

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Case No. 20-32465
BOS SOLUTIONS LTD.	§	
	§	Chapter 15
Debtor in a foreign proceeding.	§	
	§	Joint Administration Requested
	§	
In re:	§	
	§	Case No. 20-32467
BOS SOLUTIONS INC.	§	
	§	Chapter 15
Debtor in a foreign proceeding.	§	
	§	Joint Administration Requested
	§	
In re:	§	
	§	Case No. 20-32468
BOS LEASECO LLC	§	
	§	Chapter 15
Debtor in a foreign proceeding.	§	
	§	Joint Administration Requested
	§	
In re:	§	
	§	Case No. 20-32469
BOS SOLUTIONS REAL ESTATE INC.	§	
	§	Chapter 15
Debtor in a foreign proceeding.	§	
	§	Joint Administration Requested
	§	
In re:	§	
	§	Case No. 20-32470
BOS USHOLDCO INC.	§	
	§	Chapter 15
Debtor in a foreign proceeding.	§	
	§	Joint Administration Requested
	§	

**DECLARATION OF FOREIGN COUNSEL
UNDER PENALTY OF PERJURY**

1. I am a Partner in Blake, Cassels & Graydon, LLP ("Blakes"). My office is located at 855 2nd Street S.W., Suite 3500, Calgary, Alberta, T2P 4J8, Canada. I graduated with

a J.D. from the University of Western Ontario in 1998 and received my LL.M from Osgoode Hall Law School in 2007. I am a member of the Law Society of Alberta and the Law Society of Ontario and was admitted to the Alberta Bar in 2001 and the Ontario Bar in 2000. I have practiced at Blakes since 2007 and I am the head of the Restructuring & Insolvency group at the Blakes Calgary office. Prior to joining Blakes, I articulated and practiced at an international law firm in Toronto, Ontario, practiced at a boutique Calgary firm and was a legal and policy advisor to two consecutive Chairmen of the Canadian Senate Standing Committee on Banking, Trade and Commerce. My practice focuses primarily on insolvency and corporate restructuring proceedings. As part of my practice, I have been involved in numerous cross-border proceedings, including Chapter 15 proceedings, such as *In re Sanjel (USA) Inc.*, No. 16-50778 (Bankr. W.D. Tex.), *In re Argent Energy (Canada) Holdings, Inc.*, No. 16-20060 (Bankr. S.D. Tex.), and *In re Eagle Energy Inc.*, No. 19-33868 (Bankr. N.D. Tex.).

2. Blakes' client is Ernst & Young Inc. ("EY") solely in its capacity as court-appointed receiver (the "Receiver") of (1) BOS Solutions Ltd. ("BOS Ltd."), (2) BOS Solutions Inc. ("BOS Inc."), (3) BOS Leaseco LLC ("BOS Leaseco"), (4) BOS Solutions Real Estate Inc. ("BOS Real Estate"), and (5) BOS USHoldco Inc. ("BOS Holdco") (collectively, "BOS" or the "Debtors") pursuant to the Receivership Order dated May 4, 2020, entered by the Court of Queen's Bench of Alberta in the Judicial Centre of Calgary, Canada, Court File No. 2001-05949 (the "Canadian Court" and the "Canadian Proceedings") under Canada's Bankruptcy and Insolvency Act.

3. Contemporaneously herewith, as foreign representative, the Receiver has caused to be filed Official Form 401 Chapter 15 petitions for each of the Debtors in the above referenced cases.

4. As foreign representative for the Debtors in these Chapter 15 cases, the Receiver seeks recognition of the Canadian Proceedings as the foreign main proceedings for the Debtors; alternatively, as foreign non-main proceedings.

5. On May 4, 2020, National Bank of Canada as the administrative agent (the "Agent") on behalf of a group of corporate entities (collectively, the "Lenders") filed an Application (Receivership Order) in the Canadian Proceedings seeking the appointment of EY as receiver under section 243 of the Bankruptcy and Insolvency Act, RSC 1985 c B-3 (the "BIA") and section 13(2) of the Judicature Act, RSA 2000 c J-2. On May 4, 2020, the Canadian Court, Honorable Justice P. R. Jeffrey, entered the Receivership Order (the "Receivership Order") pursuant to section 243(1) of the BIA and 13(2) of the Judicature Act.

6. I attended the hearing at which the Receivership Order was granted. A true and correct copy of the Receivership Order signed by Justice P. R. Jeffrey is attached to this Declaration as Exhibit A. At the time of the filing of the Debtors' chapter 15 petitions with this Court, the Receiver had not yet received a certified copy of the Receivership Order from the Canadian Court.

7. The Bankruptcy and Insolvency Act ("BIA") is one of two pieces of federal legislation in Canada applicable to bankruptcies and insolvencies.¹ Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 (Can.). The BIA governs both voluntary and involuntary bankruptcy liquidations and provides for debtor reorganizations.

8. The BIA also authorizes a court to appoint a receiver upon a secured creditor's application. *Id.* § 243(1). Such court-appointed receivers are given a mandate and specific

¹ The second federal legislation in Canada concerning bankruptcies and insolvencies is the Companies' Creditors Arrangement Act ("CCAA"), which affords financially troubled corporations the opportunity to restructure their financial affairs through a "Plan of Arrangement." Companies' Creditors Arrangement Act, RSC 1985 c C-36 (Can.). The CCAA process is akin to chapter 11 of the Bankruptcy Code, affording companies an opportunity to restructure

powers as set out in the order appointing the receiver. These duties typically include: (1) taking possession and control of the property and assets of the debtor; (2) marketing and selling such property and assets in a commercially reasonable manner (whether as a going concern, en-bloc, or otherwise) and under the supervision and approval of the appointing court; and (3) distributing the proceeds of such sales to the stakeholders in accordance with the legal entitlement. The appointing court has broad discretion to authorize the receiver to “take any other action that the court considers advisable.” *Id.* § 243(1)(c).

9. A court-appointed receiver under the BIA is a “national” receiver, meaning that a receiver administers assets in each of Canada’s ten provinces and three territories, typically without further order of provincial courts. The BIA and its related legislation (the Companies’ Creditors Arrangement Act) are federal legislation. But provincial legislative jurisdiction governs property and civil rights, potentially affecting some insolvency-related matters, similar to the interplay between state and federal law in the United States. Nonetheless, the BIA provides a statutory framework for a court-appointed receiver to carry out its mandate on a national basis rather than relying on the various provincial statutes or courts for its authority.

10. The Judicature Act authorizes the Court to appoint a receiver where it is “just and convenient” on any terms and conditions the Court thinks just. Generally, the Judicature Act codifies broad equitable powers of the Court which allows it to provide for certain remedies where equitable, including the appointment of a receiver. The powers and duties of a receiver appointed by the Court pursuant to section 13(2) of the Judicature Act are set out in the order appointing the receiver and may be tailored to the specific circumstances. Generally, such powers and/or duties will be the same or similar to a receiver appointed under the BIA as noted above.

operations rather than liquidate. See *In re Fracmaster, Ltd.*, 237 B.R. 627, 629 n.3 (Bankr. E.D. Tex. 1999).

11. I have been asked to opine on whether the Canadian Proceedings meet the definition of “foreign proceeding” under 11 U.S.C. § 101(23), which provides that a foreign proceeding is:

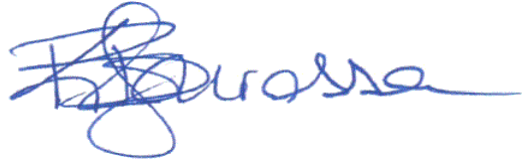
a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation.

12. In my opinion, based on the above analysis, the Canadian Proceedings are foreign proceedings within the meaning of 11 U.S.C. § 101(23).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

[Remainder of this page intentionally left blank; signature page will follow]

Executed this 4th day of May, 2020.

A handwritten signature in blue ink, appearing to read "Bourassa", with a large, stylized initial "B" and a long horizontal stroke extending to the right.

By:
Kelly Bourassa, Canadian Counsel
for Receiver and Foreign Representative

EXHIBIT A

Clerk's Stamp

COURT FILE NUMBER	2001-05949
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	NATIONAL BANK OF CANADA, AS AGENT
DEFENDANTS	BOS SOLUTIONS LTD., BOS SOLUTIONS INC., BOS LEASECO LLC, BOS SOLUTIONS REAL ESTATE INC., BOS USHOLDCO INC.
DOCUMENT	CONSENT RECEIVERSHIP ORDER
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	McCARTHY TÉTRAULT LLP 4000, 421 – 7 th Avenue SW Calgary, AB T2P 4K9 Attention: Sean Collins / Walker W. MacLeod / Pantelis Kyriakakis Tel: 403-260-3531 / 3710 / 3536 Fax: 403-260-3501 Email: scollins@mccarthy.ca / wmacleod@mccarthy.ca / pkyriakakis@mccarthy.ca

DATE ON WHICH ORDER WAS PRONOUNCED: May 4, 2020

NAME OF JUDGE WHO MADE THIS ORDER: Justice P. R. Jeffrey

LOCATION OF HEARING Calgary, Alberta

UPON the application (the “**Application**”) of National Bank of Canada (“**NBC**”), as agent and lender for and on behalf of the lenders (the “**Lenders**”) in respect of the Defendants (collectively, the “**Debtors**”); **AND UPON** having read the Application, the Affidavit of Audrey Ng, sworn on May 3, 2020, filed; **AND UPON** reading the consent of Ernst & Young Inc. to act as receiver and manager (the “**Receiver**”) of all of the assets, properties, and undertakings of the Debtors, filed; **AND UPON** noting the consent of counsel to the Debtors endorsed herein; **AND UPON** hearing counsel for NBC and any other persons present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

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

APPOINTMENT

2. Pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”), and section 13(2) of the *Judicature Act*, R.S.A. 2000, c.J-2, Ernst & Young Inc. (the “**Receiver**”) is hereby appointed Receiver, without security, of all of BOS Solutions Ltd., BOS Solutions Inc., BOS Leasco LLC, BOS Solutions Real Estate Inc., and BOS USHoldco Inc.’s current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (collectively, the “**Property**”).

RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver’s powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;

- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to or by the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court. Without limiting the generality of the foregoing, the Receiver is hereby expressly authorized and empowered to commence, advance and prosecute proceedings in the United States for the purposes of obtaining an order from a court of competent jurisdiction in the United States recognizing the within proceedings under Chapter 15 of Title 11 of the *United States Bankruptcy Code* (the "**US Bankruptcy Code**") and to act as foreign representative for and on behalf of any of the Debtors in any proceeding that is commenced under the US Bankruptcy Code;
- (k) to market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:

- (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; 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 60(8) of the *Personal Property Security Act*, R.S.A. 2000, c. P-7 or any other similar legislation in any other province or territory shall not be required.

- (m) to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing orders) necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other orders in respect of the Property against title to any of the Property, and when submitted by the Receiver for registration this Order shall be immediately registered by the Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding Section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles shall accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtors and not in its personal capacity;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;

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

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client

communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.

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

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OF REMEDIES

9. All rights and remedies of any Person, whether judicial or extra-judicial, statutory or non-statutory (including, without limitation, set-off rights) against or in respect of the Debtors or the Receiver or affecting the Property are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, however, 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 Order shall:

- (a) empower the Debtors to carry on any business that the Debtors is not lawfully entitled to carry on;
- (b) prevent the filing of any registration to preserve or perfect a security interest including, without limitation, perfection of the security interests held by the Lenders in titled personal property of the Debtors, or any of them. The Receiver be and is hereby expressly authorized to provide such assistance to the Lenders as they may require in perfecting such security;
- (c) prevent the registration of a claim for lien; or
- (d) exempt the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment.

10. Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH THE RECEIVER

11. No Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, except with the written consent of the Debtors and the Receiver, or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract (as defined in the BIA) from closing out and terminating such contract in accordance with its terms.

CONTINUATION OF SERVICES

12. All persons having:

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

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

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

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

may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c. 47 ("**WEPPA**"). The Receiver be and is hereby authorized and directed to pay the Debtors' payroll, pay outstanding gst, and discharge other remunerative-based obligations to employees and others as set out below:

Payroll	\$1,336,160.00
Accrued Vacation	\$213, 299.00
GST	\$130,990.00
RRSP	\$4,200.00
Total – CAD\$	\$1,684,649.00
CAD to USD FX Rate	0.718907261
Total – USD\$	\$1,211,106.40

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:

- (i) before the Receiver's appointment; or

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

- (iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

LIMITATION ON THE RECEIVER'S LIABILITY

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

RECEIVER'S ACCOUNTS

18. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1,000,000.00 (or such greater amount as this Court may by further order authorize), as security for their professional fees and disbursements incurred at the normal rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) and 88 of the BIA.

19. The Receiver and its legal counsel shall pass their accounts from time to time.

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

FUNDING OF THE RECEIVERSHIP

21. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed CAD\$2,500,000 (or such greater

amount as this Court may by further order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) and 88 of the BIA.

22. Neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

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

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

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

ALLOCATION

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

GENERAL

27. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Receiver's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.

29. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

31. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. The Plaintiff shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis, including legal costs on a solicitor-client full indemnity basis, to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

33. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

FILING

34. The Receiver shall establish and maintain a website in respect of these proceedings at www.ey.com/ca/bossolutions (the "**Receiver's Website**") and shall post there as soon as practicable:

- 14 -

- (a) all materials prescribed by statute or regulation to be made publically available; and
- (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.

35. Service of this Order shall be deemed good and sufficient by:

- (a) serving the same on:
 - (i) the persons listed on the service list created in these proceedings or otherwise served with notice of these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order; and
 - (iv) posting a copy of this Order on the Receiver's Website

and service on any other person is hereby dispensed with.

36. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.


Justice of the Court of Queen's Bench of
Alberta

CONSENTED TO BY:

NORTON ROSE FULBRIGHT CANADA LLP

Per: _____

Howard A. Gorman
Counsel to BOS Solutions Ltd., BOS
Solutions Inc., BOS LeaseCo LLC, BOS
Solutions Real Estate Inc., BOS
USHoldCo Inc.

- (a) all materials prescribed by statute or regulation to be made publically available; and
- (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.

35. Service of this Order shall be deemed good and sufficient by:

- (a) serving the same on:
 - (i) the persons listed on the service list created in these proceedings or otherwise served with notice of these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order; and
 - (iv) posting a copy of this Order on the Receiver's Website

and service on any other person is hereby dispensed with.

36. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

Justice of the Court of Queen's Bench of
Alberta

CONSENTED TO BY:

NORTON ROSE FULBRIGHT CANADA LLP

Per: _____

Howard A. Gorman Q. C.,
Counsel to BOS Solutions Ltd., BOS
Solutions Inc., BOS LeaseCo LLC, BOS
Solutions Real Estate Inc., BOS
USHoldCo Inc.

**SCHEDULE "A" TO THE FORM OF RECEIVERSHIP ORDER
RECEIVER'S CERTIFICATE**

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that ●, the receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of the Debtors appointed by Order of the Court of Queen's Bench of Alberta (the "**Court**") dated the ● day of ●, 2020 (the "**Order**") made in action number _____, 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 after the date hereof at a notional rate per annum equal to the rate of 5 per cent above the prime commercial lending rate of National Bank of Canada 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 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 National Bank of Canada, 311 – 6 Avenue SW, Suite 600, Calgary, AB, T2P 3H2.
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.

- 17 -

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.

8. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Order.

DATED the ____ day of _____, 20__.

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

Per:

Name:

Title: