & Berlis, respectively.
3. The Receiver is of the view that the hourly rates charged by Aird & Berlis are consistent with rates charged by law firms practising in restructuring and insolvency in the downtown Toronto market, and that the fees charged are reasonable and appropriate in the circumstances.

6.0 Receiver’s Activities

1. The Receiver’s activities to the date of the First Report were approved pursuant to the Sale Process Order. The Receiver’s activities since the date of the First Report have included, among other things, the following:
 - a) reviewing evidence of ownership provided by several of the Company’s customers to support their requests for return of tools and dies;
 - b) attending meetings with the Company’s customers regarding finished goods inventory and tooling available for sale;
 - c) corresponding with the Company to prepare information for filing claims under the Wage Earner Protection Program (“WEPP”);
 - d) corresponding and attending calls with certain of the Company’s former employees to respond to their inquiries related to WEPP;
 - e) preparing a plan to engage certain former employees on a term and task basis;
 - f) preparing a letter to Canada Revenue Agency regarding, among other things, new harmonized sales tax accounts;
 - g) conducting the Sale Process;
 - h) corresponding extensively with Prospective Purchasers;
 - i) attending meetings and tours of the Premises with the Prospective Purchasers;

- j) negotiating the Occupation Agreement between the Company and the landlord regarding, *inter alia*, use of the Premises during these proceedings and the occupation costs;
- k) dealing with several maintenance issues at the Premises;
- l) reviewing documentation provided by Ri-Go Lift Truck Limited ("Ri-Go"), a company that provided forklifts to the Company, and discussing same with Aird & Berlis regarding Ri-Go's entitlement to these assets;
- m) corresponding extensively with Prospective Purchasers who submitted bids for the Assets;
- n) entering into a settlement with Ri-Go concerning the forklifts;
- o) maintaining a near daily presence at the Premises to deal with operational matters and receivership issues generally;
- p) responding to inquiries from the Company's creditors;
- q) dealing with parties interested in the Company's assets located at the plant that it operated prior to these proceedings in Mexico through an unrelated company;
- r) dealing with the Company's former customers in respect of the sale of inventory and the return of tools, dies and plates located at the Premises; and
- s) preparing this Report.

7.0 Conclusion and Recommendation

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court grant the relief sought in paragraph 1.1(1)(f) of this Report.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF
UTIL CANADA LIMITED
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

Appendix “A”

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE) TUESDAY, THE 8th DAY
)
JUSTICE CAVANAGH) OF AUGUST, 2023

**DeA CAPITAL ALTERNATIVE FUNDS SGR S.p.A.
as managing company of Italian closed-end investment
Fund IDeA CCR (Corporate Credit Recovery) I**

Applicant

- and -

UTIL CANADA LIMITED

Respondent

**IN THE MATTER OF SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*
(CANADA) R.S.C. 1985 c.B.3 AS AMENDED, AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT* (ONTARIO) R.S.O. 1990 c. C.43, AS AMENDED**

**ORDER
(appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing KSV Restructuring Inc. (“**KSV**”) as receiver (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Util Canada Limited (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, was heard this day via videoconference.

ON READING the affidavit of Gianandrea Perco sworn August 4, 2023 and the Exhibits thereto, the affidavit of Roberto Baccani sworn August 4, 2023 and the Exhibits thereto, and the

consent of KSV to act as Receiver, and on hearing the submissions of counsel for the Applicant and such other parties as listed on the counsel slip, no one else appearing although duly served as appears from the affidavit of service of Danny Nunes sworn August 4, 2023, filed.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the “**Property**”).

RECEIVER’S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$500,000, provided that the aggregate consideration for all such transactions does not exceed \$2,000,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required.
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and

on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;

- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in

that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including

without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. **THIS COURT ORDERS** that the Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver's Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may

consider necessary or desirable, provided that the outstanding principal amount does not exceed \$1,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver's Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further

orders that a Case Website shall be established in accordance with the Protocol with the following URL '<https://www.ksvadvisory.com/experience/case/utilcanada>'.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

27. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

29. **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.

30. **THIS COURT ORDERS** that 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.

31. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

32. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (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.



Digitally signed by
Peter Cavanagh

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties of Util Canada Limited (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the ____ day of _____, 20__ (the "**Order**") made in an action having Court file number ____-CL-_____, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

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

DATED the ____ day of _____, 20__.

KSV RESTRUCTURING INC., solely in its
capacity as Receiver of the Property, and not in
its personal capacity

Per: _____

Name:

Title:

DeA CAPITAL ALTERNATIVE FUNDS SGR S.p.A., as managing company
of Italian closed-end investment Fund IDeA CCR (Corporate Credit Recovery) I

and

UTIL CANADA LIMITED

Applicant

Respondent

ONTARIO
**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDINGS COMMENCED AT TORONTO

ORDER
(appointing Receiver)

DLA PIPER (CANADA) LLP
1 First Canadian Place, Suite 6000
100 King Street West
Toronto, ON M5X 1E2

Edmond F.B. Lamek (LSO No. 33338U)
Tel.: (416) 365-3444
Email: edmond.lamek@dlapiper.com

Lawyers for DeA Capital Alternative Funds SGR S.p.A., as managing
company of Italian closed-end investment Fund IDeA CCR (Corporate
Credit Recovery) I

Appendix “B”



Court File No. CV-23-00703958-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR.

)

FRIDAY, THE 15TH DAY

)

JUSTICE CAVANAGH

)

OF SEPTEMBER, 2023

BETWEEN:

**DeA CAPITAL ALTERNATIVE FUNDS SGR S.p.A.
as managing company of Italian closed-end investment
Fund IDeA CCR (Corporate Credit Recovery) I**

Applicant

- and -

UTIL CANADA LIMITED

Respondent

**IN THE MATTER OF SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*
(CANADA) R.S.C. 1985 cB-3 AS AMENDED, AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT* (ONTARIO) R.S.O. 1990, c. C.43, AS AMENDED**

**ORDER
(Sales Process)**

THIS MOTION, made by KSV Restructuring Inc. (“KSV”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all the assets, undertakings and properties (collectively, the “**Property**”) of Util Canada Limited (the “**Debtor**”), for an order: (i) approving the Sale Process (as defined in the First Report, as defined below); and (ii) approving the First Report and the actions of the Receiver described therein, was heard this day by video-conference.

ON READING the First Report of the Receiver dated September 6, 2023 (the “**First Report**”), and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the Service List, as appears from the affidavit of service, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record of the Receiver concerning this motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

FIRST REPORT

2. **THIS COURT ORDERS** that the First Report and the actions and activities of the Receiver described therein be and are hereby approved, provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

SALE PROCESS

3. **THIS COURT ORDERS** that the Sale Process be and is hereby approved.

4. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to perform its obligations under the Sale Process and to take any and all steps that are reasonably necessary or desirable to carry out the Sale Process.

5. **THIS COURT ORDERS** that the Receiver and its representatives and advisors shall have no corporate or personal liability in connection with conducting the Sale Process save and except for any gross negligence or wilful misconduct on their part as determined by this Court.

GENERAL

6. **THIS COURT ORDERS** that 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.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any other Canadian and foreign court, tribunal, regulatory or administrative body ("**Judicial Bodies**") to give effect to this Order and to assist the Receiver and its respective agents in carrying out the terms of this Order. All Judicial Bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its respective agents in carrying out the terms of this Order.

A digital signature in blue ink, appearing to read 'Cavanagh', is displayed within a light gray rectangular box. The signature is stylized and cursive.

Digitally signed by
Peter Cavanagh

DeA CAPITAL ALTERNATIVE FUNDS SGR S.p.A.
as managing company of Italian closed-end investment
Fund IDeA CCR (Corporate Credit Recovery) I

UTIL CANADA LIMITED

- and -

Applicant	Respondent
	<p>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)</p> <p>Proceedings commenced at Toronto</p>
	<p>ORDER (Sale Process)</p>
	<p>AIRD & BERLIS LLP 181 Bay Street, Suite 1800 Toronto, ON M5J 2T9</p> <p>Steven Graff (LSO # 31871V) Tel: (416) 865-7726 Email: sgraff@airdberlis.com</p> <p>Jeremy Nemers (LSO # 66410Q) Tel: (416) 865-7724 Email: jnemers@airdberlis.com</p>
	<p>Jonathan Yantzi (LSO # 77533A) Tel: (416) 865-4733 Email: jyantzi@airdberlis.com</p> <p>Lawyers for KSV Restructuring Inc., in its capacity as the Court-appointed receiver</p>

Appendix “C”



Acquisition Opportunity

Leading Tier 3 supplier of fine blanking components to the automotive sector.

Business Overview

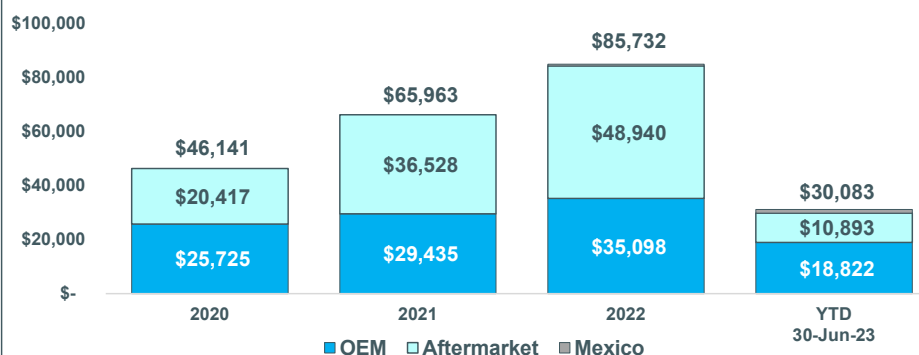
- Util Canada Limited (“Util” or the “Company”) is a leading Tier 3 supplier of automotive brake backing plates, brake hardware, brake shoes, shims and other braking system components for the original equipment market and automotive aftermarket. The Company’s products are used in braking systems for passenger vehicles, light trucks, and medium-duty vehicles across several major automotive platforms. Util also manufactures seat component hardware and other components for the automotive and industrial segments.
- The Company specializes in fine blanking manufacturing of large quantities of high-precision, high-quality finished products. Util’s fine blanking capabilities allow for reliable production in compliance with rigorous design tolerances. Util is a market leader within the fine blanking space and is one of a small number of manufacturers with fine blanking expertise, know-how and production capabilities.
- Util also provides conventional blanking solutions (for products with less stringent design tolerances) and tool engineering design capabilities to meet the auto industry’s most technical challenges.
- An opportunity exists to acquire any or all of the business and assets of Util (the “Opportunity”).**

State-of-the-Art Production Facility and Equipment

- Util operates from a leased 200,000+ square foot, turnkey facility located at 270 Spinnaker Way, Concord, Ontario. The facility is strategically located within the Greater Toronto Area with ease of access to major transportation arteries and Pearson International Airport. The Company is ISO 9001 and IATF 16949 certified.
- The Concord facility is equipped with 10 fine blanking presses, 13 conventional presses and additional presses and equipment for hardware, shim and other product manufacturing.
- The Company also has an interest in a manufacturing facility with 2 fine blanking presses, and other equipment in Monterrey, Mexico.

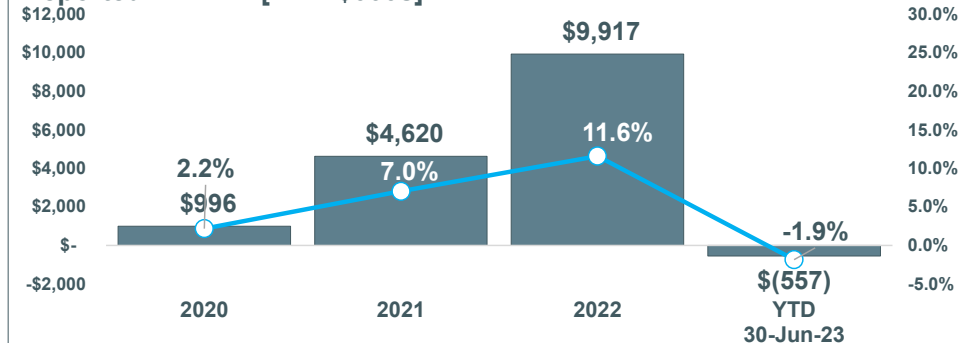
Financial Profile ⁽¹⁾

Revenue by Division [CAD \$000s]



- Strong revenue growth across both business lines. Aftermarket revenue growth averaged 55% per annum, as Util capitalized on opportunities presented by disruptions in the global automotive supply chain. OEM revenue increased at an average of 17% per annum driven by increased demand for Util’s components for new vehicles.
- The Company was historically profitable and is positioned for sustainable, profitable operations following a restructuring.

Reported EBITDA [CAD \$000s]



\$85.7 million
FY22 Revenue

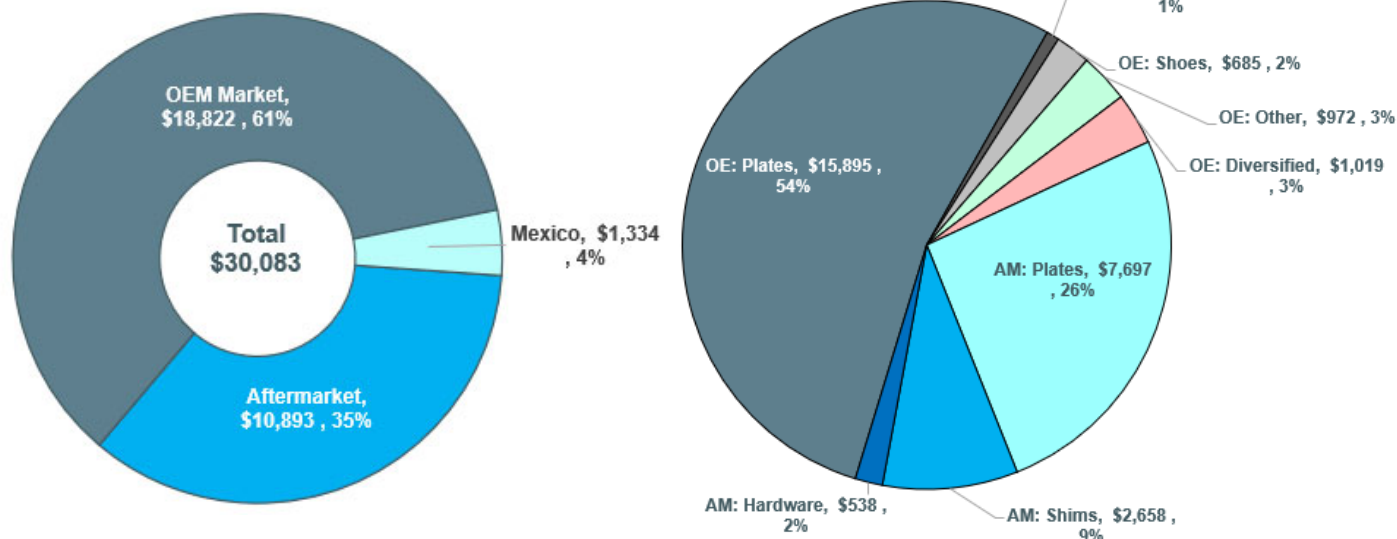
~ 85 million total
units produced
FY22

~ 60%/40%
YTD 2023 OEM vs.
Aftermarket Sales Mix



(1) Financial results are based on Util’s unaudited management prepared financial statements. Reported EBITDA has not been adjusted for non-recurring or unusual amounts. Year-to-date (“YTD”) amounts for Mexico reflect results for the 5-months ended May 31, 2023.

YTD 30-Jun-23 Sales Mix by Division and Product⁽¹⁾



Key Investment Highlights

Fine Blanking Expertise

- Market leader in fine blanking manufacturing – capable of providing high quality finished products meeting design tolerances down to a hundredth of a millimeter.
- Fine blanking provides quality assurance and control advantages over conventional presses enhancing the offering and value proposition to customers.

Patented Retention Hook

- Canadian patent over proprietary SL5 retention hook design and manufacturing process used in production of plates requiring additional friction. Util is one of a specialized group of suppliers with similar capabilities and operates 7 presses dedicated to SL5 products.

Extensive Inventory of Tools and Dies

- Extensive company-owned inventory of tools and dies to service the aftermarket. Provides a buyer with turnkey access to manufacturing capabilities that would take several years to replicate. Util manufactured over 66.5 million parts for the aftermarket segment in 2022.

Turnkey Operations

- Strategically located state-of-the-art turnkey facility with recent investment of USD \$5.0 million. Synergistic opportunities for a strategic buyer to increase production from existing facilities.
- Experienced workforce with extensive tooling design and engineering capabilities.

Strong Customer Reliance

- Several OEM customers are reliant on Util's fine blanking products for the uninterrupted supply of their automotive manufacturing processes. Util's products are used in a wide array of OEM automotive platforms and high-end vehicles.

Mexico Expansion Opportunity

- Util operates 2 high tonnage presses in Mexico, an operation it started in mid-2022. There is an opportunity for continued growth of the Company's Mexican operations which are strategically located in Monterrey.



Acquisition Opportunity

Positioned For Long-Term Sustainable Profitability

The Restructuring Process

On August 8, 2023 KSV Restructuring Inc. (“**KSV**”) was appointed as Receiver of the Company’s property, assets and undertakings pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”).

The principal purposes of the proceeding are to create a stabilized environment to allow the Receiver to conduct a sale process (the “**Sale Process**”) and to allow customers to transition to other vendors, if required.

The Sale Process

All of Util’s property, assets and undertakings are being offered for sale. The Receiver will consider offers for all or a portion of Util’s business and assets. The sale of the assets or any portion thereof shall be on an “as is, where is”, without material representations, warranties, or guarantees of any kind.

Any party that wishes to participate in the Sales Process must provide: (a) an executed copy of the attached non-disclosure agreement (“**NDA**”) (attention Neil de Gray, ndegray@ksvadvisory.com); and (b) a letter setting forth the identity and contact information of the potential bidder.

Interested parties that comply with the foregoing may be granted access, in the Receiver’s sole discretion, to additional information that will be available in a virtual data room. Parties are invited to submit a bid based on the information contained in the virtual data room and herein. Bids are to be prepared in the prescribed form based on the proposed purchase agreement as contained in the virtual data room.

The Receiver will review all qualified bids and select the highest and/or best offer(s). The sale to any successful bidder is expressly conditional upon the approval of such bid by the Court.

Process Timeline and Key Dates

The Receiver intends to seek Court approval of the Sale Process on September 15, 2023. The contemplated key dates in the Sale Process are provided in the table below and will be further discussed in a report that the Receiver will make available on the Receiver’s website at [Util Canada Limited](#). Prospective bidders are strongly encouraged to review the terms and conditions of the Sale Process. The following table sets out the key milestones of the Sale Process.

Milestone	Date
Commencement of Sale Process	No later than September 1, 2023
Binding Offer Deadline	October 2, 2023, at 5:00 PM (EST)
Deadline to notify Qualified Bidders	No later than October 10, 2023
Selection of Successful Bidder	October 16, 2023

These timelines are subject to change in the discretion of the Receiver and as permitted by the Court order approving the Sale Process. The Receiver is not obligated to accept any offer in the Sale Process, and the Receiver is entitled to preclude any party from participating in the Sale Process. Any transaction resulting from the Sale Process will be subject to Court approval.

Contact Information

KSV Restructuring Inc.
220 Bay Street, Suite 1300
Toronto, Ontario M5J 2W4

Neil de Gray,
Managing Director
ndegray@ksvadvisory.com
(416) 932 6223



Appendix “D”

AUCTION SERVICES AGREEMENT

THIS AGREEMENT is made as of October 30, 2023,

BETWEEN:

PERFECTION GLOBAL LLC, a limited liability corporation under the laws of Illinois

(the “**Auctioneer**”),

- and -

KSV RESTRUCTURING INC. solely in its capacity as the Court-appointed receiver of Util Canada Limited, and not in its personal capacity or in any other capacity (in such capacity, the “**Receiver**”)

(the Receiver, together with the Auctioneer, the “**Parties**” and each, a “**Party**”)

WHEREAS Util Canada Limited (the “**Debtor**”) made an assignment in bankruptcy on August 4, 2023, and KSV Restructuring Inc. (“**KSV**”) was appointed on that date as licensed insolvency trustee (in such capacity, the “**Trustee**”) of the Debtor’s bankrupt estate by the Office of the Superintendent of Bankruptcy, which appointment of the Trustee was affirmed by the creditors at the Debtor’s first meeting of creditors held on August 25, 2023;

AND WHEREAS pursuant to the order of The Honourable Mr. Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on August 8, 2023 (the “**Receivership Order**”), KSV was appointed as the Receiver, without security, of all the assets, undertakings and properties of the Debtor, acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the “**Property**”);

AND WHEREAS pursuant to the provisions of the Receivership Order, the Receiver has the power to sell all or any part of the Property, subject to Court approval in respect of any transaction in which the purchase price exceeds \$500,000 or the aggregate purchase price exceeds \$2,000,000;

AND WHEREAS pursuant to the order of The Honourable Mr. Justice Cavanagh of the Court made on September 15, 2023 (the “**Sale Process Order**”), the Court approved the Sale Process (as defined in the Sale Process Order) recommended by the Receiver;

AND WHEREAS the Receiver has conducted the Sale Process and selected the transaction set out in this Auction Services Agreement (the “**Agreement**”) as the successful bid in respect of the Assets in the Sale Process;

AND WHEREAS, further to the foregoing recital, the Receiver and the Auctioneer have agreed to enter into this Agreement respecting the sale by the Auctioneer of the Assets by the Auctioneer on behalf of the Receiver, upon the terms and conditions hereinafter set forth;

NOW THEREFORE, in consideration of the promises, mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are each hereby acknowledged by the Parties, the Parties agree as follows:

ARTICLE 1 DEFINITIONS AND RULES OF INTERPRETATION

1.1 Definitions

“Agreement” means this auction services agreement.

“Approval Order” shall mean one or more orders of the Court in form substantially similar to the form attached to this Agreement as Schedule “A”.

“Assets” means, collectively, all of the Debtor’s, the Trustee’s, and the Receiver’s right, title and interest, if any, including any keys and title documents, if available in and to the assets, described on Schedule “B” hereto which are located at the Premises.

“Auction” means the online and/or in person auction described in section 2.3 hereof.

“Auction Period” means the period commencing upon execution of this Agreement and continuing until the Outside Date.

“Business Day” means any day which is not a Saturday, a Sunday or a day observed as a statutory or civic holiday under the laws of the Province of Ontario or the federal laws of Canada applicable in the Province of Ontario, on which the principal Canadian chartered banks in the City of Toronto, Ontario are open for business.

“Buyer’s Premium” means a buyer’s premium of 18%. The Auctioneer is solely responsible for collecting the Buyer’s Premium from each Purchaser (as defined in the Approval Order), and retains the right to waive or discount the Buyer’s Premium on any individual sale at the Auction at its sole discretion.

“Premises” means 270 Spinnaker Way, Concord, Ontario.

1.2 Entire Agreement

The Receiver and the Auctioneer agree that this Agreement shall govern the sale or re-sale of the Assets. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements or documents (including the offer letter from the Auctioneer to the Receiver dated October 5, 2023), and there are no other representations, warranties, covenants or other agreements between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement.

ARTICLE 2 APPOINTMENT OF AUCTIONEER AND CONDUCT OF AUCTION

2.1 Appointment of Auctioneer

- (1) The Receiver hereby appoints the Auctioneer, and the Auctioneer hereby agrees to serve as the Receiver's exclusive agent for the limited purpose of conducting the Auction in accordance with the terms and conditions of this Agreement.
- (2) The Auctioneer hereby acknowledges that it will not hold itself out as agent of the Receiver except as specifically provided for in this Agreement and that the Auctioneer's authority as agent for the Receiver is limited to the powers specifically provided for in this Agreement.

2.2 Subcontracting

Other than labour, the Auctioneer may not subcontract the performance of any of its duties or obligations under this Agreement to any person.

2.3 Conduct of the Auction

- (1) Subject to section 2.5, all matters relating to the conduct of the sale or re-sale, including advertising, marketing, the preparation of Assets for sale, cleaning, detailing, setup, cataloguing, preview, inspection arrangements, collection, invoicing, supervision of the release period following the Auction and the timing and duration of the Auction, shall be at the responsibility of and in the discretion of the Auctioneer, in consultation with the Receiver acting reasonably and expeditiously, completed in the manner and at the times directed by the Auctioneer in a manner consistent with the auctioning of assets of a similar nature and value to the Assets; provided, however, that the Auction shall be completed, and the Assets (including any unsold Assets) will be removed by the Auctioneer or the relevant purchaser from the Premises, by no later than four months from the date of the commencement of the Auction Period or such other date as the Receiver and the Auctioneer may agree in writing (the "**Outside Date**"), failing which all occupancy costs from and after the Outside Date will be to the account of the Auctioneer.
- (2) The Auction shall be conducted by the Auctioneer by way of in person, webcast and/or online auction at the Auctioneer's sole expense, and the Receiver hereby acknowledges and consents to such auction being conducted on or about December 12, 2023 (provided the Approval Order has been issued by the Court), or such other date as the Receiver and the Auctioneer, each acting reasonably, may agree in writing (the "**Auction Date**"). The Auctioneer reserves the right to deviate from the sale approach or the marketing approach (subject to section 2.5) prior to the Auction Date if the Auctioneer determines that the alternative approach will result in an offer equivalent to fair market value and the Receiver provides its written consent to such approach, which consent will not be unreasonably withheld or delayed. For the avoidance of doubt, no such modifications shall amend the Auction Period, except with the written consent of the Receiver. The Auctioneer also reserves the right to enhance the Auction with additional assets for sale (the "**Augmented Assets**"), provided that the Auctioneer will continue to be responsible for all occupancy

costs from and after the Outside Date. The Receiver shall receive 10% of the gross proceeds from the sale of any Augmented Assets.

2.4 No Warranty

The Assets shall be sold by the Auctioneer at the Auction, on an “as is, where is” basis with no representation, condition or warranty of any kind being made by the Auctioneer, the Receiver, the Trustee, or the Debtor to potential or final buyers. Further, except for the Receiver’s representations and warranties expressly set forth in section 4.1 of this Agreement, no representation, condition or warranty of any kind is being made by the Receiver to the Auctioneer and the Auctioneer acknowledges that it has made such inspections of the Assets as it deems appropriate and that none of the Debtor, the Trustee, or the Receiver nor any other person has made any representation, warranty or condition, whether statutory, express or implied, oral or written, legal, equitable, collateral or otherwise, as to title, encumbrances, fitness for purpose, marketability, condition, quantity or quality thereof or in respect of any other matter or thing whatsoever. Any sale of Assets at the Auction shall be governed by the terms of a bill of sale in form and substance acceptable to the Auctioneer and the Receiver each acting reasonably with consent to be provided by the Receiver within four (4) Business Days of written request therefor.

2.5 Use of Name

The Receiver agrees that the Auctioneer shall be entitled during the term of this Agreement to the use of the names “Util Canada Limited” where necessary or desirable in order for the Auctioneer to complete the sale of the Assets, in each case solely for the marketing and merchandising of the Assets. At the request of the Receiver, the Auctioneer shall supply the Receiver with samples of any materials distributed by the Auctioneer which utilize or include the Debtor’s name, and the Receiver may, acting reasonably, approve or disprove of any such use. If the Receiver disapproves any such use, the Auctioneer must immediately cease such use.

2.6 Access to the Premises

- (1) The Receiver agrees to arrange for the Auctioneer to have rent-free, unrestricted access (including keys) to the Premises during the Auction Period with electricity, heat, water, internet access, roll-off garbage containers and snow removal included, unless this Agreement is otherwise terminated pursuant to Article 5 for preparing the Assets for the Auction, provided, however, that access to the Premises shall terminate on the Outside Date, unless the Auctioneer elects to continue to access the Premises for a period ending no later than March 31, 2024, in which case the Auctioneer shall provide an irrevocable notice of such election no later than thirty days before the date such period will end, and the Auctioneer shall pay any and all occupancy costs including any amounts payable by the Receiver or the Trustee to the landlord of the Premises under the occupancy agreement between the Receiver, the Trustee, and such landlord, and it hereby agrees in writing to do so, and further provided the Receiver is still able to provide access to the Premises to the Auctioneer. The Receiver shall also have unfettered and full access to the Premises and the Assets during the Auction Period. The Receiver agrees to allow access to the Premises to members of the public, by appointment and under the supervision of the Auctioneer, for pre-sale inspections of the Assets. The Receiver has made arrangements for the Auctioneer

to access the Premises, and shall ensure that forthwith after court approval of this Agreement that the Auctioneer is provided with such full access to the Premises in accordance with the terms of this Agreement at no cost to the Auctioneer.

- (2) The Auctioneer agrees to vacate the Premises by no later than the Outside Date. After the completion of the sale or re-sale, the Auctioneer shall supervise the removal of the sold and unsold Assets from the Premises assuring removal shall be done in a workmanlike manner. The removal of all such Assets and any unsold Assets from the Premises shall be completed prior to the expiry of the Outside Date, and the Auctioneer shall ensure that all purchasers of Assets through the Auction agree that their purchase is conditional upon the removal of their purchased Assets from the Premises prior to the expiry of the Outside Date. The Auctioneer shall be required to remedy or repair any condition of the Premises caused by the Auctioneer, its agents, employees and invitees resulting from preparation for the Auction, the conduct of the Auction, or the removal of Assets. For greater certainty, the Auctioneer shall not be responsible to remedy any pre-existing condition on the Premises prior to the preparation for the Auction. The Auctioneer shall leave the Premises in a tidy manner with all garbage removed upon the expiration of the Auction Period. The obligations of the Auctioneer under this Agreement extend only to the portions of the Premises utilized by it during the Auction process.
- (3) The Auctioneer shall be liable for any costs, expenses, or losses suffered by the Receiver, the Trustee, or the Debtor resulting from any damages, losses or injury resulting from a breach of the Auctioneer's obligations under this Agreement and for damages, losses or injury caused to property or persons by the Auctioneer, its invitees or anyone from whom it is in law responsible, including, without limitation, any purchaser(s) of the Assets.
- (4) The Auctioneer shall promptly remedy and repair, at the Auctioneer's cost and expense, any damage to the Premises resulting from any action taken by the Auctioneer or its agents and employees upon the Premises, including, without limitation, by:
 - (a) clean any spills or oil, lubricants, grease or any other liquid remaining after removal of any of the Assets; and
 - (b) by removing or capping all electric wires and air, water, or other lines to the nearest point close to the Asset, and all bolts "blown off", and by placing safety barriers around any pits.
- (5) The Auctioneer shall not be responsible or liable for any environmental conditions or damage, hazardous, environmentally-regulated or waste substances of any kind including in, on, under or affecting the Premises, except to the extent such conditions or damages are caused by the actions of the Auctioneer or any of its agents or employees, and the Auctioneer shall have no obligation to deal with, store or remove such substances. For greater certainty, the Auctioneer is not responsible for draining oil or other contaminants present in any pits or replacing holes in the floor, walls or roof which may be present following the removal of an Asset. The Receiver acknowledges and agrees that the Auctioneer is not in care, management, possession or control of the Premises for the purposes of any environmental legislation.

2.7 Indemnity

- (1) The Auctioneer shall and hereby agrees to defend, indemnify, and hold harmless Receiver and its officers, directors, agents, employees and principals from and against any and all claims for damages, losses or injury resulting from a breach of its obligations under this Agreement and for damages, losses or injury caused to property or persons by the Auctioneer, its invitees or anyone from whom it is in law responsible, including, without limitation, any purchaser(s) of the Assets.

2.8 Insurance

- (1) The Receiver shall maintain customary insurance and shall be responsible for loss or damage to the Assets, other than loss or damage arising as a result of the negligence of Auctioneer, its agents or employees, until the earliest of:
 - (a) the removal of the Assets from the Premises by the purchaser or the Auctioneer (in the case of unsold Assets); or
 - (b) the Outside Date.
- (2) The Auctioneer will be responsible for arranging third-party liability insurance with respect to the Auctioneer's access to and use of the Premises during the Auction Period and after the Outside Date and shall be responsible for the costs of such insurance. The third-party liability insurance shall provide for not less than \$5 million coverage per occurrence and the Receiver, the Trustee, and the Debtor shall be named third-party beneficiaries under such insurance and who shall benefit from the proceeds resulting from damage claims in respect of the Assets or the Premises. The Auctioneer shall provide proof of such insurance to the Receiver at the commencement of the Auction Period.

ARTICLE 3 CONSIDERATION PAYABLE

3.1 Guarantee Amount

- (1) The Auctioneer shall pay to the Receiver a guaranteed amount for the Assets in the sum of [REDACTED] plus applicable taxes (the "**Guaranteed Amount**") without adjustment, recoupment or set off of any kind other than as provided for in section 3.2, notwithstanding that the proceeds from the sale of the Assets at the Auction may be less than such amount. The Auctioneer shall pay the Guaranteed Amount in two stages, with US\$450,000 of the Guaranteed Amount being paid to the Receiver within four (4) Business Days of the execution of this Agreement (the "**Deposit**"), which Deposit shall be deposited by the Receiver in a non-interest bearing account, and the balance of the Guaranteed Amount being paid by the Auctioneer by no later than five (5) Business Days following the Court granting the Approval Order. The Guaranteed Amount shall be paid by wire transfer of immediately available funds to the account identified on Schedule "C".
- (2) The Auctioneer has allocated the Guaranteed Amount amongst the Assets as set forth in Schedule "B". At any time prior to the Court granting the Approval Order, the Receiver

may remove certain assets from Schedule “B”, in which case the Guaranteed Amount shall be reduced by an amount equal to the amount allocated by the Auctioneer in Schedule “B” for such removed assets plus the Buyer’s Premium (and such removed assets shall then not constitute Assets).

- (3) In the event that this Agreement is terminated in accordance with Section 5.1 or 5.3, the Receiver shall forthwith return the Deposit to the Auctioneer and the Auctioneer shall have no further obligation to pay the Guaranteed Amount (and the return of the Deposit shall be the sole and exclusive remedy of the Auctioneer). If this Agreement is terminated for any other reason whatsoever, then the Deposit shall be forfeited by the Auctioneer to, and become the sole property of, the Receiver, as liquidated damages and not as penalty, in addition to any other rights and remedies the Receiver may have against the Auctioneer available at law or in equity.

3.2 Application of Proceeds and Taxes

- (1) If any Assets from the Auction or are withdrawn or have materially changed in condition since the Auctioneer’s inspection, the Guaranteed Amount shall be reduced based on the per-unit breakdown in Schedule “B”. In no circumstance will the reduction in the Guaranteed Amount be decreased by an amount more than the corresponding amount per unit in Schedule “B”.
- (2) Subject to payment in full of the Guaranteed Amount by the Auctioneer to the Receiver, any and all proceeds in excess of the Guaranteed Amount (including, without limitation, the Buyer’s Premium, to the extent the Buyer’s Premium is in excess of the Guaranteed Amount) shall be retained by the Auctioneer. Immediately prior to the end of the Auction Period, at the request of the Auctioneer, the Receiver shall provide to the Auctioneer a short form bill of sale in a form satisfactory to the Receiver and the Auctioneer, each acting reasonably, for any unsold assets.
- (3) The Auctioneer shall be solely responsible for collecting any applicable federal and provincial taxes exigible in connection with the sale of the Assets (the “**Taxes**”) and shall remit all such Taxes to the proper governmental authorities when due. The Auctioneer shall indemnify and save harmless the Receiver from and against any and all sales tax, penalties, costs and/or interest (including but not limited to legal fees on a full indemnity basis) which may become payable by or assessed against the Receiver under the applicable laws in connection with the purchase and sale of the Assets pursuant to this Agreement.
- (4) The cost of any replacement parts or labour to enhance net realization will be paid by the Auctioneer and will not be deducted from the Guaranteed Amount.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 The Receiver's Representations and Warranties

The Receiver represents and warrants that each of the facts set out below hereto is correct in all material respects as of the date of this Agreement (unless otherwise specified below):

- (a) Residency: Immediately before the Debtor's bankruptcy, the Debtor was not a non-resident person within the meaning of Section 116 of the *Income Tax Act* (Canada); and
- (b) HST Registration: The registration number of the Debtor for purposes of the *Excise Tax Act* (Canada) is: 889126892 RT0002.

4.2 The Auctioneer's Representations and Warranties

The Auctioneer represents and warrants that each of the facts set out below hereto is correct in all material respects as of the date of this Agreement:

- (a) Corporate Existence: The Auctioneer is a corporation incorporated and existing under the laws of the State of Illinois;
- (b) Capacity and Due Authorization: The Auctioneer has the necessary capacity to enter into this Agreement and perform its obligations under this Agreement and any other agreements or instruments to be delivered or given by it pursuant to this Agreement. The execution, delivery and performance by the Auctioneer of this Agreement and the consummation of the transaction contemplated hereby have been duly authorized by all necessary corporate action on the part of the Auctioneer;
- (c) Binding Agreement: This Agreement and any other agreements entered into pursuant to this Agreement to which the Auctioneer is a party constitute legal, valid and binding obligations of the Auctioneer, enforceable against the Auctioneer in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction;
- (d) Brokers: No agent, broker, person or firm acting on behalf of the Auctioneer is, or will be, entitled to any commission or brokers' or finders' fees from the Auctioneer or from any affiliate of the Auctioneer, in connection with this Agreement or the transaction contemplated hereby; and
- (e) HST Registration: The Auctioneer's registration number for the purposes of the *Excise Tax Act* (Canada) is 83000 3638RT0001.

ARTICLE 5 TERMINATION

5.1 Termination by Mutual Consent

This Agreement may be terminated at any time by mutual written consent of the Receiver and the Auctioneer.

5.2 Termination by the Receiver

- (1) If the Auctioneer fails to comply with any of the provisions of this Agreement in any material respect, the Receiver shall be entitled at its option and acting in a commercially reasonable manner to terminate this Agreement, but only if the Receiver provides the Auctioneer with five (5) Business Days to remedy such failure and the Auctioneer has not done so, without prejudice to the Receiver's rights to be paid the full amount of the Guaranteed Amount provided that on payment of the Guaranteed Amount, the Receiver shall provide a short form bill of sale in a form satisfactory to the Receiver and the Auctioneer, each acting reasonably, for any unsold assets and the Auctioneer shall forthwith remove such Assets from the Premises otherwise in accordance with the terms and conditions of this Agreement. In the event that the Auctioneer fails to do so, any of the Assets not sold may, at the Receiver's option, be sold or resold by the Receiver in such manner and on such terms and conditions as the Receiver in its sole discretion determines.
- (2) If the Approval Order has not been granted by November 30, 2023, the Receiver may elect to terminate this Agreement without penalty.

5.3 Termination by Auctioneer

- (1) If the Receiver fails to comply with any of its material obligations under this Agreement, the Auctioneer shall be entitled at its option to terminate this Agreement, but only if the Auctioneer provides the Receiver with three Business Days to remedy such failure and the Receiver has not done so.
- (2) If the Approval Order has not been granted by November 30, 2023, the Auctioneer may elect to terminate this Agreement without penalty.

ARTICLE 6 GENERAL

6.1 Force Majeure

The Receiver shall not be liable or responsible to the Auctioneer for any failure or delay in performance or a breach of the terms under the Agreement due to conditions beyond its control despite using reasonable commercial efforts to ensure completion of the outstanding obligation within the applicable time frames provided for in this Agreement including, but not limited to, acts of God, wars, riots, insurrections, epidemics or pandemics, natural disasters, fires, acts of terrorism and/or any other cause beyond reasonable control that have the effect of materially disrupting, interfering and/or obstructing any segment of the economy (collectively, "**Force Majeure**").

Auctioneer shall not be responsible for or liable for any failure or delay in their performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by Force Majeure and the parties will negotiate in good faith such amendments as may be reasonably required to complete the transactions contemplated by this Agreement.

6.2 Assignment

The Auctioneer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the Receiver.

6.3 Confidentiality

The Receiver and the Auctioneer shall take all reasonable steps to keep confidential the Guaranteed Amount and the per-unit breakdown of the Guaranteed Amount in Schedule "B", except such information may be disclosed to their professional advisors or as may be required to be disclosed by applicable law, court order, or as may be disclosed by the Receiver in the course of the Receivership proceedings, if applicable. The Receiver shall seek a sealing order in respect of the Guaranteed Amount and the per-unit breakdown of the Guaranteed Amount in Schedule "B".

6.4 Applicable Law and Jurisdiction

This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.

To the fullest permitted by applicable law, each party to this Agreement (i) agrees that any action by such party seeking any relief whatsoever arising out of, or in connection with, this Agreement or the transaction contemplated hereby, shall be brought only in the Court and shall not be brought in any other court in Canada or any court in any other country, (ii) agrees to submit to the exclusive jurisdiction of the Court for purposes of all legal proceedings arising out of, or in connection with, this Agreement or the transactions contemplated hereby, (iii) waives and agrees not to assert any objection that it may now or hereafter have to the laying of the venue of such action brought in the Court or any claim that any such action brought in the Court has been brought in an inconvenient forum, (iv) agrees that email service of process or other papers in connection with any such action or proceeding shall be valid and sufficient service thereof, and (v) agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable law.

6.5 Severability

If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

6.6 Amendment and Modification

This Agreement may only be amended or modified in a writing stating specifically that it amends this Agreement and is signed by an authorized representative of each Party.

6.7 Execution by Electronic Transmission

The signature of any of the Parties hereto may be evidenced by a facsimile, scanned email or internet transmission copy of this Agreement bearing such signature.

6.8 Counterparts

This Agreement may be signed in one or more counterparts, each of which so signed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument. Notwithstanding the date of execution or transmission of any counterpart, each counterpart shall be deemed to have the effective date first written above.

6.9 Receiver

KSV is acting solely in its capacity as the Court-appointed Receiver of the Debtor in the Receivership proceedings pursuant to the Receivership Order and not in its personal or corporate capacity, and the Receiver has no liability in connection with this Agreement or any sale of the Assets whatsoever, in its personal or corporate capacity or otherwise.

[SIGNATURE PAGES TO IMMEDIATELY FOLLOW]

AGREED TO AND ACCEPTED as of the date first written above.

PERFECTION GLOBAL LLC

Per: _____
Name:
Title:

**KSV RESTRUCTURING INC., in its
capacity as Court-appointed Receiver of the
Debtor, and not in its personal or corporate
capacity and without personal or corporate
liability**

Per: _____
Name:
Title:

**SCHEDULE “A”
FORM OF APPROVAL ORDER**

See attached.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE <*>) <*>, THE <*> DAY
JUSTICE <*>) OF <*>, 2023

BETWEEN:

**DeA CAPITAL ALTERNATIVE FUNDS SGR S.p.A.
as managing company of Italian closed-end investment
Fund IDeA CCR (Corporate Credit Recovery) I**

Applicant

- and -

UTIL CANADA LIMITED

Respondent

**IN THE MATTER OF SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*
(CANADA) R.S.C. 1985 cB-3 AS AMENDED, AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT* (ONTARIO) R.S.O. 1990, c. C.43, AS AMENDED**

APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Restructuring Inc. (“**KSV**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all the assets, undertakings and properties (collectively, the “**Property**”) of Util Canada Limited (the “**Debtor**”), for an order, amongst other things: (i) approving the auction services agreement between Perfection Global LLC (the “**Auctioneer**”), as auctioneer, and the Receiver dated October <*>, 2023 (the “**Auction Agreement**”), a copy of which is attached to the report of the Receiver dated <*>, 2023 (the “**Report**”); (ii) authorizing the Auctioneer to conduct the auction, as referenced in,

and in accordance with the terms of, the Auction Agreement (collectively, the “**Auction**”); and (iii) vesting in each purchaser at such Auction (each, a “**Purchaser**”) the Debtor’s and the Receiver’s right, title and interest in and to the Property purchased by such respective Purchaser at the Auction (in each case, the “**Purchased Assets**”), free and clear of any claims and encumbrances, was heard this day by video-conference.

ON READING the Report (including the appendices thereto), and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the Service List, as appears from the affidavit of service, filed,

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS AND DECLARES** that the Auction is hereby approved, and the execution of the Auction Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Auction.

3. **THIS COURT ORDERS AND DECLARES** that upon the Auctioneer completing a sale to a Purchaser at the Auction of one or more Purchased Assets (which Purchaser, for greater certainty, may include the Auctioneer), upon receipt by the Auctioneer from such Purchaser of the purchase price determined at the Auction and upon delivery by the Auctioneer to such Purchaser (or, in the case such Purchaser is the Auctioneer, upon delivery by the Receiver to the Auctioneer) of a bill of sale or similar evidence of purchase and sale (each, a “**Purchaser Bill of Sale**”), all the

Debtor's, the Trustee's (as defined below) and the Receiver's right, title and interest in and to the Purchased Assets purchased by such Purchaser at the Auction and described in such Purchaser's Bill of Sale shall vest absolutely in such Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the assignment in bankruptcy of the Debtor on August 4, 2023, and the appointment of KSV Restructuring Inc. on that date as licensed insolvency trustee (in such capacity, the "**Trustee**") of the Debtor's bankrupt estate by the Office of the Superintendent of Bankruptcy; (ii) any encumbrances or charges created by the Order of The Honourable Mr. Justice Cavanagh made August 8, 2023 (the "**Receivership Order**"); and (iii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system, and, for greater certainty, this Court orders that all the Claims affecting or relating to such Purchased Assets are hereby expunged and discharged as against such Purchased Assets.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets payable to the Receiver from the Auction shall stand in the place and stead of the Purchased Assets sold at the Auction, and that from and after the delivery of a Purchaser's Bill of Sale all Claims shall attach to such net proceeds from the sale of the Purchased Assets sold at the Auction and described in such Purchaser's Bill of Sale with the same priority as they had with respect to such Purchased Assets immediately prior

to their sale at the Auction, as if such Purchased Assets had not been sold at the Auction and remained in the possession or control of the person having that possession or control immediately prior to their sale at the Auction.

5. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) 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
- (c) any assignment in bankruptcy made in respect of the Debtor,

the vesting of each of the Purchased Assets in its respective Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that is now or 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.

GENERAL

6. **THIS COURT ORDERS** that 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.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any other Canadian and foreign court, tribunal, regulatory or administrative body (“**Judicial Bodies**”) to give effect to this Order and to assist the Receiver and its respective agents in carrying out the terms of this Order. All Judicial Bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its respective agents in carrying out the terms of this Order.

DeA CAPITAL ALTERNATIVE FUNDS SGR S.p.A.
as managing company of Italian closed-end investment
Fund IDeA CCR (Corporate Credit Recovery) I

UTIL CANADA LIMITED

- and -

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

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Lawyers for KSV Restructuring Inc., in its capacity as
the Court-appointed receiver

SCHEDULE "B"
ASSETS

See attached.

**SCHEDULE “C”
RECEIVER’S ACCOUNT DETAILS**

Bank of Montreal

1 First Canadian Place
100 King Street West
Toronto, ON M5X 1A3

Bank Transit (ABA)#:	00022
Bank Institution #:	001
Bank Account #:	4643-501
Bank Swift code:	BOFMCAM2
Name of account:	KSV Restructuring Inc., Receiver of Util Canada Limited

54560733.9

Appendix “E”

AGREEMENT OF PURCHASE AND SALE

BETWEEN

KSV RESTRUCTURING INC.,

solely in its capacity as the Court-appointed receiver of Util Canada Limited, and not in its
personal capacity or in any other capacity

- and -

BARRIE WELDING & MACHINE (1974) LIMITED

Dated: October 26, 2023

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AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT made this 26th day of October 2023,

BETWEEN:

KSV RESTRUCTURING INC.,

solely in its capacity as the Court-appointed receiver of Util Canada Limited,
and not in its personal capacity or in any other capacity
(in such capacity, the “**Receiver**”)

- and -

BARRIE WELDING & MACHINE (1974) LIMITED

(the “**Purchaser**”)

WHEREAS Util Canada Limited (the “**Debtor**”) made an assignment in bankruptcy on August 4, 2023, and KSV Restructuring Inc. (“**KSV**”) was appointed on that date as licensed insolvency trustee (in such capacity, the “**Trustee**”) of the Debtor’s bankrupt estate by the Office of the Superintendent of Bankruptcy, which appointment of the Trustee was affirmed by the creditors at the Debtor’s first meeting of creditors held on August 25, 2023.

AND WHEREAS all the Debtor’s employees were terminated on August 4, 2023 as a result of the Debtor’s bankruptcy;

AND WHEREAS pursuant to the order of The Honourable Mr. Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on August 8, 2023 (the “**Receivership Order**”), KSV was appointed as the Receiver, without security, of all the assets, undertakings and properties of the Debtor, acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the “**Property**”);

AND WHEREAS pursuant to the provisions of the Receivership Order, the Receiver has the power to sell all or any part of the Property, subject to Court approval in respect of any transaction in which the purchase price exceeds \$500,000 or the aggregate purchase price exceeds \$2,000,000;

AND WHEREAS pursuant to the order of The Honourable Mr. Justice Cavanagh of the Court made on September 15, 2023 (the “**Sale Process Order**”), the Court approved the Sale Process (as defined in the Sale Process Order) recommended by the Receiver;

AND WHEREAS the Purchaser wishes to purchase and the Receiver wishes to sell the Purchased Assets (as defined herein) upon the terms and subject to the conditions set out herein;

NOW THEREFORE, in consideration of the promises, mutual covenants and agreements contained in this Agreement (as defined herein), and for other good and valuable consideration, the receipt and sufficiency of which are each hereby acknowledged by the Parties (as defined herein), the Parties agree as follows:

ARTICLE 1 DEFINED TERMS

1.1 Definitions.

In this Agreement:

“Accounts Payable” means all amounts relating to the Business owing to any Person in connection with the purchase of goods or services in the ordinary course of business;

“Agreement” means this agreement of purchase and sale, including all schedules and all amendments or restatements, as permitted, and references to **“article”**, **“section”** or **“schedule”** mean the specified article, section of, or schedule to this Agreement and the expressions **“hereof”**, **“herein”**, **“hereto”**, **“hereunder”**, **“hereby”** and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement;

“Applicable Law” means, with respect to any Person, property, transaction, event or other matter, all applicable laws, statutes, regulations, rules, by-laws, ordinances, protocols, regulatory policies, codes, guidelines, official directives, orders, rulings, judgments and decrees of any Governmental Authority;

“Approval and Vesting Order” means the approval and vesting order issued by the Court approving this Agreement and the transactions contemplated by this Agreement and conveying to the Purchaser the Purchased Assets free and clear of all Encumbrances, and which order shall be in a form substantively similar to the draft order attached as Schedule A hereto;

“Assignable Assets” has the meaning given in section ARTICLE 3 herein;

“Business” means the business of the Debtor;

“Business Day” means a day on which banks are open for business in the City of Toronto but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario;

“Claims” means any and all claims, demands, complaints, grievances, actions, applications, suits, causes of action, orders, charges, indictments, prosecutions or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including solicitor and client costs and disbursements, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing, related to the Debtor or the Purchased Assets, and **“Claim”** means any one of them;

“Closing” means the successful completion of the Transaction;

“Closing Date” means the date that is the later of: (i) the first Business Day following the date that is ten days following the date on which the Approval and Vesting Order is issued by the Court; and (ii) the first Business Day following the date on which any appeals or motions to set aside or

vary the Approval and Vesting Order have been finally determined, or, if the Parties agree, such other date as agreed in writing by the Parties;

“**Closing Time**” means 2:00 p.m. (Toronto time) on the Closing Date or such other time as agreed in writing by the Parties;

“**Consents and Approvals**” means the consents and approvals of all relevant third parties, if any;

“**Court**” has the meaning set out in the recitals hereof;

“**Debtor**” has the meaning set out in the recitals hereof;

“**Deposit**” has the meaning given in section 4.2 herein;

“**Encumbrances**” means all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise;

“**Equipment**” means the equipment enumerated in Schedule B hereto located at the Premises;

“**ETA**” means the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended;

“**Excluded Assets**” means all assets, undertakings and properties other than the Purchased Assets, which Excluded Assets includes the following:

- (a) any of the Debtor’s cash or cash equivalents;
- (b) any of the Debtor’s accounts receivable;
- (c) original tax records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Debtor or any of the Purchased Assets;
- (d) the benefit of any prepaid expenses or deposits with any Person (including, without limitation, the benefit of any prepaid rent), public utility or Governmental Authority; and
- (e) the benefit of any refundable Taxes payable or paid by the Debtor, the Trustee or the Receiver in respect of the Purchased Assets and applicable to the period prior to the Closing Date net of any amounts withheld by any taxing authority, and any claim or right of any of the Debtor, the Trustee or the Receiver to any refund, rebate, or credit of Taxes for the period prior to the Closing Date;

“**Excluded Liabilities**” has the meaning given in section 3.3 herein;

“**Governmental Authority**” means governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, Crown corporations, courts,

bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, republic, territory, state or other geographic or political subdivision thereof; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power, and “**Governmental Authority**” means any one of them;

“**HST**” means harmonized sales tax imposed under Part IX of the ETA;

“**Interim Period**” means the period from and including the date that this Agreement is executed by the Parties to and including the Closing Date;

“**ITA**” means the *Income Tax Act*, R.S.C. 1985, c.1, as amended;

“**KSV**” has the meaning set out in the recitals hereof;

“**Notice**” has the meaning given in section 14.3 herein;

“**Parties**” means the Receiver and the Purchaser;

“**Permits**” means all the authorizations, registrations, permits, certificates of approval, approvals, consents, commitments, rights or privileges issued, granted or required, if any, by any Governmental Authority in respect of the Purchased Assets;

“**Person**” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted;

“**Premises**” means the real property known municipally as 270 Spinnaker Way, Vaughan, Ontario;

“**Property**” has the meaning set out in the Receivership Order;

“**Purchase Price**” has the meaning set out in section 4.1 herein;

“**Purchased Assets**” means all the right, title and interest, if any, of the Debtor, the Trustee and the Receiver in and to the Equipment (as specifically listed in Schedule B herein) and the Warranty Rights to the extent assignable;

“**Purchaser**” means **Barrie Welding & Machine (1974) Limited**, a corporation duly formed and validly subsisting under the laws of the Province of Ontario;

“**Receiver**” has the meaning set out in the recitals hereof;

“**Receivership Order**” has the meaning set out in the recitals hereof;

“**Removal**” has the meaning set out in section 11.2 herein;

“Removal Period” means the period beginning on January 8, 2024, and ending on January 31, 2024, or such other period as both Parties mutually agree in writing;

“Taxes” means all taxes, HST, land transfer taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, excise, real property and personal property taxes, and any related interest, fines and penalties, imposed by any Governmental Authority, and whether disputed or not;

“Third Party” has the meaning given in section ARTICLE 3 herein;

“Transaction” means the transaction of purchase and sale contemplated by this Agreement;

“Trustee” has the meaning set out in the recitals hereof; and

“Warranty Rights” means the full benefit of all warranties, warranty rights, performance bonds and indemnities (implied, express or otherwise) of the Debtor against manufacturers, contractors or any other Person which apply to the Purchased Assets, but only to the extent that the same are capable of being assigned.

ARTICLE 2 SCHEDULES

2.1 Schedules.

The following schedules are incorporated in and form part of this Agreement:

<u>Schedule</u>	<u>Description</u>
Schedule A	Approval and Vesting Order
Schedule B	Equipment

ARTICLE 3 AGREEMENT TO PURCHASE

3.1 Purchase and Sale of Purchased Assets.

- (1) Relying on the representations and warranties herein, the Receiver hereby agrees to sell, assign, convey and transfer to the Purchaser, and the Purchaser hereby agrees to purchase, the Purchased Assets, free and clear of all the Encumbrances.
- (2) Subject to the Closing, the Receiver hereby remises, releases and forever discharges to, and in favour of, the Purchaser, all of its rights, claims and demands whatsoever in the Purchased Assets.
- (3) This Agreement or any document delivered in connection with this Agreement shall not constitute an assignment of any rights, benefits or remedies under any Permits

or Consents and Approvals (collectively, the “**Assignable Assets**”) that form part of the Purchased Assets and which are not assignable by the Receiver to the Purchaser without the required consent of the other party or parties thereto or a Governmental Authority (collectively, the “**Third Party**”). To the extent any such consent is required and not obtained by the Receiver prior to the Closing Date, then, to the extent permitted by Applicable Law:

- (i) the Receiver will, at the request, direction and sole cost of the Purchaser, acting reasonably, assist the Purchaser, in a timely manner and on a commercially reasonable best-efforts basis, in applying for and obtaining all consents or approvals required under the Assignable Assets in a form satisfactory to the Receiver and the Purchaser, acting reasonably, and take such actions and do such things as may be reasonably and lawfully designed to attempt to provide the benefits of the Assignable Assets to the Purchaser, including holding those Assignable Assets in trust for the benefit of the Purchaser or acting as agent for the Purchaser pending such assignment; and
- (ii) in the event that the Receiver receives funds with respect to those Assignable Assets, the Receiver will promptly pay over to the Purchaser all such funds collected by the Receiver, net of any outstanding costs provided in subsection (i) above.

3.2 Excluded Assets.

Notwithstanding anything else in this Agreement, the Purchased Assets shall not include the Excluded Assets.

3.3 Excluded Liabilities.

Unless otherwise stated in this Agreement, the Purchaser is not assuming, and shall not be deemed to have assumed any liabilities, obligations or commitments of the Debtor, the Trustee, the Receiver or any other Person, whether known or unknown, fixed or contingent or otherwise, including any debts, obligations, sureties, positive or negative covenants or other liabilities directly or indirectly arising out of or resulting from the conduct or operation of the Business or the Debtor’s ownership or interest therein, whether pursuant to this Agreement or as a result of the Transaction (collectively, the “**Excluded Liabilities**”). For greater certainty, the Excluded Liabilities shall include, but not be limited to, the following:

- (a) except as otherwise agreed in this Agreement, all Taxes payable by the Debtor prior to the Closing Date
- (b) except as otherwise agreed in this Agreement, all Taxes relating to any matters or assets other than the Purchased Assets;
- (c) any liability, obligation or commitment associated with the Accounts Payable or any employees of the Debtor other than any applicable successor employer liabilities, if any, which cannot be released by operation of law;

- (d) except as otherwise agreed in this Agreement, any liability, obligation or commitment resulting from the Encumbrances;
- (e) except as otherwise agreed in this Agreement, any liability, obligation or commitment associated with any of the Excluded Assets; and
- (f) except as otherwise agreed in this Agreement, any liability, obligation or commitment in respect to Claims arising from or in relation to any facts, circumstances, events or occurrences existing or arising prior to the Closing Date.

ARTICLE 4

PURCHASE PRICE AND SATISFACTION OF PURCHASE PRICE

4.1 Purchase Price.

The Purchase Price for the Purchased Assets shall be two hundred and fifty thousand dollars (\$250,000) in total (the “**Purchase Price**”). The Purchase Price is allocated as follows:

- a) 600T Komatsu Press: \$184,448.60 in satisfaction of the existing secured debt (RSLA Lien) plus the Purchaser will pay an additional \$35,551.40 in cash = \$220,000.00
- b) 120T Corsteel Press: \$26,500.00 in satisfaction of the existing secured debt (RSLA Lien) plus the Purchaser will pay an additional \$3,500.00 in cash = \$30,000.00

4.2 Deposit.

- (1) The Parties agree that the Purchaser has paid the Receiver a deposit of twenty-five thousand dollars (\$25,000.00) (the “**Deposit**”), which Deposit shall be held in accordance with the provisions of this Agreement pending completion or other termination of this Agreement and shall be applied against and towards the Purchase Price due on completion of the Transaction on the Closing Date.
- (2) The Parties agree that the Receiver shall cause the Deposit to be placed in a non-interest bearing account and that the Deposit shall be credited to the Purchaser on the Closing Date.

4.3 Satisfaction of Purchase Price.

The Purchaser shall indefeasibly pay and satisfy the Purchase Price as follows:

- (a) the Deposit shall be applied against the Purchase Price; and
- (b) the remainder of the Purchase Price, being the net amount owing after deducting the Deposit, shall be paid by the Purchaser to the Receiver on Closing.

4.4 Allocation of Purchase Price.

The Parties, acting reasonably and in good faith, covenant to use best efforts to agree to allocate the Purchase Price amongst the Purchased Assets in a mutually agreeable manner on or prior to the Closing Time, provided that failure of the Parties to agree upon an allocation shall not result in the termination of this Agreement but rather shall result in the nullity of the application of this section of the Agreement such that each Party shall be free to make its own reasonable allocation.

4.5 Adjustment of Purchase Price.

There shall be no adjustments to the Purchase Price.

ARTICLE 5 TAXES

5.1 Taxes.

The Purchaser shall be responsible for all federal and provincial sales taxes, goods and services, HST and other similar taxes and duties and all registration fees payable upon or in connection with the conveyance or transfer of the Purchased Assets to the Purchaser. If the sale of the Purchased Assets is subject to HST, then such tax shall be in addition to the Purchase Price. The Receiver will not collect HST if the Purchaser provides to the Receiver a warranty that it is registered under the ETA, together with a copy of the required ETA registration at least five Business Days prior to Closing, a warranty that the Purchaser shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Receiver in respect of any HST payable. The foregoing warranties shall not merge but shall survive the completion of the Transaction.

ARTICLE 6 CLOSING ARRANGEMENTS

6.1 Closing and Closing Procedure.

Closing shall take place at the Closing Time on the Closing Date at the offices of the Receiver's lawyers, Aird & Berlis LLP, located in Toronto, Ontario, or at such other time or at such other place as the Parties may agree in writing.

6.2 Tender.

Any tender of documents or money under this Agreement may be made upon the Parties or their respective lawyers, and money shall be tendered by wire transfer of immediately available funds to the account specified by the receiving Party.

6.3 Receiver's Closing Deliverables.

The Receiver covenants to execute, where applicable, and deliver the following to the Purchaser at Closing or on such other date as expressly provided herein:

- (a) a copy of the issued Approval and Vesting Order and the attached Receiver's Certificate;
- (b) an assignment and assumption agreement for all Warranty Rights, Permits and Consents and Approvals pertaining to the Purchased Assets (to the extent assignable) relating to the period from and after the Closing Date, and to the extent not assignable, an agreement by the Receiver to hold same in trust for the Purchaser;
- (c) a certificate from the Receiver, dated as of the Closing Date, certifying:
 - (i) that, except as disclosed in the certificate, the Receiver has not been served with any notice of appeal with respect to the Approval and Vesting Order, or any notice of any application, motion or proceedings seeking to set aside or vary the Approval and Vesting Order or to enjoin, restrict or prohibit the Transaction;
 - (ii) that all representations, warranties and covenants of the Receiver contained in this Agreement are true as of the Closing Time, with the same effect as though made on and as of the Closing Time; and
 - (iii) the non-merger specified in section 5.1 and elsewhere herein; and
- (d) an acknowledgment, dated as of the Closing Date, that each of the conditions in section 7.1 hereof has been fulfilled, performed or waived as of the Closing Time.

6.4 Purchaser's Closing Deliverables.

The Purchaser covenants to execute, where applicable, and deliver the following to the Receiver at Closing or on such other date as expressly provided herein:

- (a) the indefeasible payment and satisfaction in full of the Purchase Price according to section 4.3 hereof;
- (b) an acknowledgement, dated as of the Closing Date, that each of the conditions in section 7.3 hereof has been fulfilled, performed or waived as of the Closing Time;
- (c) an assignment and assumption agreement for all Warranty Rights, Permits and Consents and Approvals pertaining to the Purchased Assets (to the extent assignable) relating to the period from and after the Closing Date, and to the extent not assignable, an agreement to hold same in trust for the Purchaser;
- (d) a certificate from the Purchaser, dated as of the Closing Date, certifying:

- (i) that all representations, warranties and covenants of the Purchaser contained in this Agreement are true as of the Closing Time, with the same effect as though made on and as of the Closing Time; and
- (ii) the non-merger specified in section 5.1 and elsewhere herein;
- (e) if necessary, payment or evidence of payment of HST applicable to the Purchased Assets or, if applicable, appropriate tax exemption and indemnification certificates to the Receiver's satisfaction, acting reasonably, with respect to HST in accordance with Article 5 hereof; and
- (f) such further documentation relating to the completion of the Transaction as shall be otherwise referred to herein or required by the Receiver, acting reasonably, Applicable Law or any Governmental Authority.

6.5 Receiver's Certificate.

Upon receipt of written confirmation from the Purchaser that all of the conditions contained in section 7.3 have been satisfied or waived by the Purchaser, and upon satisfaction or waiver by the Receiver of all of the conditions contained in section 7.1, the Receiver shall forthwith deliver to the Purchaser the Receiver's Certificate comprising Schedule A of the Approval and Vesting Order, and shall file same with the Court.

ARTICLE 7 CONDITIONS PRECEDENT TO CLOSING

7.1 Conditions in Favour of the Receiver.

The obligation of the Receiver to complete the Transaction is subject and conditional to the satisfaction of the following conditions on or before the Closing Date:

- (a) all the representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects on the Closing Date;
- (b) all the covenants of the Purchaser contained in this Agreement to be performed on or before the Closing Date shall have been duly performed by the Purchaser;
- (c) the Purchaser shall have complied with all the terms contained in this Agreement applicable to the Purchaser prior to the Closing Date;
- (d) there shall be no Claim, litigation or proceedings pending or threatened or order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the Transaction or otherwise claiming that such completion is improper; and
- (e) the Court shall have issued the Approval and Vesting Order.

7.2 Conditions in Favour of Receiver Not Fulfilled.

If any of the conditions contained in section 7.1 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the Receiver, then the Receiver may, at its sole discretion, and without limiting any rights or remedies available to it at law or in equity:

- (a) terminate this Agreement by notice to the Purchaser, in which event the Receiver shall be released from its obligations under this Agreement to complete the Transaction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

7.3 Conditions in Favour of the Purchaser.

The obligation of the Purchaser to complete the Transaction is subject and conditional to the satisfaction of the following conditions on or before the Closing Date:

- (a) all the representations and warranties of the Receiver contained in this Agreement shall be true and correct in all material respects on the Closing Date;
- (b) all the covenants of the Receiver under this Agreement to be performed on or before the Closing Date shall have been duly performed by the Receiver;
- (c) the Receiver shall have complied with all the terms contained in this Agreement applicable to the Receiver prior to the Closing Date;
- (d) there shall be no Claim, litigation or proceedings pending or threatened or order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the Transaction or otherwise claiming that such completion is improper; and
- (e) the Court shall have issued the Approval and Vesting Order.

7.4 Conditions in Favour of Purchaser Not Fulfilled.

If any of the conditions contained in section 7.3 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the Purchaser, then the Purchaser may, in its sole discretion:

- (a) terminate this Agreement by notice to the Receiver, in which event the Purchaser and the Receiver shall be released from their obligations under this Agreement to complete the Transaction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

ARTICLE 8

REPRESENTATIONS & WARRANTIES OF THE RECEIVER

The Receiver represents and warrants to the Purchaser as follows, with the knowledge and expectation that the Purchaser is placing complete reliance thereon and, but for such representations and warranties, the Purchaser would not have entered into this Agreement:

- (a) the Receiver has all necessary power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary action on the part of the Receiver, subject to the Approval and Vesting Order. This Agreement is a valid and binding obligation of the Receiver enforceable in accordance with its terms;
- (b) the Receiver has been duly appointed by the Court, with the full right, power and authority to enter into this Agreement, perform its obligations hereunder and convey the Purchased Assets; and
- (c) the Receiver is not a non-resident of Canada for the purposes of the ITA.

ARTICLE 9

REPRESENTATIONS & WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants to the Receiver as follows, with the knowledge and expectation that the Receiver is placing complete reliance thereon and, but for such representations and warranties, the Receiver would not have entered into this Agreement:

- (a) the Purchaser is a corporation duly formed and validly subsisting under the laws of the Province of Ontario;
- (b) the Purchaser has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. Neither the execution of this Agreement nor the performance by the Purchaser of the Transaction will violate the Purchaser's constating documents, any agreement to which the Purchaser is bound, any judgment or order of a court of competent jurisdiction or any Government Authority, or any Applicable Law. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary corporate action on the part of the Purchaser. This Agreement is a valid and binding obligation of the Purchaser enforceable in accordance with its terms;
- (c) the Purchaser is or will be a registrant under Part IX of the ETA on the Closing Date; and
- (d) the Purchaser has not committed an act of bankruptcy, is not insolvent, has not proposed a compromise or arrangement to its creditors generally, has not had any application for a bankruptcy order filed against it, has not taken any proceeding and no proceeding has been taken to have a receiver appointed over any of its assets,

has not had an encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or levied against any of its property.

ARTICLE 10 COVENANTS

10.1 Mutual Covenants.

Each of the Receiver and the Purchaser hereby covenants and agrees that, from the date hereof until Closing, each shall take all such actions as are necessary to have the Transaction approved in the Approval and Vesting Order on substantially the same terms and conditions as are contained in this Agreement, and to take all commercially reasonable actions as are within its power to control, and to use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with each of the conditions set forth in Article 7 hereof.

10.2 Receiver Covenants.

The Receiver hereby covenants and agrees that, from the date hereof until Closing, it shall take all such reasonable actions as are necessary to provide to the Purchaser all necessary information in respect of the Purchased Assets reasonably required to complete, if necessary, the applicable tax elections in accordance with section 5.1 hereof and to execute all necessary forms related thereto.

10.3 Purchaser Covenants.

The Purchaser hereby covenants and agrees that, from the date hereof until the Closing Date, it shall take all such actions as are necessary to provide to the Receiver all necessary information in respect of the Purchaser reasonably required to complete, if necessary, the applicable tax elections in accordance with section 5.1 hereof and to execute all necessary forms related thereto.

ARTICLE 11 POSSESSION, ACCESS AND REMOVAL

11.1 Possession of Purchased Assets.

The Purchaser expressly acknowledges that the Receiver may not be in physical possession of all the Purchased Assets, and that the Purchaser shall nonetheless be deemed at the Closing Time to take possession of all the Purchased Assets where situated. In no event shall the Purchased Assets be sold, assigned, conveyed or transferred to the Purchaser until all the conditions set out in the Approval and Vesting Order have been satisfied or waived and the Purchaser has satisfied or the Receiver has waived all the delivery requirements outlined in section 7.1 hereof.

11.2 Access to and Removal of the Purchased Assets.

- (1) The Purchaser and its agents and representatives may have reasonable access to the Premises during normal business hours during the Interim Period for the purpose

of enabling the Purchaser, at its sole cost and expense (regardless of results), to conduct such non-destructive, non-invasive inspections of the Purchased Assets located at the Premises as the Purchaser deems appropriate, provided that such inspections shall not unduly interfere (and the Purchaser undertakes to use its best efforts, which the Purchaser represents and warrants shall not be less than reasonable commercial efforts, not to so interfere) with the use, operation and enjoyment of the Purchased Assets by the Receiver. Such inspection may, if the Receiver so desires, be conducted in the presence of a representative of the Receiver.

- (2) The Purchaser covenants and agrees to repair or pay the costs to repair any damage occasioned during or resulting from the inspection of the Purchased Assets conducted by the Purchaser or its authorized representatives, as outlined above, and to return the Purchased Assets to substantially the condition same were in prior to such inspections. The Purchaser covenants and agrees to indemnify and save the Receiver harmless from and against all losses, costs, claims, third party claims, damages, expenses (including actual legal costs) which the Receiver may suffer as a result of the inspection of the Purchased Assets conducted by the Purchaser or its authorized representatives, as outlined above.
- (3) Provided that the Closing occurs, the Purchaser covenants and agrees that it is responsible for removing from the Premises, during the Removal Period, any and all Purchased Assets that may be physically located at the Premises (the “**Removal**”). The Purchaser and its agents and representatives may have reasonable access to the Premises during normal business hours during the Removal Period for this purpose. The Purchaser shall leave the Premises in an orderly and broom-swept condition following the Removal, including removal of any debris arising from or caused by the Removal. The Receiver shall be entitled to be present during the Removal, which shall be done in a workmanlike manner and consistent with good industrial practice. For greater certainty, any Purchased Assets requiring disassembly in order to be removed from the Premises shall be disassembled at the expense of the Purchaser, and should the Purchaser fail to remove or fail to cause any Purchased Assets to be removed from the Premises during the Removal Period, the Purchaser shall reimburse the Receiver for the costs incurred by the Receiver with the preparation, disassembly (if applicable), removal, shipping and disposal of such Purchased Assets.
- (4) The Purchaser shall, at its own cost, clean any spills or oil, lubricants, grease or any other liquid, product or substance remaining after the Removal of the Purchased Assets, as a result of any spill that occurs during the Removal of the Purchased Assets, which is caused by the Purchaser or its agents, employees, invitees or guests. The Purchaser shall remedy or repair, as applicable, any condition resulting from the Removal of the Purchased Assets or any one of them, 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.

- (5) The Purchaser indemnifies and saves the Receiver harmless from and against all claims, demands, losses, damages, actions, complaints and costs incurred or arising from or in any way directly related to the Removal, the Purchaser's failure to proceed with or complete the Removal despite being required to do so and the attendance of the Purchaser, its employees, contractors or agents at the Premises.

11.3 Risk.

- (1) The Purchased Assets shall be and remain at the risk of the Receiver until Closing and at the risk of the Purchaser from and after Closing.
- (2) If, prior to Closing, the Purchased Assets are substantially physically damaged or destroyed by fire, casualty or otherwise, then, at its option, the Purchaser may decline to complete the Transaction. Such option shall be exercised within 15 calendar days after notification to the Purchaser by the Receiver of the occurrence of such physical damage or destruction (or prior to the Closing Date if such occurrence takes place within 15 calendar days of the Closing Date), in which event this Agreement shall be terminated automatically. If the Purchaser does not exercise such option, it shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such damage or destruction. Where any physical damage or destruction is not substantial, the Purchaser shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such physical damage or destruction. For the purposes of this section, substantial physical damage or destruction shall be deemed to have occurred if the physical loss or damage to the Purchased Assets exceeds 15% of the total Purchase Price (inclusive of the Deposit). For greater certainty, physical damage or destruction does not include a change in market value of the Purchased Assets caused by the Covid-19 pandemic or endemic ("**Covid-19**") (such that, for further greater certainty, the Purchaser is not entitled to terminate this Agreement on the grounds of any future developments, whether favourable or unfavourable, in respect of Covid-19).

ARTICLE 12 AS IS, WHERE IS

12.1 Condition of the Purchased Assets.

The Purchaser acknowledges that the Receiver is selling and the Purchaser is purchasing the Purchased Assets on an "*as is, where is*" and "*without recourse*" basis as the Purchased Assets shall exist on the Closing Date, including, without limitation, whatever defects, conditions, impediments, hazardous materials or deficiencies exist on the Closing Date, whether patent or latent. The Purchaser further acknowledges and agrees that it has entered into this Agreement on the basis that none of the Receiver, the Debtor or the Trustee has guaranteed or will guarantee title to or marketability, use or quality of the Purchased Assets, that the Purchaser has conducted such inspections of the condition and title to the Purchased Assets as it deems appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose, environmental

compliance, merchantability, condition or quality, or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Receiver to sell, assign, convey or transfer same, save and except as expressly provided in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act*, R.S.O. 1990, c. S.1, do not apply hereto and/or have been waived by the Purchaser. The description of the Purchased Assets contained in this Agreement is for the purpose of identification only and no representation, warranty or condition has or will be given by the Receiver concerning the accuracy of such description.

ARTICLE 13 TERMINATION

13.1 Termination of this Agreement.

This Agreement may (or, in the case of section 13.1(f) below, shall) be validly terminated:

- (a) upon the mutual written agreement of the Parties;
- (b) pursuant to section 7.2 hereof by the Receiver;
- (c) pursuant to section 7.4 hereof by the Purchaser;
- (d) pursuant to section 11.3 hereof;
- (e) by either of the Parties, in writing to the other, if the Approval and Vesting Order is not issued by the Court on or before November 30, 2023; or
- (f) automatically, should Closing have not occurred prior to the discharge of KSV as the Receiver, unless the Receiver's interest in this Agreement has been assigned prior to (or as part of) the Receiver's discharge.

13.2 Remedies for Breach of Agreement.

If this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Receiver under this Agreement, then the Deposit, without deduction, shall be returned to the Purchaser forthwith (and, for greater certainty, and notwithstanding any other provision in this Agreement, this shall be the Purchaser's sole right and remedy as a result of the Receiver's breach). If this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Purchaser under this Agreement, then the Deposit shall be forfeited to the Receiver as liquidated damages and not as a penalty, which Deposit the Parties agree is a genuine estimate of the liquidated damages that the Receiver would suffer in such circumstances (and, for greater certainty, and notwithstanding any other provision in this Agreement, this shall be the Receiver's sole right and remedy as a result of the Purchaser's breach).

13.3 Termination If No Breach of Agreement.

If this Agreement is terminated other than as a result of a breach of a representation, warranty, covenant or obligation of a Party, then:

- (a) all obligations of each of the Receiver and the Purchaser hereunder shall end completely, except those that survive the termination of this Agreement;
- (b) the Deposit, without deduction, shall be returned to the Purchaser forthwith; and
- (c) neither Party shall have any right to specific performance, to recover damages or expenses or to any other remedy (legal or equitable) or relief.

ARTICLE 14

GENERAL CONTRACT PROVISIONS

14.1 Further Assurances.

From time to time after Closing, each of the Parties shall execute and deliver such further documents and instruments and do such further acts and things as may be required to carry out the intent and purpose of this Agreement and which are not inconsistent with the terms hereof.

14.2 Survival Following Completion.

Notwithstanding any other provision of this Agreement, section 4.5, article 8, article 9, section 13.2 and section 13.3 shall survive the termination of this Agreement and the completion of the Transaction, provided, however, that upon the discharge of KSV as the Receiver, the Parties' respective obligations by reason of this Agreement shall end completely and they shall have no further or continuing obligations by reason thereof.

14.3 Notice.

All notices, requests, demands, waivers, consents, agreements, approvals, communications or other writings required or permitted to be given hereunder or for the purposes hereof (each, a "**Notice**") shall be in writing and be sufficiently given if personally delivered, sent by prepaid registered mail or transmitted by email, addressed to the Party to whom it is given, as follows:

- (a) to the Receiver:

KSV Restructuring Inc.
220 Bay Street, 13th Floor, PO Box 20
Toronto, ON M5J 2W4

Attention: Bobby Kofman and Mitch Vininsky
Email: bkofman@ksvadvisory.com / mvininsky@ksvadvisory.com

and a copy to the Receiver's counsel to:

Aird & Berlis LLP
Brookfield Place, 181 Bay Street, Suite 1800

Toronto, ON M5J 2T9

Attention: Steven Graff, Jeremy Nemers and Jonathan Yantzi
Email: sgraff@airdberlis.com / jnemers@airdberlis.com /
jyantzi@airdberlis.com

(b) to the Purchaser:

Barrie Welding & Machine (1974) Limited
39 Anne Street South
Barrie, ON, L4N 2C7

Attention: Adam Smith
Email: adam@barriewelding.com

and a copy to the Purchaser's counsel to:

Dooley Lucenti Barristers and Solicitors
10 Checkley Street
Barrie, ON, L4N 1W1

Attention: Eric Gionet
Email: EGionet@dllaw.ca

or such other address of which Notice has been given. Any Notice mailed as aforesaid will be deemed to have been given and received on the third Business Day following the date of its mailing. Any Notice personally delivered will be deemed to have been given and received on the day it is personally delivered, provided that if such day is not a Business Day, the Notice will be deemed to have been given and received on the Business Day next following such day. Any Notice transmitted by email will be deemed given and received on the first Business Day after its transmission.

If a Notice is mailed and regular mail service is interrupted by strike or other irregularity on or before the fourth Business Day after the mailing thereof, such Notice will be deemed to have not been received unless otherwise personally delivered or transmitted by email.

14.4 Waiver.

No Party will be deemed or taken to have waived any provision of this Agreement unless such waiver is in writing and such waiver will be limited to the circumstance set forth in such written waiver.

14.5 Consent.

Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time limit or the requirement for such consent is

not required pursuant to the terms of the Approval and Vesting Order, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.

14.6 Governing Law.

This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties irrevocably attorn to the jurisdiction of the Court. The Parties consent to the exclusive jurisdiction and venue of the Court for the resolution of any disputes between them, regardless of whether or not such disputes arose under this Agreement.

14.7 Entire Agreement.

This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings between the Parties. There are not and will not be any verbal statements, representations, warranties, undertakings or agreements between the Parties. This Agreement may not be amended or modified in any respect except by written instrument signed by the Parties. The recitals herein are true and accurate, both in substance and in fact.

14.8 Time of the Essence.

Time will be of the essence, provided that if the Parties establish a new time for the performance of an obligation, time will again be of the essence of the new time established.

14.9 Time Periods.

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

14.10 Assignment.

This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, legal and personal administrators, successors and permitted assigns. The Purchaser may not assign this Agreement without the Receiver's prior written approval. Up until the granting of the Approval and Vesting Order, the Purchaser shall have the right to direct that title to the Purchased Assets be taken in the name of another person, entity, joint venture, partnership or corporation (presently in existence or to be incorporated) provided that the assignee shall, in writing, agree to assume and be bound by the terms and conditions of this Agreement (the "**Assumption Agreement**") and a copy of such Assumption Agreement is delivered to the Receiver forthwith after having been entered into, in which case the Purchaser shall nonetheless not be released from any and all further obligations and liabilities hereunder.

14.11 Expenses.

Except as otherwise set out in this Agreement, all costs and expenses (including, without limitation, the fees and disbursements of legal counsel) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses.

14.12 Severability.

If any portion of this Agreement is prohibited in whole or in part in any jurisdiction, such portion shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining portions of this Agreement and shall, as to such jurisdiction, be deemed to be severed from this Agreement to the extent of such prohibition.

14.13 No Strict Construction.

The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

14.14 Cumulative Remedies.

Unless otherwise expressly stated in this Agreement, no remedy conferred upon or reserved to one or both of the Parties is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to every other remedy conferred upon or reserved hereunder, whether such remedy shall be existing or hereafter existing, and whether such remedy shall become available under common law, equity or statute.

14.15 Currency.

All references to dollar amounts contained in this Agreement shall be deemed to refer to lawful currency of Canada.

14.16 Receiver's Capacity.

It is acknowledged by the Purchaser that KSV is entering into this Agreement solely in its capacity as the Receiver and that KSV shall have absolutely no personal or corporate liability under or as a result of this Agreement in any respect.

14.17 No Third Party Beneficiaries.

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns, nothing in this Agreement shall be construed to create any rights or obligations except amongst the Parties and no other person or entity shall be regarded as a third party beneficiary of this Agreement.

14.18 Number and Gender.

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders. Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation.”

14.19 Counterparts.

This Agreement may be executed in counterparts and by facsimile or PDF, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

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

KSV RESTRUCTURING INC.,
solely in its capacity as the Court-appointed
receiver of Util Canada Limited, and not in its
personal capacity or in any other capacity

By: _____
Name:
Title:

**BARRIE WELDING & MACHINE (1974)
LIMITED**

By:  _____
Name: Adam Smith
Title: General Manager

**SCHEDULE A
APPROVAL AND VESTING ORDER**

Court File No. CV-23-00703958-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)	<*>, THE <*>
)	
JUSTICE)	DAY OF <*>, 2023

B E T W E E N :

DeA CAPITAL ALTERNATIVE FUNDS SGR S.p.A.,
as managing company of Italian closed-end investment
Fund IDeA CCR (Corporate Credit Recovery) I

Applicant

- and -

UTIL CANADA LIMITED

Respondent

Application under subsection 243(1) of the *Bankruptcy And Insolvency Act*, R.S.C. 1985, c. B-3,
as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Util Canada Limited (the “**Debtor**”), acquired for, or used in relation to a business carried on by the Debtor, for an order, *inter alia*, approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver, as vendor, and <*> (the “**Purchaser**”), as purchaser, dated <*> (the “**Sale Agreement**”), a copy of

which is attached as Confidential Appendix “<*>” to the Report of the Receiver dated <*> (the “**Report**”), and vesting in the Purchaser the Purchased Assets (as defined in the Sale Agreement), was heard this day by judicial videoconference via Zoom.

ON READING the Report and appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of <*> sworn <*>, filed,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule A hereto (the “**Receiver’s Certificate**”), all of the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of The Honourable Mr.

Justice Cavanagh made August 8, 2023; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system, and, for greater certainty, this Court orders that all of the Claims affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

5. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) 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

- (c) any assignment in bankruptcy made in respect of the Debtor, including, without limitation, the assignment in bankruptcy made in respect of the Debtor on August 4, 2023,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that is presently, or 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.

6. **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.

7. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

Schedule “A” – Form of Receiver’s Certificate

Court File No. CV-23-00703958-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N :

DeA CAPITAL ALTERNATIVE FUNDS SGR S.p.A.,
as managing company of Italian closed-end investment
Fund IDeA CCR (Corporate Credit Recovery) I

Applicant

- and -

UTIL CANADA LIMITED

Respondent

Application under subsection 243(1) of the *Bankruptcy And Insolvency Act*, R.S.C. 1985, c. B-3,
as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

RECEIVER’S CERTIFICATE

RECITALS

- I. Pursuant to an Order of The Honourable Mr. Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on August 8, 2023. KSV Restructuring Inc. (“**KSV**”) was appointed as receiver (in such capacity, the “**Receiver**”), without security, of all the assets, undertakings and properties of Util Canada Limited (the “**Debtor**”), acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the “**Property**”).
- II. Pursuant to an Order of the Court dated <*>, the Court approved the agreement of purchase and sale between the Receiver, as vendor, and <*> (the “**Purchaser**”), as purchaser, dated

<*> (the “**Sale Agreement**”), and provided for the vesting in the Purchaser of the Purchased Assets (as defined in the Sale Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

III. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the purchase price for the Purchased Assets payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Receiver; and
4. This Certificate was delivered by the Receiver at [TIME] on_____ [DATE].

KSV RESTRUCTURING INC.,
solely in its capacity as the Court-appointed
receiver of Util Canada Limited, and not in
its personal capacity or in any other capacity

By: _____
Name:
Title:

DEA CAPITAL ALTERNATIVE FUNDS SGR S.P.A.
Applicant

- and -

UTIL CANADA LIMITED
Respondent

Court File No. CV-23-00703958-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

RECEIVER'S CERTIFICATE

AIRD & BERLIS LLP
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Steven Graff (LSO # 31871V)
Tel: (416) 865-7726
Email: sgraff@airdberlis.com

Jeremy Nemers (LSO # 66410Q)
Tel: (416) 865-7724
Email: jnemers@airdberlis.com

Jonathan Yantzi (LSO # 77533A)
Tel: (416) 865-4733
Email: jyantzi@airdberlis.com

**Lawyers for KSV Restructuring Inc., in its capacity as
the Court-appointed Receiver of Util Canada Limited**

DEA CAPITAL ALTERNATIVE FUNDS SGR S.P.A.
Applicant

- and -

UTIL CANADA LIMITED
Respondent

Court File No. CV-23-00703958-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

APPROVAL AND VESTING ORDER

AIRD & BERLIS LLP
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Steven Graff (LSO # 31871V)
Tel: (416) 865-7726
Email: sgraff@airdberlis.com

Jeremy Nemers (LSO # 66410Q)
Tel: (416) 865-7724
Email: jnemers@airdberlis.com

Jonathan Yantzi (LSO # 77533A)
Tel: (416) 865-4733
Email: jyantzi@airdberlis.com

**Lawyers for KSV Restructuring Inc., in its capacity as
the Court-appointed Receiver of Util Canada Limited**

**SCHEDULE B
EQUIPMENT**

600 Ton L2M 600-3BM Komatsu Press, Serial #10102, Production #1ME002.

120 Ton Corsteel Hydraulic Press, Model #4P-52x60, Serial #CH-1734-03-03-1

Appendix “F”

Nisan Thuraiatnam

From: Anand Srivastava <anand.srivastava@utilgroup.com>
Sent: October 23, 2023 5:23 PM
To: kataoka.koichi@nisshinbo.co.jp; A_Uchimura@namiga.com; t-abiko@nisshinbo.co.jp; purchasing@namiga.com
Cc: Nisan Thuraiatnam; Rajat Pal
Subject: NAMI - OE Tools at Util Canada

Dear NAMI Team,

I am sending this email on behalf of the receiver, and Nisan from KSV Restructuring Inc. is in copy.

KSV Restructuring Inc. (the “**Receiver**”), in its capacity as the court-appointed receiver of Util Canada Limited (the “**Debtor**”), understands that certain tooling assets in which you may have an ownership or other interest, possibly remain located at 270 Spinnaker Way, Concord, Ontario (the “**Premises**”).

Should you wish to maintain your interest in such assets, please provide evidence of your interest to the Receiver by no later than **five business days from the date of this email**, failing which the Receiver will consider any assets to be abandoned and may sell them for the benefit of the Debtor’s estate.

If you have already sent your interests on assets to the Receiver, they are under process. Please confirm that no other assets owned by you, apart from the ones already communicated are of interest to you.

Provided the Receiver is satisfied with the evidence you provide within the above-referenced time period and confirms as much to you, please also ensure you make satisfactory arrangements with the Receiver (at your sole cost) to remove the assets from the Premises within **10** days of such confirmation being provided to you by the Receiver, and please ensure that the assets are in fact removed from the Premises by this date.

Regards,
Anand (a.k.a. Andy)
+1(437)422-3940

Appendix “G”

November 14, 2023

VIA EMAIL (zweigs@bennettjones.com)

Bennett Jones LLP

100 King Street West, Suite 3400

Toronto, ON M5X 1A4

Attention: Sean Zweig

Re: Court File No. 31-2972635 – In the Matter of the Bankruptcy of Util Canada Limited (the “Bankruptcy Proceedings”)

**And Court File No. CV-21-00673521-00CL – DeA Capital Alternative Funds SGR S.p.A.
Re: as managing company of Italian closed-end investment Fund IDeA CCR (Corporate Credit Recovery) I v. Util Canada Limited (the “Receivership Proceedings”)**

As you know, we are the lawyers for KSV Restructuring Inc. (“KSV”), in its capacities as: (i) the Licensed Insolvency Trustee (in such capacity, the “**Bankruptcy Trustee**”) of Util Canada Limited (the “**Bankrupt**”); and (ii) the Court-appointed receiver (in such capacity, the “**Receiver**”) of all the assets, undertakings and properties of the Bankrupt (the “**Property**”).

We understand that you are counsel for Nisshinbo Automotive Manufacturing Inc. (“**NAMI**”).

Reference is made to:

- a) your email dated August 30, 2023 to the Receiver, containing an offer from NAMI to the Receiver, which the Receiver accepted by return email dated August 31, 2023, including, without limitation, the following representations:
 - i. *“Upon your [i.e., the Receiver’s] confirmation that the first five tools we requested are available for pickup, we [i.e., NAMI’s counsel] will wire you the USD\$23,750, and NAMI will arrange for pick-up,”* and
 - ii. *“Upon your [i.e., the Receiver’s] confirmation that the second five tools are available for pickup, we [i.e., NAMI’s counsel] will wire you the USD\$23,750, and NAMI will arrange for pick-up,”*
- b) your follow-up email dated August 31, 2023 to the Receiver, confirming “we are now in receipt of the additional USD\$47,500 from NAMI as well. So we will be able to send the tooling removal payments when they [i.e., the tools] are ready;”
- c) the Receiver’s email to NAMI dated September 26, 2023 confirming that the second five tools were packed and available for pick-up;
- d) NAMI’s failure to pay the USD\$23,750 of costs associated with the Receiver’s assembly of the second five tools and to pick-up the second five tools;
- e) the Receiver’s email to NAMI dated October 23, 2023, confirming the Receiver’s understanding that NAMI may be claiming an ownership interest in certain additional

assets, and cautioning that “*Should you wish to maintain your interest in such assets, please provide evidence of your interest to the Receiver by no later than **five business days from the date of this email**, failing which the Receiver will consider any assets to be abandoned and may sell them for the benefit of the Debtor’s estate*” [emphasis in original]; and

- f) NAMI’s continuing failure to pay the USD\$23,750 of costs associated with the Receiver’s assembly of the second five tools, to pick-up the second five tools, to provide evidence to the Receiver of NAMI’s ownership interests in moulds and to make satisfactory arrangements with the Receiver to remove the moulds (including, without limitation, paying the Receiver’s costs of at least USD\$2,500 associated with identifying and removing the moulds, as described in more detail in the Receiver’s email to you dated November 7, 2023).

The Receiver anticipates that, **within a matter of days**, the Receiver will simply no longer have access to the necessary personnel or equipment to engage with your client concerning these assets. Your client has repeatedly advised of the urgency to retrieve these assets but has not done so. Your client has been on site numerous times since the commencement of these proceedings, and the Receiver has provided your client with access to the site. The Receiver has explained that it is preparing for an auction at the premises and that there is limited staffing and equipment remaining at the premises, so it is increasingly difficult to assist your client in its removal. Additionally, the ongoing dialogue with your client is resulting in costs to the estate which is reducing recoveries for creditors.

Please consider this letter a final notice to your client. Absent NAMI’s immediate compliance with the accepted offer from August 30, 2023 and absent immediate steps being taken by NAMI to prove its alleged ownership interest in the moulds and remove same from the Debtor’s premises cooperatively with the Receiver, these assets will be considered abandoned and will be sold at auction as a matter of necessity.

Yours truly,

AIRD & BERLIS LLP



Steven L. Graff
SLG/jn

cc: client (via email)

Appendix “H”



Bennett Jones

Bennett Jones LLP
3400 One First Canadian Place, P.O. Box 130
Toronto, Ontario, M5X 1A4 Canada
T: 416.863.1200
F: 416.863.1716

Mike Shakra
Partner
Direct Line: 416.777.6236
e-mail: shakram@bennettjones.com

November 15, 2023

Sent via Email

KSV Restructuring Inc.
220 Bay Street, 13th Floor
Toronto, Ontario, M5J 2W4

Aird & Berlis LLP
181 Bay St. #1800
Toronto, ON M5J 2T9

Attention: Bobby Kofman & Mitch Vininsky

Attention: Steven Graff

Re: Util Canada Limited ("Util")

As you are aware, Bennett Jones LLP is counsel to Nisshinbo Automotive Mfg., Inc. ("**NAMI**") in connection with the receivership proceedings of Util. We write to you in connection with certain manufacturing molds (collectively, the "**Molds**") that belong to NAMI and in response to your letter dated November 14, 2023 (the "**A&B Letter**").¹

In connection with the production of certain automotive parts, certain of the Molds were either deposited by NAMI with Util or manufactured by Util for NAMI's benefit. Notwithstanding that the Molds were deposited with or manufactured by Util, title to the Molds remains with NAMI. As of the date of this letter, approximately 42 of NAMI's Molds remain in Util's possession.

We understand from discussions with the Receiver and pursuant to the A&B Letter, that the Receiver intends to liquidate substantially all of the assets remaining at Util at auction in the near term, which will include the sale of NAMI's Molds. In response, NAMI has made good faith efforts to recover the Molds from the Receiver, including by offering to have its own staff remove the Molds from Util's premises with its own equipment at no cost to the Receiver.

In the alternative, NAMI has offered to pay the Receiver USD\$300 per Mold to reimburse the Receiver for any costs incurred by it in connection with removal and preparation of the Molds for delivery to NAMI. In response, the Receiver has advised that it would be prepared to remove and prepare the Molds for delivery to NAMI at a cost of USD\$2,500 per Mold. NAMI believes that USD\$2,500 per Mold is unreasonably high in the circumstances and does not reflect the actual cost that would be incurred by the Receiver.

¹ Capitalized terms not otherwise defined herein have the meaning ascribed to them in the A&B Letter.

November 15, 2023

Page 2

NAMI understands that if a resolution with respect to removal of the Molds is not reached, the Receiver intends to treat the Molds as being abandoned and will take steps to sell the Molds at auction. However, given that NAMI still holds title to the Molds and hereby confirms that it is not abandoning its rights to the Molds. At law, the Receiver does not have the right to sell the Molds.

We also wish to address an inaccuracy in the A&B Letter regarding payments made to the Receiver in respect of certain tooling. On or around September 11, 2023, Bennett Jones LLP wired USD\$33,250 to the Receiver in connection with the retrieval of seven sets of tooling. We assume that the Receiver does not dispute that this amount was paid or that the seven tools in respect of which such payment was made were picked up by NAMI.

NAMI remains hopeful that a consensual resolution can be reached regarding removal of the Molds. To the extent a consensual resolution is not reached, NAMI reserves all of its rights and remedies in the circumstances.

Yours truly,



Mike Shakra

cc: Sean Zweig - Bennett Jones LLP
Kiyo Kojima & Hideki Nagano - Smith, Gambrell & Russell, LLP



Appendix “I”

COURT FILE NO.: CV-23-00703958-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

**DEA CAPITAL ALTERNATIVE FUNDS SGR S.P.A. AS MANAGING COMPANY OF ITALIAN
CLOSED-END INVESTMENT FUND IDEA CCR (CORPORATE CREDIT RECOVERY)**

APPLICANT

- AND -

UTIL CANADA LIMITED

RESPONDENTS

**AFFIDAVIT OF MITCH VININSKY
(Sworn November 17, 2023)**

I, Mitch Vininsky, of the City of Toronto, in the Province of Ontario, MAKE OATH AND
SAY:

1. I am a Managing Director of KSV Restructuring Inc. ("KSV").
2. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) ("Court") made on August 8, 2023 ("Order"), KSV was appointed as receiver (the "Receiver") of the property, assets and undertaking of Util Canada Limited (the "Company").
3. I have been involved in the management of this mandate since the proceedings commenced. As such, I have knowledge of the matters to which I hereinafter depose.
4. On November 17, 2023, the Receiver issued its Second Report to Court in which it outlined its activities with respect to the Company and provided information with respect to its fees.
5. I hereby confirm that attached as Exhibit "A" hereto are true copies of the accounts of KSV for the periods indicated and confirm that these accounts accurately reflect the services provided by KSV in this matter and the fees and disbursements claimed by it.

6. Additionally, attached hereto as Exhibit "B" is a summary of additional information with respect to all members of KSV who have worked on this matter, including their roles, hours and rates, and I hereby confirm that the list represents an accurate account of such information.

7. I consider the accounts to be fair and reasonable considering the circumstances connected with this administration.

8. I also confirm that the Receiver has not received, nor expects to receive, nor has the Receiver been promised any remuneration or consideration other than the amount claimed in the accounts.

SWORN BEFORE ME at the City of
Toronto, on November 17, 2023.



Catherine Anne Stuyck-Therault,
a Commissioner, etc., Province of Ontario,
for KSV Advisory Inc. and KSV Restructuring Inc.
Expires February 19, 2025



Mitch Vininsky

This is Exhibit "A" referred to in the
Affidavit of Mitch Vininsky
sworn before me, this 17th day of November, 2023



Catherine Anne Stuyck-Therault, a Commissioner, etc.,
Province of Ontario, for KSV Advisory Inc. and KSV Restructuring Inc.
Expires February 19, 2025



ksv advisory inc.

220 Bay Street, Suite 1300 PO Box 20
Toronto, Ontario, M5J 2W4
T +1 416 932 6262
F +1 416 932 6266

ksvadvisory.com

INVOICE

Util Canada Limited
c/o KSV Restructuring Inc.
220 Bay Street, 13th Floor
Toronto, ON M5J 2W4

September 14, 2023

Invoice No: 3268
HST #: 818808768RT0001

Re: Util Canada Limited (the “Company”)

For professional services rendered in August 2023 by KSV Restructuring Inc., in its capacity as receiver (the “Receiver”) of the Company’s assets, undertakings and properties appointed pursuant to an order of the Ontario Superior Court of Justice (the “Court”) issued on August 8, 2023 (“Receivership Order”), including:

- Corresponding extensively with Aird & Berlis LLP (“Aird & Berlis”), the Receiver’s counsel, and DLA Piper (Canada) LLP (“DLA”), counsel to DeA Capital Alternative Funds SGR S.p.A. (“DEA”), one of the Company’s secured creditors, regarding all aspects of this mandate, including calls and emails as more specifically outlined below;
- Discussing the Company’s background and wind-down plan with DLA in advance of these proceedings;
- Reviewing information provided by the Company, including:
 - Historical financial results;
 - Accounts receivable aging reports;
 - Year-to-date sales reports, by customer;
 - Asset lists;
 - Creditor lists;

- Preparing a communication plan for the receivership, including preparing letters to:
 - the Company's employees;
 - Canadian Imperial Bank of Commerce ("CIBC"), the Company's bank; and
 - Arthur J. Gallagher Canada Limited ("Gallagher"), the Company's insurance agent;
- Attending a call on August 1, 2023 with DLA regarding the Company's business and assets, including its accounts receivable and equipment;
- Attending calls on August 1 and 2, 2023 with the Company to discuss, among other things, its key employees, payroll status and operational matters;
- Arranging for security at the Company's premises located at 270 Spinnaker Way, Concord (the "Premises");
- Corresponding with the Company regarding its consignment agreement with Nisshinbo Automotive Manufacturing Inc. ("Nisshinbo"), one of the Company's customers (the "Customers");
- Reviewing and commenting on several drafts of the receivership application materials, including draft affidavits, a notice of motion and the receivership order;
- Corresponding and attending a call on August 2, 2023 with the Company regarding its assets at a plant located in Nuevo Leon, Mexico;
- Corresponding with the Company regarding the lease for the Premises, including monthly occupancy costs;
- Attending a call on August 2, 2023 with Util Industries S.p.A. ("Util Italy"), the Company's sole shareholder, to discuss, among other things, the potential for the Company to operate in order to fill customer production requirements following commencement of the receivership proceedings;
- Attending a call on August 2, 2023 with A&B and DLA to discuss, among other things, the Company's receivership and the potential to restart operations;
- Corresponding and attending calls on August 3, 2023 with Tenneco Automotive Inc. ("Tenneco"), one of the Customers, and with Davies Ward Phillips & Vineberg LLP ("Davies"), Tenneco's counsel, to discuss its production requirements during the receivership;
- Corresponding and attending a call on August 3, 2023 with ITT Inc. ("ITT"), one of the Customers, to discuss its production requirements;

- Corresponding and attending a call on August 3, 2023 with Bennett Jones LLP (Bennett Jones”), counsel to Nisshinbo, to discuss Nisshinbo’s production requirements during the receivership, as well its purchase of finished goods in the Company’s possession;
- Corresponding with Util Italy regarding the tools located at the Premises and Util Italy’s claims that it owns the drawings associated with certain of the tools in the Company’s possession;
- Reviewing a report prepared by the Company of its raw material, work-in-process and finished goods inventory and discussing same with the Company to understand the parts that would be available for sale in a shut-down scenario and what inventory would be available if production restarts;
- Attending calls on August 4, 2023 with several of the Customers, including Nisshinbo, Tenneco, ITT and Akebono Brake Corporation (“Akebono”);
- Corresponding with A&B and DLA to discuss the scheduling of the receivership application;
- Preparing a pre-filing report in support of the receivership application;
- Attending a call on August 5, 2023 with Resonac Holdings Corporation (“Resonac”), one of the Customers, to discuss, among other things, its production requirements during the receivership and Resonac’s tools located at the Premises;
- Corresponding and attending call on August 6, 2023 and subsequently with Unifor, the Company’s union, regarding the potential resumption of operations;
- Attending a call on August 6, 2023 with Nisshinbo regarding its purchase of finished goods inventory in the Company’s possession;
- Corresponding with American Industries, a “shelter company” in Mexico through which the Company operated in that country;
- Corresponding and attending a call on August 7, 2023 with Magna Seating Inc. (“Magna”), one of the Customers, regarding finished goods inventory and the sale of tools used to produce parts for Magna;
- Reviewing and editing a letter prepared by Davies to allow US representatives of Tenneco to attend at the Premises;
- Attending a call on August 7, 2023 with Continental Corporation (“Continental”), one of the Customers, to discuss the Company’s status and potential parts production for it;
- Attending at Court, virtually, on August 8, 2023 in respect of the receivership application;

- Attending daily at the Premises following our appointment as Receiver;
- Meeting with the Company's employees on August 8, 2023 to advise them of the receivership and to provide an update on the potential resumption of operations;
- Corresponding with CIBC to transfer funds to accounts opened by the Receiver;
- Corresponding with Gallagher regarding the Company's insurance policies and to request that the Receiver be added as a named insured;
- Attending a call on August 8, 2023 with American Industries to discuss the receivership and payment of rent and payroll obligations in respect of the Mexican operations;
- Attending calls on August 8, 2023 with two prospective purchasers;
- Corresponding with the Company regarding its Collective Bargaining Agreement with Unifor in the context of the potential resumption of operations;
- Corresponding extensively with A&B regarding an agreement with Unifor and reviewing several drafts of same;
- Attending a call on August 9, 2023 with Robert Bosch LLC ("Bosch"), one of the Customers, to discuss its request to purchase aftermarket inventory;
- Reviewing the results of a physical inventory count of the Company's OEM parts;
- Reviewing and editing numerous drafts of a production funding term sheet between the Receiver and participating Customers (the "Term Sheet");
- Discussing the Term Sheet with A&B;
- Meeting on August 10, 2023 with a representative of Akebono at the Premises;
- Meeting on August 10, 2023 with a representative of Tenneco at the Premises;
- Preparing numerous budgets to reflect the estimated costs of resuming production based on the frequently changing production requirements provided by the Customers;
- Attending a call on August 10, 2023 with Util Italy to, among other things, provide an update on the receivership proceedings and the potential resumption of production;
- Attending a call on August 11, 2023 with Unifor regarding an incentive plan for its members and the Union Agreement;
- Meeting on August 11, 2023 with representatives of Nisshinbo at the Premises;

- Reviewing and responding to comments on the Term Sheet from Davies and Bennett Jones;
- Attending a call on August 13, 2023 with Davies and Bennett Jones to review the Term Sheet;
- Corresponding with Util Italy regarding the Company's product liability insurance and reviewing a certificate of insurance provided by Util Italy;
- Corresponding with Spinnaker Langstaff Investments Limited, the Company's landlord, regarding access to the Premises and the payment of monthly occupancy costs during the receivership;
- Assisting Customers to coordinate their tool removal, including with Continental, ITT, Akebono and Nisshinbo;
- Meeting daily with representatives of the Company to discuss, among other things, requests by Customers to purchase inventory and to remove their tools;
- Corresponding with the Company regarding the timeline to resume production;
- Corresponding with Miller Thomson LLP, counsel to ITT, regarding operations at the plant in Mexico and ITT's production requirements;
- Corresponding and negotiating with Bennett Jones regarding the balances owing by Nisshinbo, including for its consignment inventory;
- Attending a call on August 17, 2023 with Bosch regarding its interest in the Company's intellectual property;
- Attending a call on August 18, 2023 with Miller, Canfield, Paddock and Stone, PLC, counsel to Ford, regarding the Company's potential resumption of operations;
- Reviewing documentation provided by Ri-Go Lift Truck Limited ("Ri-Go"), a company that provided forklifts to the Company and discussing same with A&B in the context of Ri-Go's obligations to register its interest under the *Personal Property Security Act*;
- Preparing a Notice and Statement of the Receiver as required pursuant to Sections 245 and 246 of the *Bankruptcy and Insolvency Act* (the "BIA");
- Corresponding with the Company to prepare information for filing claims under the Wage Earner Protection Program ("WEPP");
- Corresponding and attending calls with certain of the Company's former employees to respond to their inquiries related to the WEPP;

- Reviewing and responding to demands for repossession of goods under Section 81.1 of the BIA (the “Demand Claims”), including demands from:
 - Janco Steel Limited;
 - Trelleborg Seal Solutions Detroit, Inc.;
 - Alexander Tools Inc.;
 - Maksteel Holdings ULC;
 - Novamerican Steel Inc.;
 - Tipco Inc.; and
 - 3JPrecision Inc.;
- Corresponding with the creditors referenced above regarding the Demand Claims;
- Continuing to correspond throughout the month with the Customers regarding inventory available to purchase, their accounts receivable balances, the status of their tools and proof of ownership, site visits and a potential resumption of operations, including near-daily calls and correspondence with Tenneco, ITT, Nisshinbo, Resonac, Akebono, Magna, Autokiniton US Holdings, Inc., Bosch, GMP Friction Products and Performance Friction (US) Ltd.;
- Corresponding with various utility companies to set up new receivership accounts;
- Developing a sale process (the “Sale Process”);
- Preparing a teaser, list of prospective purchaser and online data room for the Sale Process;
- Corresponding with prospective purchasers;
- Attending calls with the Company to discuss the Company’s technology and historical financial results as part of preparing the Sale Process materials;
- Preparing the Receiver’s First Report to Court, in draft, regarding approval of a Sale Process;
- Attending a call on August 29, 2023 with DLA and DEA to provide an update on the receivership proceeding and potential next steps with a Sale Process;
- Corresponding with Canada Revenue Agency regarding the Company’s payroll and HST accounts;
- Reviewing a fixed asset listing prepared by Tert & Ross Ltd., a contractor retained by the Receiver;

- Responding to calls and inquiries from the Company's former employees;
- Responding to calls and inquiries from the Company's creditors;
- Maintaining the Receiver's case website;
- Convening internal meetings; and
- Dealing with all other matters not otherwise referred to herein.

Total fees and disbursements per attached time summary	\$ 244,181.88
HST	\$ 31,743.64
Total	<u>\$ 275,925.52</u>

KSV Restructuring Inc.
Util Canada Limited
Time Summary
For August 2023

Personnel	Rate (\$)	Hours	Amount (\$)
Bobby Kofman	800	66.25	53,000.00
Mitch Vininsky	700	159.20	111,440.00
Neil De Gray	575	18.25	10,493.75
Ben Luder	425	81.40	34,595.00
Nisan Thurairatnam	425	55.50	23,587.50
Other Staff and administration	175-450	46.20	10,294.25
Total fees		426.80	243,410.50
Add: Out of Pocket Disbursements			
Ascend fee			275.00
Travel			494.54
Postage			1.84
Out-of-pocket disbursements			771.38
Total fees and disbursements			244,181.88

**ksv advisory inc.**

220 Bay Street, Suite 1300 PO Box 20
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T +1 416 932 6262
F +1 416 932 6266

ksvadvisory.com

INVOICE

Util Canada Limited
c/o KSV Restructuring Inc.
220 Bay Street, 13th Floor
Toronto, ON M5J 2W4

October 13, 2023

Invoice No: 3313
HST #: 818808768RT0001

Re: Util Canada Limited (the “Company”)

For professional services rendered in September 2023 by KSV Restructuring Inc., in its capacity as receiver (the “Receiver”) of the Company’s property, assets and undertaking (the “Property”) pursuant to an order of the Ontario Superior Court of Justice (the “Court”) issued on August 8, 2023 (“Receivership Order”), including:

- Corresponding with Aird & Berlis LLP (“Aird & Berlis”), the Receiver’s counsel, and DLA Piper (Canada) LLP (“DLA”), counsel to DeA Capital Alternative Funds SGR S.p.A., one of the Company’s secured creditors, regarding all aspects of this mandate, including calls and emails as more specifically outlined below;
- Attending near daily at the Company’s leased premises located at 270 Spinnaker Way, Concord (the “Premises”);
- Attending a call on September 1, 2023 with Aird & Berlis, DLA, and Thorton Grout Finnigan LLP (TGF”), counsel to Mazda Corporation (“Mazda”), one of the end users of the Company’s products, regarding operations at the Company’s plant in Mexico;
- Attending a call on September 1, 2023 with Miller Thomson LLP (“Miller Thomson”), counsel to ITT Inc. (“ITT”), regarding operations at the plant in Mexico and ITT’s production requirements;
- Attending a call on September 1, 2023 with Sesmar Security Inc., the Company’s security monitoring company, regarding the continuation of services;
- Attending a call on September 1, 2023 with Bell Mobility regarding the cancellation of unused services;

- Corresponding with Tenneco Automotive Inc. (“Tenneco”), one of the Company’s customers (the “Customers”), regarding the potential for continued production from the Premises;
- Corresponding and attending a call on September 5, 2023 with Miller Thomson and ITT to discuss, among other things, ITT’s tools located at the Premises;
- Developing a sale process for the Property (the “Sale Process”);
- Preparing a teaser, list of prospective purchaser and online data room (the “Data Room”) for the Sale Process;
- Preparing the Receiver’s First Report to Court dated September 6, 2023 (the “First Report”) to, among other things, seek Court approval of the Sale Process;
- Corresponding with A&B and reviewing its comments on the First Report;
- Reviewing and commenting on a notice of motion and Court Order in connection with the First Report;
- Preparing a draft Asset Purchase Agreement (“APA”) to be included in the Data Room;
- Corresponding with A&B and reviewing its comments on the APA;
- Corresponding with prospective purchasers, including strategic buyers and liquidators;
- Attending a call on September 6, 2023 with ITT regarding tools and parts available for sale;
- Attending a call on September 6, 2023 with a former employee regarding long-term disability benefits;
- Preparing a retention plan for the former employees retained by the Receiver;
- Reviewing and responding to a demand for repossession of goods under Section 81.1 of the Bankruptcy and Insolvency Act from Alexander Tools Inc.;
- Corresponding and arranging for Fuchs Lubricants Canada Ltd., a vendor of consumables, to pick up its inventory located at the Premises;
- Purchasing materials needed to package and ship inventory and tooling;
- Corresponding with Tri-Air Systems regarding the heating and cooling units located at the Premises;
- Attending meetings and tours of the Premises with the following interested parties:

- Nucap Industries Inc.;
 - Precision Resource Canada Ltd.;
 - Feintool Canada;
 - Barrie Welding and Machinery Inc.;
 - Maynards Industries Canada Ltd.;
 - Infinity Asset Solutions Inc.;
 - Sabito Machinery Inc.;
 - 360 JAS Marketing Inc.;
 - Hilco Commercial Industrial;
 - Workingman Capital Corp.;
 - Nuadi Europe S.L;
 - Tiger Capital Group LLC;
 - Perfection Industrial Inc.; and
 - Prestige Equipment Corp.;
- Responding to information requests from the parties listed above;
 - Dealing with maintenance issues at the Premises, including the security system;
 - Reviewing a letter dated September 8, 2023 from Util Industries S.p.A ("Util Italy") to American Industries, a "shelter company" in Mexico through which the Company operated in that country ("American Industries"), regarding assets that Util Italy claims to own;
 - Corresponding with Knott Brake Co. ("Knott"), one of the Customers, regarding finished goods inventory and tooling available for sale;
 - Preparing a draft Auction Services Agreement as part of the Sales Process and providing same to certain interested parties;
 - Corresponding with the Company to prepare information for filing claims under the Wage Earner Protection Program ("WEPP");
 - Corresponding and attending calls with certain of the Company's former employees to respond to their inquiries related to WEPP;

- Reviewing a severance settlement agreement between a former employee and the Company to determine the employee's eligibility under WEPP;
- Meeting daily with representatives of the Company to discuss, among other things, requests by interested parties regarding the Company's assets;
- Issuing a letter dated September 11, 2023 to American Industries regarding the Company's assets located in Mexico;
- Attending a call on September 11, 2023 with Spinnaker Langstaff Investments Limited, the Company's landlord (the "Landlord"), regarding an occupancy agreement (an "Occupancy Agreement");
- Attending a meeting on September 11, 2023 with the Company's Human Resource Director regarding the Company's pension plan schedule;
- Corresponding and arranging for Berg Chilling Systems Inc., a secured creditor, to pick up its cooling system located at the Premises;
- Preparing a letter dated September 12, 2023 to the Canada Revenue Agency ("CRA") regarding, among other things, new HST accounts;
- Reviewing documentation provided by Ri-Go Lift Truck Limited ("Ri-Go"), a company that provided forklifts to the Company, and discussing same with Aird & Berlis in the context of Ri-Go's obligations to register its interest under the *Personal Property Security Act*;
- Reviewing correspondence between Aird & Berlis and Dickson Wright LLP, counsel to Ri-Go;
- Reviewing and editing an occupancy agreement between the Company and the Landlord, regarding access to the Premises and the payment of monthly occupancy costs during the receivership;
- Corresponding with Aird & Berlis and the Human Resource Director, regarding the Company's deferred profit-sharing plan;
- Corresponding with CIBC to transfer funds to accounts opened by the Receiver;
- Attending a meeting on September 12, 2023 with representatives of Tenneco regarding its tooling and steel at the Premises;
- Attending a call on September 13, 2023 with Canada Border Services Agency regarding the Company's license to export goods;
- Attending a call on September 13, 2023 with CRA regarding the status of the Company's business registration to export goods;

- Corresponding with Waste Connections of Canada regarding the removal of several leased waste bins located at the Premises;
- Corresponding with GFL Environmental Inc. regarding the liquid waste tanks located at the Premises;
- Corresponding with Kitahama Partners, the Company's counsel in Japan, regarding the dismissal of litigation related to a 1000 ton fine blanking press, between the Company and Mori Iron Works Co.;
- Corresponding with Combined Metal Inc. regarding the removal of several leased scrap metal bins located at the Premises;
- Reviewing and processing payments for the Company's former employees engaged on a term and task basis;
- Reviewing a letter dated September 18, 2023 from American Industries;
- Attending a call on September 18, 2023 with Resonac Holdings Corporation, one of the Customers, regarding the removal of its tooling and purchase of finished goods;
- Reviewing the results of a physical inventory count of the Company's steel inventory and discussing same with certain Customers
- Attending a call on September 19, 2023 with Mazda regarding tools and parts located at the Company's plant in Mexico;
- Attending a call on September 20, 2023 with Akebono Brake Corporation, one of the Customers, regarding the sale of aftermarket parts;
- Attending a meeting on September 26, 2023 with a representative of Nuadi at the Premises;
- Corresponding with Universal Logistics Inc, a shipping company, regarding the potential delivery of a container shipped from Util China to the Company;
- Continuing to correspond throughout the month with the Customers regarding inventory available to purchase, their accounts receivable balances, the status of their tools and proof of ownership, and site visits;
- Preparing an Occupancy Agreement;
- Responding to calls and inquiries from the Company's former employees;
- Responding to calls and inquiries from the Company's creditors;
- Maintaining the Receiver's case website;

- Convening internal meetings; and
- Dealing with all other matters not otherwise referred to herein.

Total fees and disbursements per attached time summary	\$ 181,623.50
HST	<u>\$ 23,611.06</u>
Total	<u>\$ 205,234.56</u>

KSV Restructuring Inc.
Util Canada Limited
Time Summary
For the Month Ending September 30, 2023

Personnel	Rate (\$)	Hours	Amount (\$)
Bobby Kofman	800	30.65	24,520.00
Mitch Vininsky	700	96.15	67,305.00
Neil De Gray	575	34.25	19,693.75
Nisan Thuraiaratnam	425	103.75	44,093.75
Other Staff and administration	175-450	138.90	25,781.00
Total fees		<u>403.70</u>	<u>181,393.50</u>
Out-of-pocket disbursements			<u>230.00</u>
Total fees and disbursements			<u><u>181,623.50</u></u>

* Includes 12.25 hours rendered in July 2023 not previously invoiced, representing a total of \$8,175.

**ksv advisory inc.**

220 Bay Street, Suite 1300 PO Box 20
Toronto, Ontario, M5J 2W4
T +1 416 932 6262
F +1 416 932 6266

ksvadvisory.com

INVOICE

Util Canada Limited
c/o KSV Restructuring Inc.
220 Bay Street, 13th Floor
Toronto, ON M5J 2W4

November 14, 2023

Invoice No: 3355
HST #: 818808768RT0001

Re: Util Canada Limited (the "Company")

For professional services rendered in October 2023 by KSV Restructuring Inc. ("KSV"), in its capacity as receiver (the "Receiver") of the Company's property, assets and undertaking (the "Property") pursuant to an order of the Ontario Superior Court of Justice (the "Court") issued on August 8, 2023 ("Receivership Order"), including:

- Reviewing and commenting on an agreement (an "Occupancy Agreement") among the Receiver, KSV in its capacity as the licensed insolvency trustee of the Company's bankrupt estate, and Spinnaker Langstaff Investments Limited, the Company's landlord (the "Landlord");
- Corresponding with Aird & Berlis LLP ("Aird & Berlis"), the Receiver's counsel, and DLA Piper (Canada) LLP ("DLA"), counsel to DeA Capital Alternative Funds SGR S.p.A. ("DeA"), one of the Company's secured creditors, regarding all aspects of this mandate, including calls and emails as more specifically outlined below;
- Attending near daily at the Company's leased premises located at 270 Spinnaker Way, Concord (the "Premises");
- Corresponding with prospective purchasers, including strategic buyers and liquidators related to the sale process carried out by the Receiver pursuant to an Order of the Court dated September 15, 2023;
- Corresponding with Maynards Industries Canada Ltd, a liquidator, regarding assets located at a plant formerly operated by the Company in Mexico;
- Reviewing correspondence between Aird & Berlis and Dickson Wright LLP, counsel to Ri-Go Lift Truck Limited ("Ri-Go"), a lessor of forklifts used by the Company;

- Corresponding extensively with Aird & Berlis regarding a proposed settlement between Ri-Go and the Receiver related to the forklifts;
- Dealing with maintenance issues at the Premises, including, among other things, the security system, fire alarm system, internet and waste removal;
- Corresponding with Metalogics Inc., a steel vendor, regarding the purchase of scrap metal located at the Premises;
- Corresponding and attending calls with certain of the Company's former employees regarding their Wage Earner Protection Program ("WEPP") claims;
- Corresponding and arranging for Util Industries S.p.A ("Util Italy"), the Company's sole shareholder, to have access to the Company's accounting records for the purpose of its audit;
- Corresponding and attending call on October 3, 2023 with Unifor, the Company's union (the "Union"), regarding WEPP for a former employee;
- Attending a tour of the Premises on October 3, 2023 with Precision Resource Canada Ltd, one of the parties interested in the Company's assets;
- Corresponding with GFL Environmental Inc., a waste removal company, regarding the removal of the liquid waste tanks located at the Premises;
- Reviewing the Company's records regarding the termination of a former employee to determine the employee's eligibility under WEPP;
- Attending a meeting on October 4, 2023 with the Company's IT professional to obtain access to all payroll documents and data stored on the Company's server;
- Creating a virtual data room and uploading the employee WEPP documents for the Union to review;
- Attending a tour of the Premises on October 4, 2023 with Infinity Asset Solutions Inc., a liquidator interested in the Company's assets;
- Attending a tour of the Premises on October 4 and October 5, 2023 with Ball Bros Machinery Ltd, one of the parties interested in purchasing the Company's assets;
- Responding to inquiries from interested parties;
- Reviewing all offers received for the Company's assets and corresponding with interested parties regarding the same;
- Attending a meeting on October 10, 2023 with the Company's former Human Resource Director regarding the Company's payroll records and employee files;

- Corresponding with Universal Logistics Inc, a shipping company, regarding a container shipped from Util China to the Company;
- Attending a meeting on October 10, 2023 with a representative from Util Italy and its auditors regarding the Company's sales records;
- Attending meetings on October 10 and 12, 2023 with Sesmar Security Inc., the Company's security monitoring company, regarding repairs to the fire panel;
- Attending a call on October 11, 2023 with Perfection Industrial Inc. ("Perfection") regarding the terms of its offer for the Company's assets;
- Attending a call on October 11, 2023 with DLA to discuss, among other things, the summary of bids received for the Company's assets;
- Corresponding with Tri-Air Systems regarding the heating and cooling units located at the Premises;
- Reviewing and editing numerous drafts of an auction service agreement (the "ASA") between the Receiver and Perfection and discussing same with A&B;
- Reviewing a letter received on October 12, 2023 from American Industries, the "shelter company" in Mexico through which the Company operated in that country ("American Industries"), regarding the release of certain tools located at the Company's plant in Mexico to Resonac Materials Mexico S.A. de C.V, one of the Company's customers;
- Corresponding with Waste Connections of Canada regarding several leased waste bins located at the Premises;
- Reviewing and processing payments to the Company's former employees engaged on a term and task basis;
- Attending a call on October 16, 2023 with DeA to discuss the status of these proceeding and potential net recoveries from the Company's business and assets;
- Corresponding with Miller Thomson LLP, counsel to ITT Inc., regarding ITT's purchase and removal of tools located at the Company's plant in Mexico;
- Attending a tour of the Premises on October 17, 2023 with Perfection;
- Preparing a summary of the Company's receipts and disbursements as of October 20, 2023 and providing same to DeA;
- Corresponding extensively with A&B and reviewing its comments on the ASA;
- Corresponding with certain of the Company's customers regarding their accounts payable balances owed to the Company;

- Corresponding with several of the Company's customers regarding the removal of tools located at the Premises, including with Tenneco Automotive Inc., Akebono Brake Corporation and ITT Inc.;
- Reviewing the asset list and price allocation provided by Perfection and verifying same with representatives of the Company;
- Attending a call on October 23, 2023 with Perfection regarding the steel coil inventory to be included in the ASA;
- Corresponding with Josef Gas Inc., the Company's propane and nitrogen supplier, regarding the removal of empty tanks and for the purchase of new filled propane tanks;
- Corresponding with Resonac Holdings Corporation one of the Company's customers, regarding the purchase of tool drawings;
- Attending a meeting on October 25, 2023 with Perfection and the Landlord to, among other things, identify any fixtures that may be the property of the Landlord;
- Reviewing and editing numerous drafts of an agreement of purchase and sale (the "Barrie APS") between the Receiver and Barrie Welding and Machinery Inc. regarding the purchase of two pieces of equipment;
- Corresponding with A&B and reviewing its comments on the Barrie APS;
- Corresponding with Bennett Jones LLP (Bennett Jones"), counsel to Nisshinbo Automotive Manufacturing Inc. ("Nisshinbo"), regarding the removal of tools claimed by Nisshinbo at the Premises;
- Attending a meeting on October 30, 2023 with Perfection to provide access to the Premises;
- Attending a meeting on October 30, 2023 with the Landlord to inspect the condition of the Premises;
- Reviewing a letter dated October 30, 2023 from American Industries regarding the lease of the Company's plant in Mexico;
- Reviewing and commenting on a lease disclaimer for the Premises;
- Responding to calls and inquiries from the Company's former employees;
- Responding to calls and inquiries from the Company's creditors;
- Maintaining the Receiver's case website;
- Convening internal meetings; and

- Dealing with all other matters not otherwise referred to herein.

Total fees and disbursements per attached time summary	\$ 103,892.48
HST	<u>\$ 13,506.02</u>
Total	<u>\$ 117,398.50</u>

KSV Restructuring Inc.
Util Canada Limited
Time Summary
For the Month Ending October 31, 2023

Personnel	Rate (\$)	Hours	Amount (\$)
Bobby Kofman	800	15.35	12,280.00
Mitch Vininsky	700	54.60	38,220.00
Neil De Gray	575	17.00	9,775.00
Nisan Thuraiaratnam	425	89.25	37,931.25
Other Staff and administration	175-450	20.70	3,810.50
Total fees		181.55	102,016.75
Add: Out of Pocket Disbursements			
Travel/mileage			1,859.54
Postage			16.19
Total Out-of-pocket disbursements			1,875.73
Total fees and disbursements			103,892.48

This is Exhibit "B" referred to in the
Affidavit of Mitch Vininsky
sworn before me, this 17th day of November, 2023



Catherine Anne Stuyck-Therault, a Commissioner, etc.,
Province of Ontario, for KSV Advisory Inc. and KSV Restructuring Inc.
Expires February 19, 2025

UTIL Canada Ltd.
 Schedule of Professionals' Time and Rates
 For the Period of August 8, 2023 to October 31, 2023

<u>Name</u>	<u>Role</u>	<u>Hours</u>	<u>Billing Rate</u> <u>(\$ Per Hour)</u>	<u>Total Fees by</u> <u>Professional</u> <u>(\$)</u>
Bobby Kofman	All aspects of mandate	114	800	91,400
Mitch Vininsky	All aspects of mandate	310	700	216,965
Neil De Gray	Sales process	70	575	39,963
Nisan Thurairatnam	Mandate assistance	249	425	105,613
Other staff and administrative		287	175 - 450	74,481
Total hours				1,029
Total fees				\$ 528,421
Average hourly rate				\$ 513

Appendix “J”

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

**DeA CAPITAL ALTERNATIVE FUNDS SGR S.p.A.
as managing company of Italian closed-end investment
Fund IDeA CCR (Corporate Credit Recovery) I**

Applicant

- and -

UTIL CANADA LIMITED

Respondent

**IN THE MATTER OF SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*
(CANADA) R.S.C. 1985 cB-3 AS AMENDED, AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT* (ONTARIO) R.S.O. 1990, c. C.43, AS AMENDED**

**AFFIDAVIT OF STEVEN L. GRAFF
(sworn November 8, 2023)**

I, **STEVEN L. GRAFF**, of the City of Toronto, in the Province of Ontario, **MAKE
OATH AND SAY AS FOLLOWS:**

1. I am a lawyer at Aird & Berlis LLP and, as such, I have knowledge of the matters to which I hereinafter depose. Aird & Berlis LLP is acting as counsel for KSV Restructuring Inc., in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Util Canada Limited.
2. Aird & Berlis LLP has prepared statements of account in connection with its mandate as counsel to the Receiver, detailing its services rendered and disbursements incurred, namely:

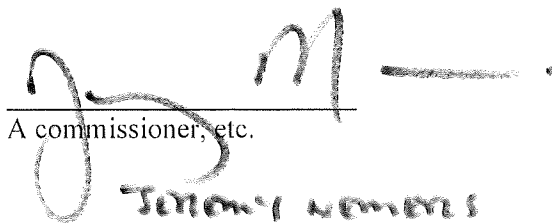
- (a) an account dated August 31, 2023 in the amount of \$99,322.54 in respect of the period from July 31, 2023 to August 31, 2023;
- (b) an account dated September 29, 2023 in the amount of \$2,717.65 in respect of the time period from August 28, 2023 to September 29, 2023;
- (c) an account dated October 19, 2023 in the amount of \$28,998.17 in respect of the period from September 1, 2023 to September 30, 2023; and
- (d) an account dated October 31, 2023 in the amount of \$19,766.53 in respect of the period from October 1, 2023 to October 31, 2023,

(collectively, the “**Statements of Account**”). Attached hereto and marked as **Exhibit “A”** to this Affidavit are copies of the Statements of Account. The average hourly rate of Aird & Berlis LLP is \$537.41.

- 3. Attached hereto and marked as **Exhibit “B”** to this Affidavit is a chart detailing the lawyers, law clerks and articling students who have worked on this matter.
- 4. This Affidavit is made in support of a motion to, *inter alia*, approve the attached accounts of Aird & Berlis LLP and the fees and disbursements detailed therein, and for no improper purpose whatsoever.

SWORN before me at the City of Toronto,
in the Province of Ontario, on this
10th day of November, 2023

A commissioner, etc.


J. M. [unclear]

STEVEN L. GRAFF



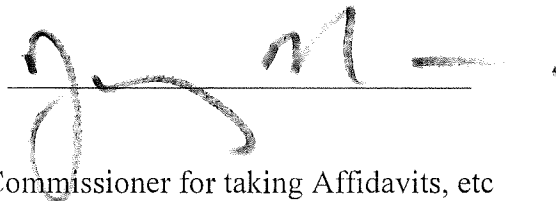
Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF STEVEN L. GRAFF

Sworn before me

this 8th day of November, 2023

A handwritten signature in dark ink, appearing to be "J. M. -", is written over a horizontal line.

Commissioner for taking Affidavits, etc

Steven L. Graff

AIRD BERLIS

Aird & Berlis LLP
Brookfield Place, Suite 1800
181 Bay Street
Toronto, Ontario M5J 2T9 Canada

T 416 863 1500
F 416 863 1515
airdberlis.com

KSV Advisory Inc.
220 Bay Street, 13th Floor
P.O. Box 20
Toronto, Ontario
M5J 2W4 Canada

August 31, 2023

Attention: Mr. Bobby Kofman

Invoice No: 1351942

Re: **Util Canada**

Client No: 041611
Matter No: 310592

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending August 31, 2023

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
SLG	31/07/23	925.00	0.50	462.50	Discussion with R. Kofman re engagement and approach
SLG	31/07/23	925.00	0.30	277.50	Review documents from M. Vininsky
JTN	01/08/23	575.00	1.20	690.00	Engaged with high-level review of filing-related information; Telephone call with S. Morris re security review; Email exchanges with S. Graff; Engaged with high-level review of additional materials
JTN	02/08/23	575.00	1.20	690.00	Email exchanges with working group; Telephone call with S. Graff; Discussions with S. Morris and J. Yantzi re security review
JY	02/08/23	425.00	2.30	977.50	Receive instructions from J. Nemers re security opinion; review existing loan documentation; draft security opinion
SLG	02/08/23	925.00	3.00	2,775.00	Several telephone calls and virtual meetings with M. Vininsky and R. Kofman and E. Lamek; Emails re same; Telephone call with J. Nemers; Review searches and documents; Consider funding
SLG	02/08/23	925.00	0.20	185.00	Telephone call with J. Nemers re status of report and timing of documents
SRM	02/08/23	440.00	2.80	1,232.00	Review emails and discussion with J. Nemers; Review loan agreement; Conduct prelims; Order corporate history and PPSA searches and review same; Prepare summary and circulate; Review and provide comments to draft security review

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
DP	03/08/23	475.00	0.70	332.50	Correspondence with J. Nemers re proposed contractor agreement; Discussions with L. Lisi and J. Nemers re same; Review of mass termination provisions and notification re bankruptcy; Email to J. Nemers re same
JTN	03/08/23	575.00	4.00	2,300.00	Engaged with review of draft security opinion and associated security; Discussions and email exchanges re same; Engaged with review of potential PMSI material; Email exchange with client re same; Liaise with employment partners re term and task agreement and related matters; Email exchanges with client re same; Engaged with review of and provide comments on additional materials; Attend to related matters
JY	03/08/23	425.00	2.80	1,190.00	Review search results; emails to the proposed receiver and the debtor's counsel; confer with J. Nemers and S. Morris; review existing loan documentation; draft security opinion; review draft receivership order
LL	03/08/23	715.00	0.70	500.50	Telephone discussion and email exchange with J. Nemers; Discussion with D. Peregoudova; Review of and revisions to letter
SLG	03/08/23	925.00	0.40	370.00	Telephone call with J. Nemers re next steps; Review terms and union letter
SLG	03/08/23	925.00	0.30	277.50	Emails re language in Report
SRM	03/08/23	440.00	0.20	88.00	Review certified PPSA searches and emails re same
JTN	04/08/23	575.00	2.50	1,437.50	Attend to multiple emails with working group; Engaged with review and comments re second draft security opinion and attend to related matters; Receipt and engaged with review of application record; Attend to related tasks
JY	04/08/23	425.00	1.80	765.00	Receipt and review of security assignment documentation; revise draft security opinion; draft security opinion for additional secured creditor; receipt and review of application record returnable August 8, 2023
SLG	04/08/23	925.00	0.50	462.50	Various emails re supply arrangements
SLG	04/08/23	925.00	0.60	555.00	Emails re Sworn Statements and equipment in Mexico re S. Zweig and N. McFarland and security opinion
SRM	04/08/23	440.00	0.20	88.00	Review emails regarding status of receivership appointment and ordering updated certified searches

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
JTN	06/08/23	575.00	0.80	460.00	Engaged with review of draft report; Email exchanges with client re same; Email exchanges and telephone call with J. Yantzi re anticipated service of same and related matters; Email to D. Nunes; Attend to related matters
JY	06/08/23	425.00	1.40	595.00	Review and revise draft proposal trustee's report; prepare affidavit of service; confer with J. Nemers
JTN	07/08/23	575.00	1.20	690.00	Engaged with matters re service and filing of report; Email exchanges with Davies; Engaged with review of CBA letters; Telephone call with S. Graff; Telephone call with M. Vininsky; Telephone call with J. Yantzi; Email exchange with D. Nunes
JY	07/08/23	425.00	1.00	425.00	Prepare first report for service; confer with J. Nemers; prepare affidavit of service; attend to serving of report; email to the receiver; email to the secured party's counsel; confer with J. Nemers and P. Williams
PLW	07/08/23	255.00	0.40	102.00	Submitted 1st Report of Trustee for filing online
SLG	07/08/23	925.00	0.70	647.50	Telephone call with M. Vininsky and R. Kofman
JTN	08/08/23	575.00	1.50	862.50	Email exchanges with working group; Prepare for and attend at hearing; Telephone call with E. Lamek; Email exchanges with client, S. Graff and L. Lisi
JY	08/08/23	425.00	0.40	170.00	Review draft agreement with stakeholder; confer with S. Graff and J. Nemers
LL	08/08/23	715.00	0.20	143.00	Email exchange with S. Graff and J. Nemers regarding collective agreement issues; Review of correspondence
PLW	08/08/23	255.00	0.40	102.00	Submitted Order of August 8, 2023 for entry online with the court
SLG	08/08/23	925.00	2.20	2,035.00	Attend Receivership Application before Cavanaugh; preparation for same
SLG	08/08/23	925.00	0.90	832.50	Attend telephone call with M. Shakra on bill of Sale and Term Sheet with Suppliers
SLG	08/08/23	925.00	0.40	370.00	Emails from A. Dale regarding successorship and emails regarding Bill of Sale

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
JTN	09/08/23	575.00	2.70	1,552.50	Attend on conference call with L. Lisi and S. Graff; Engaged with review of email exchanges with Unifor and draft responding letter re same; Telephone call with S. Graff re same; Email exchanges with client; Engaged with review of draft term sheet from select customers; Attend on conference call with client; Telephone call with L. Lisi
JY	09/08/23	425.00	0.30	127.50	Receive instructions from J. Nemers; revise service list; emails to stakeholders; email to the receiver
LL	09/08/23	715.00	2.20	1,573.00	Review of correspondence; Conference call with S. Graff and J. Nemers; Email exchange with M. Horvat regarding letter; Discussions with same regarding law and amendments to letter; Email exchange with M. Horvat, S. Graff and J. Nemers
MFH	09/08/23	690.00	2.00	1,380.00	Review of email; Research; Review of caselaw regarding
SLG	09/08/23	925.00	2.50	2,312.50	Drafting letter to Union regarding restart of operations and successorship issues; Review term sheet regarding production start up
SLG	09/08/23	925.00	0.60	555.00	Discussion with L. Lisi regarding Collective Agreement and Letter to Unifor
SLG	09/08/23	925.00	0.30	277.50	Telephone call with D. Ward regarding production arrangement
SLG	09/08/23	925.00	0.20	185.00	Review and revise bill of sale
SRM	09/08/23	440.00	0.10	44.00	Order updated certified PPSA search against Util Canada Limited
JTN	10/08/23	575.00	1.50	862.50	Attend to multiple email exchanges with client and working groups; Attend on conference call with client, S. Graff, L. Lisi and J. Yantzi; Engaged with further review of various draft materials; Attend to related matters
JY	10/08/23	425.00	2.40	1,020.00	Review draft customer term sheet; telephone call with the receiver; revise term sheet; revise service list; emails to the receiver; emails to stakeholder's counsel
LL	10/08/23	715.00	0.50	357.50	Email exchange with client; Review of letter from the union; Telephone discussion and email exchange with S. Graff and the union counsel

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
SLG	10/08/23	925.00	1.50	1,387.50	Virtual meeting with KSV re form and changes to Term Sheet; Consider successor employer obligations to agreement
SLG	10/08/23	925.00	1.10	1,017.50	Several telephone calls with L. Lisi and R. Kofman; Discussion with J. Nemers
SLG	10/08/23	925.00	0.30	277.50	Telephone call with B. Sachedeva re: recovery of assets
SLG	10/08/23	925.00	0.20	185.00	Emails with T. Dunn re: landlord issue
SLG	10/08/23	925.00	0.30	277.50	Emails with D. Ward and C. Bourque
SRM	10/08/23	440.00	0.20	88.00	Review updated certified PPSA search and report on same
JTN	11/08/23	575.00	0.70	402.50	Attend to multiple emails with client and working group; Receipt and review of letter from potential claimant; Consider same; Attend to related matters
LL	11/08/23	715.00	1.00	715.00	Email exchange with clients and immigration counsel; Email exchange with M. Vininsky; Conference call with client, Unifor and S. Graff regarding agreement to operate; Email exchange with S. Graff regarding letter of agreement
SLG	11/08/23	925.00	3.50	3,237.50	Review and revise Unifor letter of terms and conditions of recall; Meeting with Unifor and discussion with L. Lisi; Email with M. Shakra re sale of inventory, bill of sale and term sheet
JTN	12/08/23	575.00	0.30	172.50	Email exchanges with client and working group and engaged with review of blackline draft term sheet comments from certain customers
LL	12/08/23	715.00	1.00	715.00	Review of and revisions to letter to Unifor; Email exchange with S. Graff and client
JTN	13/08/23	575.00	1.40	805.00	Email exchanges with client and working group and engaged with review and consideration of further blackline draft term sheet comments from certain customers; Attend on conference call with client and counsel for certain customers
LL	13/08/23	715.00	0.20	143.00	Review of amendments to letter to Unifor; Email exchange with S. Graff and client
SLG	13/08/23	925.00	0.90	832.50	Meeting with customers to discuss next steps and term sheet revisions; Consider Union position

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
JTN	14/08/23	575.00	2.00	1,150.00	Attend on conference call with client; Receipt and review of letter and attachments from A. Labib; Voicemail exchange with O. Vereshchak; Attend to multiple emails with working group; Instruct J. Yantzi re certain go-forward matters; Prepare generic "stay" letter; Email to client re same; Attend to related matters
JY	14/08/23	425.00	0.90	382.50	Receive instructions from J. Nemers; review correspondence from stakeholder; email to the receiver; revise service list
LL	14/08/23	715.00	0.50	357.50	Telephone discussion and email exchange with S. Graff; Review of correspondence with Unifor regarding agreement
SLG	14/08/23	925.00	2.50	2,312.50	Meeting re: Util Canada term sheet with Bennett Jones team, N. McParland; KSV and A&B team, review and revise same
SLG	14/08/23	925.00	0.40	370.00	Review emails re: facility access; emails with T. Dunn; emails with D. Ward; Union communication and review offer
JTN	15/08/23	575.00	1.20	690.00	Email exchanges with client re rent-related matters; Telephone call with O. Vereshchak re employment-related claim; Telephone calls and email exchanges with J. Yantzi; Receipt and review of client comments on template stay letter; Engaged with finalization and issuance of same to stakeholder; Receipt and review of creditor package; Attend to related matters
JY	15/08/23	425.00	2.10	892.50	Email to the trustee re unsecured creditor inquiry; confer with J. Nemers re stakeholder inquiry; confer with S. Graff; revise draft letter to stakeholder; emails to the receiver
LL	15/08/23	715.00	1.00	715.00	Email exchange with S. Graff and client regarding final letter to Unifor; Revisions to same; Review of email from Unifor
SLG	15/08/23	925.00	1.90	1,757.50	Review and revise letter agreement with Union re: continued production; ongoing emails re: revised terms; emails with D. Ward re payments; Emails to landlord
SLG	15/08/23	925.00	0.20	185.00	Emails with N. Ally re: automation supply
CH	16/08/23	0.00	0.90	0.00	Attend call with client, J. Yantzi, J. Nemers and S. Graff to record notes and begin a running issues list

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
JTN	16/08/23	575.00	1.90	1,092.50	Attend on conference call with working group re draft production term sheet; Telephone call with J. Levine; Attend to multiple email exchanges; Attend on further conference call with client; Attend to related matters
JY	16/08/23	425.00	2.10	892.50	Telephone call with the receiver and stakeholders' counsel re proposed term sheet; revise term sheet; revise service list; correspondence with the receiver; confer with S. Graff; telephone call with the receiver; instruct C. Horsten
LL	16/08/23	715.00	1.20	858.00	Review of final correspondence regarding Unifor agreement; Email exchange with M. Vininsky; Telephone discussion with S. Graff; Draft email to Unifor
SLG	16/08/23	925.00	0.70	647.50	Attend call on Production Agreement and terms with Davies and Bennett Jones
SLG	16/08/23	925.00	0.70	647.50	Attend daily update call on issues re lease issue and research; Discussion with L. Lisi re Union message
SLG	16/08/23	925.00	0.20	185.00	Telephone call with A. Iqbal re: Customer issues
SLG	16/08/23	925.00	0.20	185.00	Telephone call with J. Yantzi and revision of term sheet
SLG	16/08/23	925.00	0.20	185.00	Communications with Union
CH	17/08/23	0.00	3.10	0.00	Receive instruction from J. Nemers; regarding research around issue of trustee disclaiming lease; Attend daily check-in call; Conduct research regarding disclaimer of lease by trustee versus receiver
JTN	17/08/23	575.00	2.50	1,437.50	Attend to multiple email exchanges with client and multiple customers of receivership debtor and their counsel; Instruct C. Horsten re research re lease-related enquiry; Attend on conference call with working group; Attend to related matters
JY	17/08/23	425.00	1.10	467.50	Telephone call with the receiver re status of various stakeholder matters; consider issues related to court-approval of stakeholder agreement; confer with S. Graff and J. Nemers
LL	17/08/23	715.00	0.90	643.50	Email exchange with M. Vininsky, S. Graff and B. Kofman regarding communication; Draft correspondence regarding production to Unifor
SLG	17/08/23	925.00	0.50	462.50	Meeting to discuss status, term sheet and return of tools

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
SLG	17/08/23	925.00	0.80	740.00	Final recall language and emails re: Tools and production
CH	18/08/23	0.00	8.30	0.00	Research
JTN	18/08/23	575.00	2.00	1,150.00	Attend to multiple email exchanges with stakeholders; Attend on conference call with counsel to Ford; Telephone call with, email exchanges with and review of preliminary research findings from C. Horsten; Attend to related matters
JY	18/08/23	425.00	0.70	297.50	Confer with J. Nemers re potential court motion; draft court materials re stakeholder agreement approval; revise the service list; emails to the receiver
LL	18/08/23	715.00	0.30	214.50	Email exchange with J. Nemers regarding communication to employees concerning continuation of operations
SLG	18/08/23	925.00	0.50	462.50	Telephone call with S. LaPlante and KSV team re: Ford and other customers
CH	19/08/23	0.00	4.10	0.00	Draft letter to client re: strategy for
JTN	19/08/23	575.00	1.50	862.50	Email exchanges with working group; Receipt and review of research and select cases from C. Horsten; Telephone call with C. Horsten; Engaged with further review and consideration of research and possible recommendations to client
CH	20/08/23	0.00	3.60	0.00	Conduct further research re.
JTN	20/08/23	575.00	0.30	172.50	Email exchange with M. Vininsky; Email to J. Levine; Email exchanges with J. Yantzi and C. Horsten
JY	20/08/23	425.00	2.60	1,105.00	Draft court motion materials re stakeholder agreement approval; revise security opinions; confer with J. Nemers
CH	21/08/23	0.00	0.50	0.00	Attend daily update meeting to take notes
JTN	21/08/23	575.00	1.50	862.50	Attend to multiple email exchanges with working group; Email exchanges with Court and client re scheduling; Telephone call with S. Graff; Attend on conference call with client
SLG	21/08/23	925.00	0.50	462.50	Attend daily call on production and IP issues; Discussion with J. Nemers re landlord issues

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
SLG	21/08/23	925.00	0.10	92.50	Emails with K. Clark
SRM	21/08/23	440.00	0.10	44.00	Review emails regarding security opinions
CH	22/08/23	0.00	1.20	0.00	Receive instruction from J. Yantzi re: service list and Caselines; Add members of service list to Caselines
CH	22/08/23	0.00	0.40	0.00	Attend daily update meeting with KSV to take notes
JTN	22/08/23	575.00	1.00	575.00	Email exchanges with S. Graff, K. Clark and other members of working group; Telephone call with J. Yantzi; Attend on conference call with client; Review update proposed changes to draft term sheet; Attend to related matters
JY	22/08/23	425.00	1.80	765.00	Review and consider drafts and revisions to proposed stakeholder term sheets; review correspondence re stakeholder negotiations; instruct C. Horsten re service list and CaseLines; confer with J. Nemers; prepare and issue security opinions; telephone call with the receiver
SLG	22/08/23	925.00	0.80	740.00	Attend daily update call; Emails with lawyer; Consider emails re Mexico re-start consider revisions to term sheet emails (production)
CH	23/08/23	0.00	0.30	0.00	Receive instruction from J. Yantzi re: review and revision of Asset Purchase Agreement
CH	23/08/23	0.00	2.50	0.00	Receive instruction from J. Nemers re: question of 30-day goods rule; Conduct research on the 30-day goods rule
JTN	23/08/23	575.00	1.50	862.50	Email exchanges with working group; Telephone calls with J. Yantzi, C. Horsten and J. Yantzi re various matters, including draft template APS; Telephone call with M. Vininsky; Engaged with review of and provide comments re draft report on preliminary administration; Attend to related matters
JY	23/08/23	425.00	1.70	722.50	Review purchase agreement precedent and confer with J. Nemers; instruct C. Horsten; review and revise form of purchase agreement; emails to stakeholders' counsel; email to the receiver
CH	24/08/23	0.00	0.10	0.00	Attend daily update meeting
JTN	24/08/23	575.00	0.20	115.00	Email exchanges with working group; Telephone call with client

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
SCB	24/08/23	825.00	2.20	1,815.00	Correspondence with S. Graff and J. Nemers regarding Production Agreement for KSV; Review term sheet and consider terms of productions agreement
SLG	24/08/23	925.00	0.50	462.50	Emails with various customers and intro to First Brands
CH	25/08/23	0.00	2.00	0.00	Review and revise Asset Purchase Agreement
JTN	25/08/23	575.00	2.70	1,552.50	Attend at creditors meeting; Telephone call with M. Vininsky re same; Engaged with high-level review of RSLA claim and certain associated case law; Telephone call and email exchanges with E. Gionet; Email exchanges with client, S. Graff and S. Zweig; Telephone call and email exchanges with M. Vininsky re matters re term sheet funding requirements and engaged with review and consideration of same; Email exchange with C. Horsten re draft template APA for sale process; Attend to related matters
SCB	25/08/23	825.00	3.70	3,052.50	Review and revise Production and Funding Agreement and add supplement
SCB	25/08/23	825.00	1.80	1,485.00	Work on revision and send mark-up
SLG	25/08/23	925.00	1.00	925.00	Review emails with S. Zweig and telephone call with R. Kofman re: consider and approach
JTN	26/08/23	575.00	0.10	57.50	Email exchange with S. Graff re email exchanges with S. Zweig and B. Kofman
JTN	27/08/23	575.00	0.10	57.50	Receipt and review of email from S. Zweig
CH	28/08/23	0.00	0.30	0.00	Read email correspondence between KSV and Bennett Jones on behalf of Nisshinbo
JTN	28/08/23	575.00	1.60	920.00	Engaged with review of leasing documentation provided by Ri-Go; Email exchange with client re same; Telephone calls with M. Vininsky; Telephone call and email exchange with C. DiBerto of Ri-Go; Engaged with review of and revisions to draft template APS; Email exchange with S. Zweig; Attend to related matters
ML	28/08/23	395.00	2.90	1,145.50	Call with S. Graff; Research whether
SCB	28/08/23	825.00	1.80	1,485.00	Work on revision and send mark-up
CH	29/08/23	315.00	0.40	126.00	Update Service List and add counsel to Caselines

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
JTN	29/08/23	575.00	3.60	2,070.00	Telephone call with J. Leslie; Email exchanges with client; Receipt of email on behalf of D. Miller; Engaged with review of, revisions to and further drafting of template APS; Receipt and review of email from S. LaPlante; Receipt and review of emails from S. Zweig; Attend to related matters
DP	30/08/23	475.00	0.20	95.00	Discussions with J. Nemers re mass termination notice requirements
JTN	30/08/23	575.00	0.80	460.00	Telephone calls and email exchanges with client and D. Peregoudova re WEPP-related matters; Email exchanges with S. Zweig; Telephone call with J. Yantzi re draft sale process order; Attend to related matters
JY	30/08/23	425.00	1.30	552.50	Receive instructions from J. Nemers re court materials; revise draft court materials
JTN	31/08/23	575.00	0.80	460.00	Email exchanges re Nisshinbo and Tenneco; Receipt and review of email from Berg's counsel; Consider same; Email to client re same; Engaged with review and consideration of case law provided by E. Gionet re RSLA claimant; Attend to related tasks
TOTAL:			161.20	\$87,077.50	

Name	Hours	Rate	Value
Billard, Sam C. (SCB)	9.50	\$825.00	\$7,837.50
Graff, Steven L. (SLG)	33.10	\$925.00	\$30,617.50
Horsten, Calvin (CH)	27.70	\$4.55	\$126.00
Horvat, Michael F. (MFH)	2.00	\$690.00	\$1,380.00
Lici, Matilda (ML)	2.90	\$395.00	\$1,145.50
Lisi, Lorenzo (LL)	9.70	\$715.00	\$6,935.50
Morris, Shannon R (SRM)	3.60	\$440.00	\$1,584.00
Nemers, Jeremy T (JTN)	44.30	\$575.00	\$25,472.50
Peregoudova, Daria (DP)	0.90	\$475.00	\$427.50
Williams, Patrick L. (PLW)	0.80	\$255.00	\$204.00
Yantzi, Jonathan (JY)	26.70	\$425.00	\$11,347.50

OUR FEE	\$87,077.50
HST @ 13%	11,320.08

DISBURSEMENTS

Non-Taxable Disbursements

Due Diligence-Gov Fee	160.00
Search Under P.P.S.A.	312.00

Total Non-Taxable Disbursements	\$472.00
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Taxable Disbursements

Due Diligence	200.00	
Service Provider Fee	200.85	
Total Taxable Disbursements		\$400.85
HST @ 13%		52.11

AMOUNT DUE

\$99,322.54 CAD

THIS IS OUR INVOICE HEREIN
AIRD & BERLIS LLP



Steven L. Graff

E.&O.E.

Payment Information

Payment by Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
TD Canada Trust	Bank No.:	004
TD Centre	Transit No.:	10202
55 King Street West	Account:	5221521
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTTOR

Payment by Cheque:

Payable To:
Aird & Berlis LLP
Brookfield Place, Suite 1800
181 Bay Street
Toronto, ON M5J 2T9

Email notification for EFT and WIRE payments: accounting@airdberlis.com

Payment is due on receipt.

Please quote our Matter No. and the invoice number(s) to ensure correct allocation of payment.

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 5% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS INVOICE IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

* For legal services provided to clients residing in British Columbia, Quebec, Manitoba and Saskatchewan, clients are advised to self-assess provincial sales tax on fees and disbursements charged.



Aird & Berlis LLP
Brookfield Place, Suite 1800
181 Bay Street
Toronto, Ontario M5J 2T9 Canada

T 416 863 1500
F 416 863 1515
airdberlis.com

KSV Advisory Inc.
220 Bay Street, 13th Floor
P.O. Box 20
Toronto, Ontario
M5J 2W4 Canada

September 29, 2023

Attention: Mr. Bobby Kofman

Invoice No: 1355747

Re: Util Canada

Client No: 041611
Matter No: 310592

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending August 31, 2023

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
SLG	28/08/23	925.00	0.40	370.00	Telephone call with D. J. Miller re: Mazda and Mexico
SLG	28/08/23	925.00	0.30	277.50	Telephone call with M. Vininsky re: update on production and return of parts; review emails re: Nisshinbo parts
SLG	28/08/23	925.00	0.20	185.00	Emails re: Nisshinbo parts identification and return
SLG	28/08/23	925.00	0.20	185.00	Address equipment issues
SLG	29/08/23	925.00	1.00	925.00	Review research on cost recovery; Review revised draft production agreement
SLG	29/08/23	925.00	0.20	185.00	Emails on GEM 14 and sale of assets
SLG	30/08/23	925.00	0.10	92.50	Email re: intro to First Brands
SLG	30/08/23	925.00	0.10	92.50	Emails with S. Zweig re: settlement
SLG	31/08/23	925.00	0.10	92.50	Emails with S. Zweig re: resolution and email with D. J. Miller

TOTAL:	2.60	\$2,405.00
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Name	Hours	Rate	Value
Graff, Steven L. (SLG)	2.60	\$925.00	\$2,405.00

OUR FEE	\$2,405.00
HST @ 13%	312.65

AMOUNT DUE

\$2,717.65 CAD

THIS IS OUR INVOICE HEREIN
AIRD & BERLIS LLP



Steven L. Graff

E.&O.E.

Payment Information

Payment by Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
TD Canada Trust	Bank No.:	004
TD Centre	Transit No.:	10202
55 King Street West	Account:	5221521
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTTOR

Payment by Cheque:

Payable To:
Aird & Berlis LLP
Brookfield Place, Suite 1800
181 Bay Street
Toronto, ON M5J 2T9

Email notification for EFT and WIRE payments: accounting@airdberlis.com

Payment is due on receipt.

Please quote our Matter No. and the invoice number(s) to ensure correct allocation of payment.

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 5% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS INVOICE IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

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KSV Advisory Inc.
220 Bay Street, 13th Floor
P.O. Box 20
Toronto, Ontario
M5J 2W4 Canada

October 19, 2023

Attention: Mr. Bobby Kofman

Invoice No: 1357228

Re: Util Canada

Client No: 041611
Matter No: 310592

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending September 30, 2023

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
JTN	01/09/23	575.00	0.30	172.50	Email exchanges with client and Tenneco and attend to related tasks
SLG	01/09/23	925.00	0.50	462.50	Meeting with KSV, E. Lamek and D. J. Miller to discuss Mexican production and specific Mazda suppliers
JTN	04/09/23	575.00	0.40	230.00	Engaged with review of certain materials re Mexico-based equipment; Email exchange with client re same
JY	04/09/23	425.00	0.70	297.50	Review draft receiver's report; revise draft court materials; confer with J. Nemers
CH	05/09/23	315.00	0.20	63.00	Receive instruction from J. Yantzi re: noting up cases from opposing counsel re: Repair and Storage Liens Act
JTN	05/09/23	575.00	2.50	1,437.50	Engaged with review of and revisions to draft report, notice of motion and order re sale process; Email exchanges with client re same and related matters; Email to counsel for PMSI claimant; Email exchanges with L. Ellis; Email exchange with S. Zweig; Telephone calls with J. Yantzi; Attend to related matters
JY	05/09/23	425.00	1.10	467.50	Receive instructions from J. Nemers re RSLA lien claim; consider issues related to such claim; instruct C. Horsten re research; revise draft court materials
SLG	05/09/23	925.00	1.00	925.00	Emails re: settlement and release of Nisshinbo parts and ITT parts
SLG	05/09/23	925.00	0.10	92.50	Email with S. Zweig re: return of molds

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
CH	06/09/23	315.00	1.10	346.50	Note up cases from counsel for Barrie Welding & Machine (1994) Ltd
JTN	06/09/23	575.00	1.30	747.50	Engaged with matters re finalization and service of motion record; Attend to multiple emails with stakeholders and client; Telephone call with M. Vininsky; Engaged with PMSI-related review
PLW	06/09/23	255.00	0.40	102.00	Submitted Motion Record for filing online with the court
CH	07/09/23	315.00	3.50	1,102.50	Note up cases from counsel for Barrie Welding & Machine (1994) Ltd
JTN	07/09/23	575.00	3.30	1,897.50	Attend to multiple email exchanges with client; Telephone call with M. Vininsky; Attend on conference call with client re Mexico; Engaged with review of and revisions to draft auction agreement; Email exchanges with E. Lamek, S. Graff and client re certain equipment and matters re same; Consider same; Email exchange with J. Leslie; Engaged with review of draft letter to Mexico; Provide comments to J. Yantzi re same; Attend to related matters
JY	07/09/23	425.00	2.80	1,190.00	Review correspondence re Mexico issues; engaged with preliminary review of invoices and statement from supplier; confer with J. Nemers; telephone call with the receiver; review and revise auction services agreement; draft letter to stakeholder
SLG	07/09/23	925.00	0.80	740.00	Call with Aird & Berlis and KSV team re: L/T Sheets for (American Industries); Sale process and auction agreement
SLG	07/09/23	925.00	0.20	185.00	Emails with S. Zweig re: provision of Nisshinbo parts
CH	08/09/23	315.00	0.40	126.00	Update service list and add counsel to Caselines
JTN	08/09/23	575.00	1.00	575.00	Attend to multiple emails with client re Mexico; Engaged with review of further iterations of draft letter re Mexico; Receipt and review of email from J. Leslie; Consider same; Email exchanges with client re same; Email exchange with client re Berg; Email to Berg's counsel
JY	08/09/23	425.00	1.70	722.50	Revise draft letter to stakeholder; emails to the receiver; plan and prepare for court attendance; review and consider issues related to repair lien
SLG	08/09/23	925.00	0.30	277.50	Emails with R Kofman and J. Nemers re: Italy claim and PPSA issues for equipment

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
CH	11/09/23	315.00	0.50	157.50	Receive instruction from J. Yantzi re drafting of counsel slip; Draft counsel slip
CH	11/09/23	315.00	0.10	31.50	Discussion with J. Nemers re occupancy agreement
JTN	11/09/23	575.00	2.20	1,265.00	Engaged with review of updated draft template APS; Email exchange with client re same; Engaged with drafting of occupation agreement; Email exchange with client re same; Prepare draft responding email to J. Leslie; Email to client re same; Additional email exchanges; Attend to related tasks
JY	11/09/23	425.00	0.60	255.00	Review correspondence with stakeholder; review revisions to the form of asset purchase agreement; confer with J. Nemers; consider issues related to occupancy agreement
CH	12/09/23	315.00	0.30	94.50	Emails with J. Yantzi and S. Hans re counsel slip
DP	12/09/23	475.00	0.30	142.50	Discussion with J. Nemers re pension plan entitlements through statutory notice period
JTN	12/09/23	575.00	3.50	2,012.50	Email exchanges with client; Email to J. Leslie; Email exchanges with court office re Caselines-related matters and attend to tasks re same; Email to Service List; Telephone call with client re IP-related matters; Engaged with drafting of email for client re same; Telephone calls with client re RSLA claimant; Telephone call and email exchange with counsel for RSLA claimant; Telephone calls with client re matters re DPSP; Telephone call with D. Peregoudova re same; Attend to related matters
SLG	12/09/23	925.00	0.10	92.50	Email re: rigolift
JTN	13/09/23	575.00	0.50	287.50	Telephone calls with M. Vininsky and C. Horsten; Prepare for Friday's hearing
CH	14/09/23	315.00	0.60	189.00	Revise counsel slip and upload to Caselines
JTN	14/09/23	575.00	0.20	115.00	Email exchange with C. Horsten; Email exchange with E. Gionet; Telephone call with M. Vininsky
SLG	14/09/23	925.00	0.10	92.50	Email re: retrieval of tools
JTN	15/09/23	575.00	1.90	1,092.50	Attend at hearing; Telephone calls with M. Vininsky; Email exchanges with E. Gionet; Consider same; Email exchanges with E. Lamek, M. Vininsky and B. Kofman re IP-related matters; Consider same; Receipt and review of His Honour's endorsement from today's hearing; Email to Service List; Attend to related matters

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
PLW	15/09/23	255.00	0.40	102.00	Submitted Order of September 15, 2023 for entry online with the court
SLG	15/09/23	925.00	0.10	92.50	Review endorsement
JTN	16/09/23	575.00	0.20	115.00	Email exchanges with B. Kofman, M. Vininsky and E. Lamek re certain IP-related matters
JTN	17/09/23	575.00	0.10	57.50	Email exchanges with client and E. Lamek
JTN	18/09/23	575.00	3.00	1,725.00	Attend on conference call with client and E. Lamek re certain IP-related matters; Telephone calls and email exchanges with M. Vininsky re same; Telephone call and email exchange with K. Clark re same; Engaged with drafting of revised email to certain customers re same; Telephone call with N. MacParland; Email exchange with Dickinson Wright; Engaged with review of and revisions to draft indemnity agreement; Attend to related matters
JY	18/09/23	425.00	1.40	595.00	Receive instructions from J. Nemers; draft indemnity agreement
KRC	18/09/23	750.00	1.10	825.00	Emails with J. Nemers regarding IP search; meeting with J. Adams regarding patent search; preparation of amendments to schedule
JGA	19/09/23	272.82	2.10	572.92	Searching patent databases to compile list of all patents owned/assigned to Util Canada Ltd. Also searching patents owned/assigned to companies with similar names (Util Industries, Util Industries S.P.A.)
JGA	19/09/23	238.34	0.50	119.17	Creating summary document of all patents owned/assigned to Util Canada Ltd. Also searching patents owned/assigned to companies with similar names (Util Industries, Util Industries S.P.A.)
JTN	19/09/23	575.00	2.50	1,437.50	Attend to multiple email exchanges and telephone calls with client and E. Lamek re certain IP-related matters; Engaged with review of select materials re same; Email exchange with N. MacParland; Receipt and review of correspondence re Mexico; Prepare draft responding email to client re same; Attend to related matters
CH	20/09/23	315.00	0.40	126.00	Update service list and Caselines access for counsel
JTN	20/09/23	575.00	0.40	230.00	Engaged with review of updated draft occupancy agreement; Email exchange with client re same; Receipt and review of additional notices of appearance; Email exchange with client re same

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
JTN	21/09/23	575.00	0.40	230.00	Email exchange with client; Email exchange with Dickinson Wright re leasing matters
JTN	22/09/23	575.00	0.30	172.50	Email exchanges with client; Receipt and review of documentation re certain equipment; Telephone call with M. Vininsky re same and related matters
JTN	24/09/23	575.00	0.10	57.50	Email exchange with client re Mexico
JTN	26/09/23	575.00	0.30	172.50	Email exchange with client and E. Lamek; Further follow-up email to Dickinson Wright; Attend to related tasks
JTN	27/09/23	575.00	0.60	345.00	Email exchange with client re stakeholder enquiry re template APS; Receipt and review of email from Dickinson Wright requesting further extension re leasing evidence; Consider same; Email to Dickinson Wright re same and related matters
JY	27/09/23	425.00	0.30	127.50	Email to receiver re stakeholder inquiry; email to stakeholder's counsel
JTN	29/09/23	575.00	0.50	287.50	Email exchanges and telephone call with E. Gionet; Email exchanges with client re same
JTN	30/09/23	575.00	0.30	172.50	Receipt, review and consideration of updated draft occupation agreement; Email exchange with M. Vininsky re same
TOTAL:			49.50	\$25,550.09	

Name	Hours	Rate	Value
Adams, Jonathan G. (JGA)	2.60	\$266.19	\$692.09
Clark, Kenneth R (KRC)	1.10	\$750.00	\$825.00
Graff, Steven L. (SLG)	3.20	\$925.00	\$2,960.00
Horsten, Calvin (CH)	7.10	\$315.00	\$2,236.50
Nemers, Jeremy T (JTN)	25.80	\$575.00	\$14,835.00
Peregoudova, Daria (DP)	0.30	\$475.00	\$142.50
Williams, Patrick L. (PLW)	0.80	\$255.00	\$204.00
Yantzi, Jonathan (JY)	8.60	\$425.00	\$3,655.00

OUR FEE	\$25,550.09
HST @ 13%	3,321.51

DISBURSEMENTS

Non-Taxable Disbursements

Due Diligence-Gov Fee (16.00)

Total Non-Taxable Disbursements \$(16.00)

Taxable Disbursements

Binding and Tabs	4.25
Courier/Delivery	113.42
Due Diligence	(20.00)
Photocopies/Scanning	28.50

Total Taxable Disbursements	\$126.17
HST @ 13%	16.40

AMOUNT DUE

\$28,998.17 CAD

THIS IS OUR INVOICE HEREIN
AIRD & BERLIS LLP



Steven L. Graff

E.&O.E.

Payment Information

Payment by Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
TD Canada Trust	Bank No.:	004
TD Centre	Transit No.:	10202
55 King Street West	Account:	5221521
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTTOR

Payment by Cheque:

Payable To:
Aird & Berlis LLP
Brookfield Place, Suite 1800
181 Bay Street
Toronto, ON M5J 2T9

Email notification for EFT and WIRE payments: accounting@airdberlis.com

Payment is due on receipt.

Please quote our Matter No. and the invoice number(s) to ensure correct allocation of payment.

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 5% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS INVOICE IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

* For legal services provided to clients residing in British Columbia, Quebec, Manitoba and Saskatchewan, clients are advised to self-assess provincial sales tax on fees and disbursements charged.

AIRD BERLIS

Aird & Berlis LLP
Brookfield Place, Suite 1800
181 Bay Street
Toronto, Ontario M5J 2T9 Canada

T 416 863 1500
F 416 863 1515
airdberlis.com

KSV Advisory Inc.
220 Bay Street, 13th Floor
P.O. Box 20
Toronto, Ontario
M5J 2W4 Canada

October 31, 2023

Attention: Mr. Bobby Kofman

Invoice No: 1359562

Re: **Util Canada**

Client No: 041611

Matter No: 310592

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending October 31, 2023

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
JTN	01/10/23	575.00	0.10	57.50	Email exchanges with client and E. Lamek
JTN	02/10/23	575.00	1.60	920.00	Receipt and review of further email from Dickinson Wright; Attend on without prejudice telephone call with same; Reply email to Dickinson Wright; Receipt, review and consideration of letter and attachments from D. Wright; Email to client re same; Receipt and review of blackline draft occupation agreement from landlord; Consider same; Email to client re same; Email exchange with E. Gionet
SLG	02/10/23	925.00	0.30	277.50	Review email of D. Siefer re lifts and equipment
JTN	03/10/23	575.00	0.50	287.50	Email exchanges with client re occupation agreement, Dickinson Wright, Japanese litigation and other related matters
JTN	04/10/23	575.00	0.10	57.50	Email to working group re Japanese litigation
JTN	05/10/23	575.00	0.70	402.50	Email exchanges with stakeholders re today's bid deadline and related matters; Engaged with high-level review of select bids; Telephone call with M. Vininsky re employee claim; Attend to related matters
JTN	06/10/23	575.00	0.10	57.50	Discussion with M. Vininsky re bids
JTN	10/10/23	575.00	0.20	115.00	Email exchanges with Dickinson Wright and client
JTN	11/10/23	575.00	0.40	230.00	Telephone call with M. Vininsky re bid process; Instruct J. Yantzi re certain matters re same; Receipt and review of certain materials from client re certain equipment

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
CH	12/10/23	315.00	0.30	94.50	Update Service List
JTN	12/10/23	575.00	2.50	1,437.50	Engaged with revisions to several rounds of draft auction agreement; Telephone calls and email exchanges with J. Yantzi re same; Email exchanges with client re same; Email exchange with O. Vereshchak; Attend to matters re same; Email exchanges with client re Dickinson Wright-related matters; Attend to related tasks
JY	12/10/23	425.00	2.50	1,062.50	Draft auction services agreement; draft rider re assets left on premises; confer with J. Nemers; email to the receiver
JTN	13/10/23	575.00	0.60	345.00	Receipt and review of email from M. Vininsky re draft auction agreement; Receipt and review of email from client re Dickinson Wright's client; Consider same; Email to client re same
JTN	14/10/23	575.00	0.10	57.50	Email exchange with B. Kofman re Dickinson Wright
JTN	17/10/23	575.00	0.20	115.00	Email exchanges with D. Ward, client and others re Mexico
JTN	18/10/23	575.00	0.10	57.50	Email exchange with M. Vininsky re Dickinson Wright
JTN	19/10/23	575.00	2.40	1,380.00	Receipt and review of client and proposed auctioneer's comments to draft agreement; Telephone call with M. Vininsky re same; Discussions with J. Yantzi re same; Attend to matters re comments on draft agreement; Email to client re same; Telephone call with M. Vininsky re Dickinson Wright; Telephone call with D. Seifer re same; Email exchange with client re same; Email exchanges with D. Ward and client re Mexico; Attend to related matters
JY	19/10/23	425.00	2.10	892.50	Review comments on the auction services agreement; confer with J. Nemers
JTN	20/10/23	575.00	2.10	1,207.50	Receipt and review of auctioneer's further comments re draft auction agreement; Telephone calls with J. Yantzi and M. Vininsky re same; Engaged with further changes to draft auction agreement; Lengthy email to client re same; Attend to related matters; Email exchanges re Mexico
JY	20/10/23	425.00	0.40	170.00	Consider prospective auctioneer's comments on agreement; confer with J. Nemers

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
JTN	24/10/23	575.00	1.60	920.00	Engaged with drafting of lengthy email to Dickinson Wright; Email exchange with client re same; Receipt and review of email from client re discussion with auctioneer; Attend to tasks re same
JY	24/10/23	425.00	0.40	170.00	Revise draft auction services agreement; email to the Receiver
JTN	25/10/23	575.00	2.00	1,150.00	Telephone call with M. Vininsky and email exchanges with client re Dickinson Wright, auction agreement, allocations therein and related matters; Compare allocations with bid submitted by E. Gionet's client and submit findings to client; Email to Dickinson Wright; Attend to related matters
JTN	26/10/23	575.00	2.20	1,265.00	Telephone calls and email exchanges with J. Yantzi re revisions to auction agreement and equipment sale agreement; Engaged with review of same; Email exchanges with client; Email exchanges with auctioneer; Email to E. Gionet; Attend to related matters
JY	26/10/23	425.00	1.70	722.50	Revise asset purchase agreement; confer with J. Nemers; email to the receiver; revise auction services agreement
JTN	27/10/23	575.00	1.50	862.50	Email exchanges with working group and client re auction agreement; Telephone call with P. Taylor re same; Receipt and review of email from Dickinson Wright; Email exchange with client re same; Attend to related matters
JY	27/10/23	425.00	1.70	722.50	Review revisions to and correspondence re draft auction services agreement; confer with J. Nemers; consider issue related to indemnity provision; revise auction services agreement; emails to the auctioneer and its counsel; emails to the receiver
SLG	27/10/23	925.00	0.10	92.50	Emails with J. Leslie re: offer
JTN	28/10/23	575.00	0.30	172.50	Email exchanges with client re auction agreement and Dickinson Wright
JTN	29/10/23	575.00	0.10	57.50	Receipt and review of email from auctioneer
CH	30/10/23	315.00	0.20	63.00	Receive and review correspondence between KSV and Barrie Welding for purchase of equipment

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
JTN	30/10/23	575.00	1.80	1,035.00	Email exchanges and telephone call with client; Email exchanges with and voicemail for E. Gionet; Arrange for hearing date and attend to related tasks; Engaged with review and provide comments re disclaimer notice; Engaged with review of fully-executed auction agreement and equipment sale agreement; Attend to related tasks
JY	30/10/23	425.00	2.10	892.50	Receipt and review of executed auction services agreement; confer with J. Nemers; emails to the receiver; prepare form of lease disclaimer; consider issues related to motion materials; consider issues related to sale transaction closing
JTN	31/10/23	575.00	0.10	57.50	Email to M. Vininsky
JY	31/10/23	425.00	0.20	85.00	Revise disclaimer of lease; email to the receiver
TOTAL:			33.30	\$17,492.50	

Name	Hours	Rate	Value
Graff, Steven L. (SLG)	0.40	\$925.00	\$370.00
Horsten, Calvin (CH)	0.50	\$315.00	\$157.50
Nemers, Jeremy T (JTN)	21.30	\$575.00	\$12,247.50
Yantzi, Jonathan (JY)	11.10	\$425.00	\$4,717.50

OUR FEE	\$17,492.50
HST @ 13%	2,274.03

AMOUNT DUE	\$19,766.53 CAD
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THIS IS OUR INVOICE HEREIN
AIRD & BERLIS LLP



Steven L. Graff

E.&O.E.

Payment by EFT / Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
TD Canada Trust	Bank No.:	004
TD Centre	Transit No.:	10202
55 King Street West	Account:	5221521
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTTOR

Payment by Cheque:

Payable To:
Aird & Berlis LLP
Brookfield Place, Suite 1800
181 Bay Street
Toronto, ON M5J 2T9

Bill.Com Payment Network ID: c114483219512158

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GST / HST Registration # 12184 6539 RT0001

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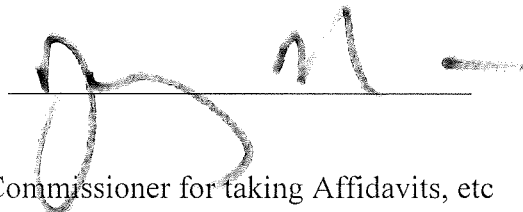
Attached is Exhibit "B"

Referred to in the

AFFIDAVIT OF STEVEN L. GRAFF

Sworn before me

this 8th day of November, 2023

A handwritten signature in dark ink, appearing to read "J. Hensley", is written over a horizontal line.

Commissioner for taking Affidavits, etc

JEREMY HENSELEY

STATEMENT OF RESPONSIBLE INDIVIDUALS

Aird & Berlis LLP's professional fees herein are made with respect to the following individuals

Lawyer	Call to Bar	Hrly Rate	Total Time	Value
Billard, S. C.	1985	\$825.00 (2023)	9.50	\$7,837.50
Clark, K. R.	2001	\$750.00 (2023)	1.10	\$825.00
Graff, S. L.	1991	\$925.00 (2023)	39.30	\$36,352.50
Horvat, M. F.	1999	\$690.00 (2023)	2.00	\$1,380.00
Lici, M.	2020	\$395.00 (2023)	2.90	\$1,145.50
Lisi, L.	1990	\$715.00 (2023)	9.70	\$6,935.50
Nemers, J. T.	2014	\$575.00 (2023)	91.40	\$52,555.00
Peregoudova, D.	2017	\$475.00 (2023)	1.20	\$570.00
Yantzi, J.	2019	\$425.00 (2023)	46.40	\$19,720.00
Clerk/Student	Call to Bar	Hrly Rate		Value
Morris, S. R.	N/A	\$440.00 (2023)	3.60	\$1,584.00
Williams, P. L.	N/A	\$255.00 (2023)	1.60	\$408.00
Horsten, C.	N/A	\$4.55 (2023)	27.70	\$126.00
		\$315.00 (2023)	7.60	\$2,394.00
Adams, J.	N/A	\$266.19 (2023)	2.60	\$692.09

**Standard hourly rates listed. However, in certain circumstances adjustments to the account were made.*

DeA CAPITAL ALTERNATIVE FUNDS SGR S.p.A.
as managing company of Italian closed-end investment
Fund IDeA CCR (Corporate Credit Recovery) I
Applicant

- and -

UTIL CANADA LIMITED

Respondent

Court File No. CV-23-00703958-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

AFFIDAVIT OF STEVEN L. GRAFF
(sworn November 8, 2023)

AIRD & BERLIS LLP
181 Bay Street, Suite 1800
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Jonathan Yantzi (LSO # 77533A)
Tel: (416) 865-4733
Email: jyantzi@airdberlis.com

Lawyers for KSV Restructuring Inc.