

**SUPREME COURT OF NOVA SCOTIA  
IN BANKRUPTCY AND INSOLVENCY**

District of: Nova Scotia  
Division No.: 01-Halifax  
Estate No.: 51-2939212  
Court No.:

IN THE MATTER OF: A Notice of Intention to Make a Proposal  
filed by ATLANTIC SEA CUCUMBER LTD. pursuant to  
Section 50.4 of the *Bankruptcy and Insolvency Act*,  
R.S.C. 1985, B-3

**NOTICE OF APPLICATION IN CHAMBERS**

**To:** The parties listed in Schedule "A" via electronic mail;

**And to:** **msi Spergel Inc.**, Proposed Monitor

Attn: Joshua Santimaw (jsantimaw@boyneclarke.ca)

**The applicant requests an order against you**

The applicant, Atlantic Sea Cucumbers Ltd. (the "**Company**") is applying to a judge in  
General Chambers in Halifax on July \_\_\_\_, 2023 for an Order:

- a) abridging notice periods and service requirements pursuant to section 11 of the *Companies' Creditors Arrangement Act* ("**CCAA**");
- b) directing that service on the service list set out in Schedule "A" hereto is sufficient for the purposes of this Application pursuant to section 11 of the CCAA;
- c) declaring that the Company is a company to which the CCAA applies;
- d) authorizing the continuation under the CCAA of the Company's proposal proceedings commenced under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**"), on May 1, 2023, pursuant to the Notice of Intention to Make a Proposal filed by the Company;
- e) appointing msi Spergel Inc. (the "**Proposed Monitor**") as an officer of this Honourable Court to monitor the business and financial affairs of the Company;

- f) staying, for a period not to exceed 10 days or until otherwise ordered by the court, all proceedings and enforcement processes taken or that might be taken in respect of the Company, the Proposed Monitor, or their respective employees and representatives;
- g) prohibiting, for a period not to exceed 10 days, or until otherwise ordered by the court, the commencement of any action, suit or proceeding against the Company;
- h) granting an administration charge of up to the maximum amount of \$300,000 over the property of the Company; and
- i) such further and other relief as may be requested and this Honorable Court deems just.

The applicant started this application by filing this notice on the date certified by the prothonotary.

#### **Grounds for order**

The applicant is applying for the order on the following grounds:

See **Schedule "B"** attached.

#### **Evidence supporting application**

The applicant offers the following affidavits in support of the application: (i) the affidavit of Songwen Gao, to be filed, and (ii) the Second Report of the Proposal Trustee, msi Spergel Inc.

A copy of each affidavit is to be delivered to you with this notice, and further affidavits may be delivered before the deadlines provided in Civil Procedure Rule 5 - Application.

#### **You may participate**

You may file with the court a notice of contest, and any affidavits upon which you rely, no more than 5 days after this notice is delivered to you or you are otherwise notified of the application. Filing the notice of contest entitles you to notice of further steps in the application, including notice of further affidavits.

### **Time, date, and place**

The application is to be heard by the judge in chambers at \_\_\_\_ on July \_\_\_\_, 2023 in the Law Courts, 1815 Upper Water Street, Halifax, Nova Scotia. The moving parties have set the application for 1/2 day or less. The moving parties say that the application will not require more time.

You have the right to be present and to be represented by counsel or to act on your own. If you are not present, the judge may proceed without you.

### **Possible order against you**

The judge may grant a final order on the application without further notice to you if you fail to deliver your notice of contest on time, or if you or your counsel fail to appear in chambers at the above time, date, and place.

### **Filing and delivering documents**

Any documents you file with the court must be filed at the office of the prothonotary, 1815 Upper Water Street, Halifax, Nova Scotia (telephone #424-2900).

When you file a document you must immediately deliver a copy of it to the applicant and each other party entitled to notice, unless the document is part of an *ex parte* motion, the parties agree delivery is not required, or a judge orders it is not required.

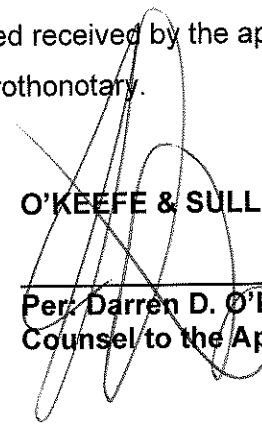
**Contact information**

The applicant designates the following address:

**O'KEEFE & SULLIVAN**  
Suite 202, 80 Elizabeth Ave.,  
St. John's, NL, A1A 1W7

Documents delivered to this address are considered received by the applicant.  
Further contact information is available from the prothonotary.

**Signature**  
Signed July 6, 2023

  
**O'KEEFE & SULLIVAN**  
for **Per Darren D. O'Keefe**  
**Counsel to the Applicant**  
JOSHUA J. SANTIMAW  
Barrister of the Supreme  
Court of Nova Scotia

**Prothonotary's certificate**

I certify that this notice of application was filed with the court on July \_\_, 2023.

\_\_\_\_\_  
**Prothonotary**

**Schedule "A"**

<p><b>O'KEEFE &amp; SULLIVAN</b> 80 Elizabeth Ave., 2nd Floor St. John's, NL A1A 1W7</p> <p><b>Darren D. O'Keefe</b> Tel: 709.700.0911 <a href="mailto:darren@okeefeandcompany.com">darren@okeefeandcompany.com</a></p> <p><b>RECONSTRUCT LLP</b> Royal Bank Plaza, South Tower 200 Bay Street Suite 2305, P.O. Box 120 Toronto, ON M5J 2J3</p> <p><b>Caitlin Fell</b> (LSO #60091H) Tel: 416.613.8282 <a href="mailto:cfell@reconllp.com">cfell@reconllp.com</a></p> <p><b>Shaun Parsons</b> (LSO #81240A) Tel: 416.613.8284 <a href="mailto:sparsons@reconllp.com">sparsons@reconllp.com</a></p> <p>Fax: 416.613.8290</p> <p><b>Lawyers for the Company</b></p>	<p><b>ATLANTIC SEA CUCUMBER LTD</b> 212 Pauls Point Rd, Hacketts Cove, NS B3Z 3K7</p> <p><b>Songwen Gao</b> <a href="mailto:sam@atlanticseacucumber.ca">sam@atlanticseacucumber.ca</a></p> <p><b>The Company</b></p>
<p><b>BOYNECLARKE LLP</b> 99 Wyse Road, Suite 600 Dartmouth, NS B3A 4S5</p> <p><b>Joshua J. Santimaw</b> Tel: (902) 460-3451 <a href="mailto:jsantimaw@boyneclarke.ca">jsantimaw@boyneclarke.ca</a></p> <p><b>Lawyer for the Proposal Trustee</b></p>	<p><b>MSI SPERGEL INC.</b> 21 King Street West, Suite 1602, Hamilton, ON L8P 4W7</p> <p><b>Trevor Pringle</b> Tel: (905) 527-2227 <a href="mailto:tpringle@spergel.ca">tpringle@spergel.ca</a></p> <p><b>The Proposal Trustee</b></p>
<p><b>ATLANTIC GOLDEN AGE HOLDING INC.</b> 19 Carimwell Close Halifax NS B3P 0A6</p> <p><a href="mailto:samunisky@gmail.com">samunisky@gmail.com</a></p>	<p><b>CANADA REVENUE AGENCY</b> 4695 Shawinigan-Sud Blvd Shawinigan-Sud QC G9P 5H9</p>

<b>A Secured Creditor</b>	
<b>EXPORT DEVELOPMENT CANADA</b> 150 Slater St., Ottawa, ON K1A 1K3  <a href="mailto:SCallaghan@edc.ca">SCallaghan@edc.ca</a>	<b>HALIFAX REGIONAL MUNICIPALITY</b> PO Box 1749 Halifax, NS B3J 3A5  <a href="mailto:proptax@halifax.ca">proptax@halifax.ca</a>
<b>ATLANTIC CANADA OPPORTUNITIES AGENCY</b> Blue Cross Centre 644 Main St. PO Box 6051. Moncton, NB E1C 9J8  <a href="mailto:Ghislain.martin@canada.ca">Ghislain.martin@canada.ca</a>	<b>OFFICE OF SUPERINTENDENT OF BANKRUPTCY</b>  Maritime Centre, 1505 Barrington Street, 16th Floor, Halifax, NOVA SCOTIA, B3J 3K5,  877/376-9902

## Schedule "B"

1. The Applicant, Atlantic Sea Cucumber Ltd. (the "**Company**"), is a body corporate and is registered to carry on business in the Province of Nova Scotia.
2. On May 1, 2023 the Company filed a Notice of Intention to Make a Proposal (the "**NOI**") pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. 8-3, as amended from time to time (the "**BIA**").
3. Pursuant to section 69 of the BIA, a debtor filing an NOI is automatically given the benefit of an initial 30 day stay of proceedings, which may be extended in increments of 45 days on sufficient cause pursuant to section 50.4(9) of the BIA.
4. On May 31, 2023, Registrar Balmanoukian granted an Order extending the time for the Company to make a proposal under the BIA up to and including July 15, 2023.
5. Since filing the Notice, the Company has worked diligently toward the goal of presenting a viable proposal to its creditors.
6. The Company is insolvent and now seeks to continue the NOI proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (the "**CCAA**") pursuant to section 11.6 therein. The Company requires the continued stay of proceedings and the other relief set out in the Initial Order to maximize the value of its business while it runs a going-concern sales process for the benefit of all stakeholders. Under the circumstances, a bankruptcy and liquidation would not be commercially reasonable and would result in a worse outcome for the stakeholders of the Company.
7. The Company is a "debtor company" as defined under the CCAA. The total claims against the Company exceed \$5 million. The Company has not filed a proposal in the NOI proceedings and will have sufficient cash to continue operating during the proposed CCAA stay period.

8. The proposal trustee supports the Company's motion to continue the NOI proceedings under the CCAA and will file a report prior to the hearing.

9. The proposed continuation would be consistent with the purposes of the CCAA.

The continuation of the proceeding will, among other things:

- a) permit the Company to continue operations and to solicit going concern sale offers through a sale process. The Company intends to utilize the breathing room afforded by the CCAA and the stay of proceedings to formulate the terms of a sale process to be conducted pursuant to a Court order;
- b) preserve costs by avoiding the need to return to Court every 45 days for approval of a stay extension;
- c) allow the Company the benefit of the flexibility of the CCAA, including by potentially implementing a reverse vesting structure in order to preserve the value of the certain key contracts, among others;
- d) avoid the devastating effects of bankruptcy and liquidation, which would destroy significant value for stakeholders; and
- e) preserve the status quo while attempts are made to maximize value for stakeholders and resolve outstanding disputes.

10. msi Spergel Inc. (the "**Proposed Monitor**") is a trustee within the meaning of section 2(1) of the BIA, and is otherwise qualified to act as the Monitor and has consented to so act.

11. The Company also seeks to abridge the time requirements for bringing this Application, pursuant to section 11 of the CCAA, the Civil Procedure Rules and the inherent jurisdiction of this Court.

12. The Company seeks an administration charge as part of the relief granted by the order up to a maximum of \$300,000 to secure the fees and disbursements of the



professional advisors of the Company, Proposed Monitor and Proposed Monitor's counsel (the "**Administration Charge**"). It is just and appropriate under the circumstances to grant the Administration Charge. The requested relief is limited only to that required to maintain the Company during the initial period of the CCAA until the expiry of the stay of proceedings, in light of the initial NOI proceedings.

13. The Company shall rely upon the following legislation, rules or points of law in respect of the Application:

- a) *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended;
- b) Civil Procedure Rules 22.01 and 23; and
- c) Such further and other grounds as counsel may advise and this Honorable Court may permit.