

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
JUSTICE HAINEY

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)

THURSDAY, THE 1st DAY OF
NOVEMBER, 2018



IN THE MATTER OF THE PROPOSAL OF
ALFACON SOLUTIONS LIMITED
OF THE TOWN OF MILTON, IN THE PROVINCE OF ONTARIO

ORDER

THIS MOTION, made by Alfacon Solutions Limited ("**Alfacon**") pursuant to the *Bankruptcy and Insolvency Act*, R.S.C 1985, c B-3, as amended (the "**BIA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of John Murdoch sworn October 30, 2018 and the Exhibits thereto (the "**Murdoch Affidavit**"), the First Report of MNP Ltd. (the "**Proposal Trustee**") dated October 30, 2018 (the "**First Report**") and on being advised that the creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for Alfacon, the Proposal Trustee and any other parties who signed the counsel slip:

Service

1. **THIS COURT ORDERS** that the time for service of the Alfacon's Notice of Motion and Motion Record and the First Report is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **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/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant 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://mnpdebt.ca/en/corporate/engagements/alfacon-solutions-limited>

3. **THIS COURT ORDERS** that the E-Service List Keeper and the WebHost (as such terms are defined in the Protocol) for the purpose of this proceeding shall be the Proposal Trustee.

Extension of Time to File Proposal

4. **THIS COURT ORDERS** that the time for filing of the Proposal, and the stay of proceedings herein, are extended in accordance with Section 50.4(9) of the BIA for a period of 15 days, to and including November 16, 2018.

5. **THIS COURT ORDERS** that the exercise by the Proposal Trustee of any of its powers, the performance by the Proposal Trustee of any of its duties, or the use or employment by the Proposal Trustee of any person in connection with its appointment and the performance of its powers and duties shall not constitute the Proposal Trustee the employer, successor employer or related employer of the employees of Alfacon within the meaning of any provincial, federal or municipal legislation or common law governing employment, pensions or labour standards or any other statute, regulation or rule of law or equity for any purpose whatsoever or expose the Proposal Trustee to liability to any individuals arising from or relating to their previous employment by Alfacon.

6. **THIS COURT ORDERS** that the Proposal Trustee is not, and shall not be or be deemed to be, a director, officer or employee of Alfacon.

7. **THIS COURT ORDERS** that Alfacon shall continue to have the benefit of all of the protections and priorities as set out in the BIA, or this Order, and any such protections and

priorities shall apply to the Proposal Trustee in fulfilling its duties and exercising any of its powers under this Order or any other Order of this Court.

8. **THIS COURT ORDERS** that Alfacon its management and advisors shall cooperate fully with the Proposal Trustee and any directions it may provide pursuant to this Order or any other Order of this Court and shall provide the Proposal Trustee with such assistance as the Proposal Trustee may request from time to time to enable the Proposal Trustee to carry out its duties and powers as set out in this Order or any other Order of this Court.

9. **THIS COURT ORDERS** that nothing in this Order shall constitute or be deemed to constitute the Proposal Trustee as a receiver, assignee, liquidator, administrator, receiver manager, agent of the creditors or legal representative of Alfacon within the meaning of any relevant legislation and that any distribution made to creditors of Alfacon by the Proposal Trustee will be deemed to have been made by Alfacon itself.

10. **THIS COURT ORDERS** that the Proposal Trustee shall not take possession of the Property, and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the business or Property of Alfacon, or any part thereof.

11. **THIS COURT ORDERS** that nothing herein contained shall require the Proposal Trustee 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 Proposal Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Proposal Trustee shall not, as a result of this Order or anything done in pursuance of the Proposal Trustee'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.

12. **THIS COURT ORDERS** that the Proposal Trustee shall provide any creditor of Alfacon with information provided by Alfacon in response to reasonable requests for information made in writing by such creditor addressed to the Proposal Trustee. The Proposal Trustee shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Proposal Trustee has been advised by Alfacon is confidential, the Proposal Trustee shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Proposal Trustee and Alfacon may agree.

13. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Proposal Trustee under the BIA or as an officer of this Court, the Proposal Trustee shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Proposal Trustee by the BIA or any applicable legislation.

General


14. **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 Alfacon, the Proposal Trustee and their respective 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 Alfacon and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist Alfacon and the Proposal Trustee and their respective agents in carrying out the terms of this Order.

15. **THIS COURT ORDERS** that each of Alfacon and the Proposal Trustee 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 Proposal Trustee 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.

16. THIS COURT ORDERS that Alfacon, the Proposal Trustee and their counsel are at liberty to serve or distribute the Order, any other materials and orders in these proceedings, any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements, within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

17. **THIS COURT ORDERS** that any interested party (including Alfacon and the Proposal Trustee) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



May Nikolaidis
Registrar, Superior Court of Justice

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

NOV 01 2018

PER / PAR: 

IN THE MATTER OF THE PROPOSAL OF ALFACON
SOLUTIONS LIMITED OF THE TOWN OF MILTON, IN
THE PROVINCE OF ONTARIO

Court File No. 32-2427544

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

ORDER

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