

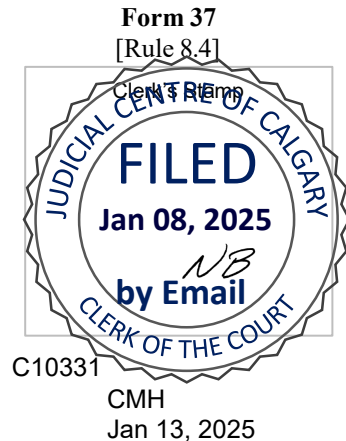
COURT FILE NUMBER 2001-17016

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT STEPHEN SMYTH AS REPRESENTATIVE APPLICANT

RESPONDENT TERVITA CORPORATION



BROUGHT PURSUANT TO THE *CLASS PROCEEDINGS ACT*, SA 2003, c. C-16.5

DOCUMENT **JOINT APPLICATION BY THE RESPONDENT TERVITA CORPORATION and THE APPLICANT STEPHEN SMYTH AS REPRESENTATIVE APPLICANT**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

LAWSON LUNDELL LLP
Barristers and Solicitors
1100, 225 – 6th Avenue SW
Calgary, AB T2P 1N2
Attention: Grant Vogeli, K.C. and Jonathan H. Selnes
Phone: (403) 218-7503
Fax: (403) 269-9494
Email: gvogeli@lawsonlundell.com / jselnes@lawsonlundell.com
File No. 037384-151880

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Justice of the Court of King's Bench of Alberta.

To do so, you must be in Court when the application is heard as shown below:

DATE	Monday, January 13, 2025
TIME	1:00 p.m.
WHERE	Calgary Court Centre, 601 5 Street SW, Calgary, AB, T2P 5P7
BEFORE WHOM	The Case Management Justice, the Honourable Justice G.H. Poelman

Go to the end of this document to see what else you can do and when you must do it.

Introduction

1. The Representative Applicant, Stephen Smyth, and the Respondent, Tervita Corporation (**Tervita**), have entered into a settlement agreement dated November 24, 2022, which settles all claims in this Action against Tervita in this Action, subject to obtaining Court approval of the settlement.
2. The settlement requires the Court's approval as there is a pending application for certification of a class action that has not been certified yet. As there is a pending certification application, the parties are jointly applying for the certification of a class action solely for the purpose of settlement and to approve the settlement in order for the settlement to be valid and binding under the Alberta *Class Proceedings Act* (the **Act**).
3. This is a Joint Application for approval of the settlement and certification of class proceedings against Tervita for the purpose of settlement only pursuant to sections 4 and 35 of the Act so that all of the RSU holders of RSUs issued in 2017 (the proposed settlement class members) are bound by the settlement.
4. This Application requires a two-stage process.
5. First, a scheduling hearing where the Representative Applicant will seek an order generally in the form attached as **Schedule "A"** regarding the notice to be given to the proposed settlement class members of the settlement approval hearing.
6. Second, a settlement approval hearing, where the Representative Applicant will seek an order generally in the form attached as **Schedule "B"**.

Remedy claimed or sought:

7. A notice Order generally in the form attached as **Schedule "A"** that:
 - (a) Gives notice to the proposed settlement class members; and
 - (b) Approves a payment of up to \$8,600 by Tervita of the costs of giving notice.

8. A settlement approval Order generally in the form attached as **Schedule “B”** that approves:
- (a) the certification of a class proceeding for the purpose of settlement only pursuant to s. 4 of the *Class Proceedings Act* and approves the settlement between the parties on November 24, 2022 as being fair, reasonable, and in the best interests of the settlement class pursuant to s. 35 of the *Class Proceedings Act*;
 - (b) the appointment of Mr. Smyth as the Representative Applicant and the firm of Lawson Lundell LLP as **Class Counsel** and the **Administrator** of the settlement;
 - (c) the distribution of the settlement funds payable by Tervita as follows:
 - (i) payment of legal fees and GST to Lawson Lundell LLP as Class Counsel totaling \$146,919.15 pursuant to the terms of the Contingency Agreement with the Representative Applicant;
 - (ii) payment of an honorarium in the amount of \$4,197.69 to Stephen Smyth as the Representative Applicant, which, pursuant to the Contingency Agreement, is a deducted from the legal fees payable to Lawson Lundell and is not an additional amount;
 - (iii) payment of taxable costs and disbursements in the amount of \$20,000; and
 - (iv) payment of \$12,000 in pre-judgment interest; and
 - (v) distribution of the remaining settlement funds to the settlement class members on a *pro rata* basis based upon the amount and value of the RSUs that each class member held;
 - (d) to approve the appointment of Class Counsel to act as claims administrator (the **Administrator**) of the settlement;
 - (e) payment of up to \$25,000 by Tervita to Class Counsel as the Administrator for the reasonable costs of administering the settlement payment to the settlement class;
 - (f) dismissing this Action on a without costs basis;
 - (g) releasing Tervita from any future claims by the settlement class members;
 - (h) confirms members of the settlement class may opt-out of the settlement if they complete an opt-out form and submit it to Class Counsel by the opt-out deadline; and
 - (i) such further and other relief as this Honourable Court may deem just.

Grounds for making this application:

9. On December 23, 2020, the Representative Applicant filed an Originating Application for the certification of a class proceeding against the Respondent Tervita pursuant to the Act.
10. On February 19, 2021, the Representative Applicant was cross-examined by Tervita's then counsel on his Affidavit that he swore in support of the certification application.
11. Beginning in November 2021, the parties engaged in *without prejudice* settlement negotiations, which culminated in a settlement of all claims in this Action on November 24, 2022, subject to the Court's approval.
12. The parties are now applying for approval of this settlement and certification of the class action for the purpose of settlement only via a two-stage process.
13. First, the parties will apply for a scheduling hearing to obtain the Court's approval to give notice to the settlement class members of the settlement approval hearing as required by the Act. Approval of Lawson Lundell LLP's Contingency Agreement with the Representative Applicant will also be sought at this time.
14. Second, the parties seek a settlement approval hearing, where they will apply for an Order approving this settlement on the basis that it is fair and reasonable generally, is in the best interests of the settlement class members, and meets the requirements of the Act. Approval and payment of Lawson Lundell LLP's fees as Class Counsel will also be sought at this time.
15. The pleadings in the Originating Application disclose a cause of action against the Respondent, Tervita.
16. There is an identifiable settlement class that will be represented by Stephen Smyth. The proposed settlement class includes:

All persons who are current and former employees (excluding those that are Designated Individuals as defined in Tervita's Insider Trading Policy, were terminated for cause, or voluntarily quit) of Tervita who were granted RSUs pursuant to Tervita's 2017 Restricted Stock Unit Plan with a maturity date of January 2, 2020 but did not materially vest until March 27, 2020 (the **Settlement Class**).
17. The Settlement Class is comprised of one hundred and five (105) members of which twenty-five (25) remain employees of Secure following its merger with Tervita on July 2, 2021.

18. A class proceeding is the preferable procedure for the resolution of the common issues.
19. The Representative Applicant, Mr. Smyth:
 - (a) will fairly and adequately represent the interest of the settlement class;
 - (b) has a plan that sets out a workable method for the advancement of the proceeding on behalf of the settlement class; and
 - (c) does not have an interest in conflict with the interests of the settlement class members.
20. Counsel for the Representative Applicant have considerable experience in complex civil litigation, including class actions, and recommends approval of the settlement.
21. The settlement agreement was reached as a result of extensive, adversarial bargaining between arm's-length parties each represented by counsel.
22. Given the litigation risks and significant expenses should the litigation proceed, the terms and conditions of the settlement represent a fair and reasonable outcome that is in the best interests of the Representative Applicant and the settlement class members.
23. Such further and other grounds as counsel may advise.

Material or evidence to be relied on:

24. The Affidavit #3 of the Representative Applicant Stephen Smyth sworn on August 29, 2024, filed.
25. The Affidavit #1 of Brenda Mickelson of Secure Energy Services Inc. (successor in interest to Tervita Corporation) sworn on October 17, 2024, filed.
26. The pleadings and other materials filed in this Action.
27. Such further and other material as counsel may advise, and this Honourable Court may permit.

Applicable rules:

28. Rules 1.2, 1.3, 1.4, and 6.3 of the *Alberta Rules of Court*, Alta Reg. 124/2010.
29. Such further and other Rules as counsel may advise, and this Honourable Court may permit.

Applicable Acts and regulations:

- 30. *Class Proceedings Act*, SA 2003, c. C-16.5;
- 31. Such further and other acts and regulations as counsel may advise, and this Honourable Court may permit; and
- 32. The Court's inherent jurisdiction.

Any irregularity complained of or objection relied on:

- 33. None.

How the application is proposed to be heard or considered:

- 34. In-person before the Case Management Justice, the Honourable Justice G. H. Poelman.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Schedule "A"

Clerk's Stamp

COURT FILE NUMBER 2001-17016
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANT STEPHEN SMYTH AS REPRESENTATIVE APPLICANT
RESPONDENT TERVITA CORPORATION

BROUGHT PURSUANT TO THE *CLASS PROCEEDINGS ACT*, SA 2003, c. C-16.5

DOCUMENT **ORDER REGARDING NOTICE TO CLASS MEMBERS
OF SETTLEMENT APPROVAL HEARING**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
LAWSON LUNDELL LLP
Barristers and Solicitors
1100, 225 – 6th Avenue SW
Brookfield Place
Calgary, AB T2P 2V7
Tel: (403) 269-6900
Fax: (403) 269-9494
Email: gvogeli@lawsonlundell.com / jselnes@lawsonlundell.com
File No. 037384-151880

Attention: Grant Vogeli, KC and Jonathan H. Selnes

DATE ON WHICH ORDER WAS PRONOUNCED: _____, 2025

LOCATION AT WHICH ORDER WAS MADE: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice G. H. Poelman

UPON THE JOINT APPLICATION of the Representative Applicant, Stephen Smyth (the **Representative Applicant**) and the Respondent, Tervita Corporation (**Tervita**) (**together, the Parties**), for an order approving the November 24, 2022 settlement between the Parties (the **Settlement**); **AND UPON NOTING** that this action (the **Action**) was commenced as a class proceeding but has not been certified yet and therefore will require an Order certifying the class proceeding for the purpose of settlement only; **AND UPON THE APPLICATION OF** the Representative Applicant for an Order approving the process for giving notice to the proposed

settlement class members of the settlement certification and approval hearing; **AND UPON READING** the Affidavit #3 sworn by the Representative Applicant, Mr. Smyth, on August 29, 2024, filed and the Affidavit sworn by Secure Energy Services Inc.'s (**Secure Energy**) Brenda Mickelson on October 17, 2024, filed; **AND UPON HEARING** submissions from counsel for the Parties;

IT IS HEREBY ORDERED THAT:

1. The settlement approval hearing shall be held on •, 2025 commencing at • in the Court of King's Bench of Alberta at the Calgary Courts Centre and shall be conducted in person and via Webex in virtual courtroom no. •:
NTD: insert the Webex link here
2. Notice to the proposed settlement class members of the settlement approval hearing shall be given by the Representative Applicant as follows:
 - (a) settlement class members who were employees of Tervita and are currently employees of Secure Energy following the merger of the two companies on July 2, 2021 shall be given notice via a confidential email sent directly to them by the head of Secure Energy's Human Resources Department;
 - (b) settlement class members who are no longer employees of Tervita shall be given notice by email from Lawson Lundell LLP as class counsel if an email address is available or, if not, by regular mail to the most recent mailing address in the records of Secure Energy (formerly Tervita);
 - (c) settlement class members who are not currently employees of Secure Energy (formerly Tervita) and where no email or forwarding mailing address was provided will receive notice by posting in the Calgary Herald and Edmonton Journal on one Saturday and by posting on the website www.tervita-class-action-lawson-lundell.com on the same date that the notice is mailed.
3. Notice:
 - (a) Pursuant to paragraphs 2(a) and (b) above shall be given in substantially the form set out at **Schedule A1** to this Order; and
 - (b) Pursuant to paragraph 2(c) above shall be given in substantially the form set out at **Schedule A2** to this Order.
4. Notice shall be emailed, mailed, or advertised in accordance with this Order by no later than •, 2025.
5. If a proposed settlement class member wishes to make submissions to the Court supporting or objecting to the settlement, they must do so in writing (by email or mail) and it must be received by Lawson Lundell LLP as class counsel by no later than •, 2025,

which written submissions will then be provided to the Court and Secure Energy (formerly Tervita) by no later than •, 2025.

6. Secure Energy (formerly Tervita) shall bear the costs of giving notice by regular mail and by posting in the newspaper up to a capped amount of \$8,600. Any notice costs in excess of \$8,600 shall be borne by Lawson Lundell LLP as class counsel, at first instance, and shall be recoverable from the settlement proceeds if the Court certifies this class proceeding for the purpose of settlement only and approves this settlement.
7. There shall be no costs payable to any party in connection with this Application.

Justice of the Court of King's Bench of Alberta

SCHEDULE “A1”

**NOTICE OF HEARING FOR CERTIFICATION OF A CLASS PROCEEDING FOR
THE PURPOSE OF SETTLEMENT ONLY AND APPROVAL OF THE PROPOSED
SETTLEMENT OF THIS ACTION**

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

1. What is this proposed class action about?

In 2017, the Respondent Tervita Corporation (**Tervita**) established a Restricted Stock Unit Plan (the **RSU Plan**) as part of its compensation agreement with its employees. The RSU Plan had an effective date of January 1, 2017, and each RSU issued under its terms had a maturity date of January 2, 2020. In December 2020, despite the fact that Tervita had sent two vesting notices confirming the maturity date of the RSUs as January 2, 2020, Tervita changed its position and purportedly imposed a blackout period, which the Representative Applicant asserts was contrary to the terms of the RSU Plan. This purported blackout period pushed back the maturity date from January 2, 2020 to March 16, 2020. The RSUs were eventually paid to all RSU holders on March 27, 2020 (**Payout Date**). Payment under the RSU Plan was based on the average closing stock prices for the 5-trading days preceding the Payout Date (March 27, 2020), rather than the maturity date (January 2, 2020), which resulted in a significant decrease in the payments made by Tervita to the RSU holders.

A class action was commenced against Tervita to recover the loss of payout amounts for eligible RSU holders.

2. What settlement has been reached in this proposed class action?

The Representative Applicant, Stephen Smyth, and the Respondent, Tervita Corporation (**Tervita**) have agreed to settle the class action for the following all-inclusive amount:

- A payment of \$667,615 to be distributed amongst the certified settlement class members that do not opt-out;
- A further payment of pre-judgment interest of \$12,000 calculated pursuant to the *Judgment Interest Act*, RSA 2000, c. J-1;
- Taxable costs and disbursements of \$20,000;
- Tervita shall pay up to \$8,600 towards the costs of giving notice of this proposed settlement; and
- A payment of up to \$25,000 to Lawson Lundell LLP (acting as the Administrator) of the reasonable costs of administering the distribution of the payment to the certified settlement class members.

This payment is contingent upon the Court granting a Court order certifying a class action for the purpose of settlement only pursuant to s. 4 of the *Class Proceedings Act*, SA 2003, c C-16.5 (the **Act**) and approving this settlement as fair and reasonable pursuant to s. 35 of the Act.

The settlement was reached following extensive adversarial negotiations between the parties.

Tervita does not admit any wrongdoing or fault and the settlement does not imply any such liability, wrongdoing, or fault on the part of Tervita.

To obtain a copy of the Originating Application that was filed to commence the class action, please contact class counsel using the contact information set out below in Section 9 “**How do I contact class counsel?**” or visit www.tervita-class-action-lawson-lundell.com

3. Who is affected by the settlement if it is approved by the Court of King’s Bench of Alberta?

If the settlement is approved by the Court of King’s Bench of Alberta, it shall all affect all of the proposed settlement class members who do not opt-out of certification.

You are a proposed settlement class member if you are a current or former employee of Tervita who was granted RSUs pursuant to Tervita’s 2017 Restricted Stock Unit Plan with a maturity date of January 2, 2020 (the **Class**).

You are *not* a proposed settlement class member if you are a Designated Individual (as defined in Tervita’s Insider Trading Policy), were terminated for cause by Tervita, or voluntarily quit your employment with Tervita.

4. What will be decided at the approval hearing before the Court of King’s Bench of Alberta?

The settlement is subject to Court approval. The Court will determine whether it is appropriate to certify a class action for the purpose of settlement only and whether the settlement is fair, reasonable, and in the best interests of the settlement class members. The Court will also decide how the settlement funds will be distributed.

If the settlement is approved, all settlement class members, except those who have formally opted out of the Action will be bound by the terms of settlement. This means that they will not be able to bring or maintain any other claim or legal proceeding against Tervita (now Secure) or any other person released by the settlement in relation to the claims advanced in the Class Action.

To obtain a copy of the approval hearing application and supporting materials that have been filed with the Court of King’s Bench of Alberta, please visit www.tervita-class-action-lawson-lundell.com

5. What happens to the money paid under the settlement?

The amounts paid to settlement class members will be paid from the money remaining after deducting any Court approved legal fees (a portion of which includes any Court approved honorarium payment to the Representative Applicant, Mr. Smyth), disbursements, the costs of administering and distributing the settlement funds to the settlement class members, and any applicable GST to Lawson Lundell LLP as class counsel. The amount that individual settlement class members will receive will be calculated on the basis of the settlement class member's proportionate share of the remaining money according to the amount of RSUs held by a settlement class member.

Settlement class members will not have to personally pay Lawson Lundell LLP as class counsel for the work that they have done in this lawsuit or for the disbursements that have been incurred in this matter. The Representative Applicant entered into a contingency fee arrangement with Lawson Lundell LLP as class counsel, which stipulates that class counsel will only be paid in the event of a successful settlement or trial judgment. The contingency fee arrangement stipulates that Lawson Lundell will be paid legal fees, plus costs, and disbursements for a total recovery of 20% of the settlement amount if the class action is certified and settled before written briefs of argument in support of certification are filed, which class counsel will be asked to be approved by the Court of King's Bench of Alberta. Included within this sum, Class counsel will also be asking the Court to approve the payment of an honorarium of \$4,197.69 to the Representative Applicant, Mr. Smyth, which amounts to 3% of class counsel's contingency fee or 0.6% of the settlement amount.

6. When, how, and where will the approval hearing be held before the Court of King's Bench of Alberta?

The approval hearing will be held at the Court of King's Bench of Alberta and will be heard remotely and in-person. The details of the hearing are:

Date: •, 2025

Time: •, 2025

Where: Calgary Courts Centre, Justice Chambers
601 – 5th Street SW
Calgary, Alberta
T2P 5P7

And virtually via videoconference over Webex using this link:

•

Before: The Honourable Justice G. H. Poelman, the Presiding Case Management
Justice in Chambers

7. What happens if the settlement is rejected by the Court of King's Bench of Alberta?

The Court of King's Bench of Alberta will decide whether to approve the proposed settlement. The Court does *not* have the authority to change the terms of the settlement. If the Court does *not* approve the settlement, the class action lawsuit will continue. It may take years to complete the remaining pre-trial procedures, a hearing or trial for the final disposition of this matter, and any possible appeals.

8. What do I need to do now that I have received this notice?

You do not have to do anything at this time. If the settlement is approved, then you will receive another notice explaining how to make a claim to receive compensation from the settlement or how to opt-out if you do not wish to be bound by the settlement.

You may attend the settlement approval hearing on •, 2025, but you are not required to do so.

You are entitled, but are not required, to express your opinion about the proposed settlement and whether it should be approved or rejected by the Court of King's Bench of Alberta.

If you wish to make a submission to the Court supporting or objecting to the settlement, you **must do so by sending a written submission (by email or mail) to Lawson Lundell LLP as class counsel, at the address below, by no later than •, 2025.** Class counsel will provide all written submissions to the Court and the Respondent Tervita in advance of the approval hearing on •, 2025.

Your written submissions should include the following:

- Your name, address, and telephone number;
- A brief statement of the reasons that your support or oppose the proposed settlement; and
- Whether you plan to attend the approval hearing and, if you plan to attend, whether virtually over Webex or in-person.

If the proposed settlement is approved and you are a settlement class member who is currently an employee of Secure Energy (formerly Tervita), you will *not* need to do anything to receive compensation. Settlement class members who are former Tervita employees *will need to* complete a claim administration form in order to receive compensation. The claim administration form is necessary to ensure that Lawson Lundell LLP as the claims administrator has, among other things, the former Tervita employee's current address to deliver the settlement payment.

If the proposed settlement is approved, further notice will be given with the details and deadlines for submitting a claim administration form in order to receive compensation, if required.

If the proposed settlement is approved and you are a settlement class member but do *not* want to be bound by the settlement, you will need to complete an opt-out form if you do not wish to be bound by the settlement. A further notice will be given with the details and deadlines for submitting the opt-out form in order to opt-out of the class action and not be bound by the settlement.

9. How do I contact Lawson Lundell LLP as class counsel?

Lawson Lundell LLP are class counsel and can be reached at:

Lawson Lundell LLP
 Suite 1100 Brookfield Place
 225 – 6th Ave SW
 Calgary, Alberta
 T2P 1N2
 Telephone: (403) 269-6900
 Fax: (403) 269-9494
 Lawyers: Grant Vogeli, KC and Jonathan H. Selnes
 Email: jselnes@lawsonlundell.com

10. What if I have more questions?

For more information, please visit www.tervita-class-action-lawson-lundell.com If you have questions that are not answered by the information on this website, please do not hesitate to contact Lawson Lundell LLP as class counsel at the email address and number listed above.

The offices of the Court of King's Bench of Alberta are unable to answer any questions about the matters in this notice.

**THIS NOTICE WAS APPROVED BY ORDER OF THE COURT OF KING'S BENCH
 OF ALBERTA**

SCHEDULE “A2”

**NOTICE OF SETTLEMENT
APPROVAL HEARING OF STEPHEN
SMYTH AS REPRESENTATIVE
APPLICANT v. TERVITA CORPORATION
COURT FILE NO. 2001-17016**

On December 23, 2020, the Representative Applicant, Mr. Smyth, filed an Originating Application commencing a class proceeding against Tervita Corporation (**Tervita**). Tervita issued employees Restricted Stock Units (**RSUs**) under the terms of a 2017 Restricted Stock Unit Plan, with a maturity date of January 2, 2020, but Tervita pushed-back the maturity date from January 2, 2020 to March 16, 2020, which resulted in a significant Decrease in the payments made by Tervita to the RSU holders. The action has now been settled subject to certification for the purpose of settlement only and approval by the Court of King’s Bench of Alberta. The settlement approval hearing is being held in-person at the Court of King’s Bench of Alberta, Calgary Courts Centre, on •, 2025 at • and virtually over Webex using this link •. To determine if you are a member of the settlement class and to obtain a copy of the settlement approval hearing application and supporting materials, please visit www.tervita-class-action-lawson-lundell.com or contact Lawson Lundell LLP as class counsel at (403) 269-6900.

Schedule "B"

Clerk's Stamp

COURT FILE NUMBER 2001-17016

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT STEPHEN SMYTH AS REPRESENTATIVE APPLICANT

RESPONDENT TERVITA CORPORATION

**BROUGHT PURSUANT TO THE *CLASS PROCEEDINGS*
ACT, SA 2003, c. C-16.5**

DOCUMENT **ORDER APPROVING SETTLEMENT AND DISTRIBUTION**

ADDRESS FOR SERVICE LAWSON LUNDELL LLP
AND CONTACT Barristers and Solicitors
INFORMATION OF 1100, 225 – 6th Avenue SW
PARTY FILING THIS Calgary, AB T2P 2V7
DOCUMENT Tel: (403) 269-6900
Fax: (403) 269-9494
Email: gvogeli@lawsonlundell.com / jselnes@lawsonlundell.com
File No. 037384-151880

Attention: Grant Vogeli, KC and Jonathan H. Selnes

DATE ON WHICH ORDER WAS _____, 2025
PRONOUNCED:

LOCATION AT WHICH ORDER Calgary, Alberta
WAS MADE:

NAME OF JUSTICE WHO MADE The Honourable Justice G. H. Poelman
THIS ORDER:

UPON THE JOINT APPLICATION of the Representative Applicant, Stephen Smyth (the **Representative Applicant**) and the Respondent, Tervita Corporation (**Tervita**) (**together, the Parties**), for an Order certifying this action (the **Action**) as a class proceeding for the purpose of settlement only as the Action was commenced as a class proceed but has not been certified yet and for an Order approving the November 24, 2022 settlement between the Parties (the **Settlement**); **AND UPON THE APPLICATION OF** the Representative Applicant for an Order approving their proposed distribution of the settlement proceeds as set out in the Affidavit of Mr. Smyth, filed; **AND UPON READING** the various Affidavits sworn by Mr. Smyth, Mr. Vogeli, KC, and Ms. Mickelson, all filed in this Action; **AND UPON NOTING** the Affidavit of Service confirming that notice of the settlement and the proposed distribution of the settlement proceeds have been served upon the proposed settlement class members; **AND UPON NOTING** the consent of the Parties; **AND UPON HEARING** submissions from counsel for the Parties;

IT IS HEREBY ORDERED THAT:

Certification for the purpose of settlement only

1. This Action is certified as a class proceeding against the Respondent, Tervita, pursuant to s. 4 the *Class Proceedings Act*, S.A. 2003, c. C-16.5 (the **Act**) for the purpose of settlement only.
2. The settlement class for this Action shall be defined in accordance with s. 4 of the Act as:

All persons who are current and former employees (excluding those that are Designated Individuals as defined in Tervita's Insider Trading Policy, were terminated for cause, or voluntarily quit) of Tervita who were granted RSUs pursuant to Tervita's 2017 Restricted Stock Unit Plan with a maturity date of January 2, 2020 but did not materially vest until March 27, 2020 (the **Settlement Class**).
3. Stephen Smyth is appointed as the Representative Applicant for this Action and is bound by the terms of the settlement between himself (on behalf of the Settlement Class) and the Respondent Tervita dated November 24, 2022.
4. The sole common issue certified in this Action is whether Tervita breached its contractual obligations under the January 1, 2017 Restricted Stock Unit Plan by imposing a purported blackout period running from January 1, 2020 until March 16, 2020, making RSU settlement payments to the RSU holders 10-business days after the Blackout Period ended.

Approval of the settlement as fair, reasonable, and in the best interests of the Settlement Class

5. The settlement is approved by this Honourable Court generally and pursuant to s. 35 of the Act and the Court declares that the settlement is fair, reasonable, and in the best interests of the Settlement Class.

Dismissal and release

6. Pursuant to the terms of settlement, this Action is hereby dismissed as against the Respondent, Tervita, on a without costs basis and with prejudice, as if the claims had been heard and dismissed on their merits after a full trial of this Action.
7. It is further declared that each member of the Settlement Class that does not opt-out and their respective heirs, executors, administrators, legal representatives, successors, and assigns fully, finally, and forever absolutely releases and discharges the Respondent, Tervita, and any of their predecessors, successors, principals, agents, partners, employees, and insurers from and in respect of all claims or potential claims arising out of or in any way relating to the facts and allegations pleaded in this Action.
8. This Court declares that this Order and the settlement approved pursuant to this Order are not based upon any findings or admission of liability or wrongdoing by the Respondent, Tervita, and that there has been no admission in respect of liability by the Respondent, Tervita.

Notice of this Order to the Settlement Class Members

9. Notice of this Order shall be given to the Settlement Class members as follows:
 - (a) Settlement Class members who were employees of Tervita and are currently employees of Secure Energy Services Inc. (**Secure Energy**) following the merger of the two companies on July 2, 2021 shall be given notice via a confidential email sent directly to them by the head of Secure Energy's Human Resources Department;

- (b) Settlement Class members who are no longer employees of Tervita (now Secure Energy) shall be given notice by email from Lawson Lundell LLP as class counsel if an email address is available or, if not, by regular mail to the most recent address in the records of Secure Energy (formerly Tervita);
 - (c) Settlement Class members who are not currently employees of Secure Energy (formerly Tervita) and where no email or forwarding mailing address was provided will receive notice by posting in the Calgary Herald and Edmonton Journal on one Saturday and by posting on the website www.tervita-class-action-lawson-lundell.com on the same date that the notice is mailed.
10. Notice:
- (a) Pursuant to paragraphs 10(a) and (b) above, Notice shall be given in substantially the form set out at **Schedule A** to this Order; and
 - (b) Pursuant to paragraph 10(c) above, Notice shall be given in substantially the form set out at **Schedule B** to this Order.
11. Notice shall be emailed, mailed, or advertised in accordance with this Order by no later than •, 2025.
12. Tervita shall bear the costs of giving notice by regular mail and by posting in the newspaper up to a capped amount of \$8,600. Any notice costs in excess of \$8,600 shall be paid from the settlement proceeds if it is approved.

The Opt-Out Form and Opt-Out Procedure

- 13. The Opt-Out Form, substantially in the form attached as **Schedule C**, is hereby approved and shall be delivered with the Notice.
- 14. The Opt-Out Deadline shall be 11:59 p.m. MT on •, 2025.
- 15. Each Settlement Class member who wishes to be excluded from the Class must submit a properly completed Opt-Out Form to Class Counsel by the Opt-Out Deadline.
- 16. In order to remedy any deficiency in the completion of the Opt-Out Form, Class Counsel may require and request that additional information be submitted by a Settlement Class member who submits an Opt-Out Form, but all such additional information must be received by Class Counsel by the Opt-Out Deadline.
- 17. If a Settlement Class member fails to submit a properly completed Opt-Out Form to Class Counsel or fails to remedy any deficiency in the Opt-Out Form by the Opt-Out Deadline, the Settlement Class member shall be deemed not to have opted out of the settlement and will be subject to and bound by the settlement and terms of this Order certifying a class action for the purpose of settlement only, including the releases contained herein.
- 18. An Opt-Out Form shall be deemed not to have been submitted until it is actually received by Class Counsel.
- 19. The Opt-Out Deadline will not be extended unless the Court orders otherwise.
- 20. Opt-Out parties will be excluded from any and all rights and obligations arising from the settlement and terms of this Order certifying a class action for the purpose of settlement only.

Approval of Class Counsel's fee, payment of an honorarium to the Representative Applicant, Mr. Smyth, and quantification of the net settlement proceeds

21. The Court approves:
- (a) the payment to Class Counsel in the sum of \$146,919.15; and
 - (b) the payment of an honorarium in the sum of \$4,197.69 to the Representative Applicant, Mr. Smyth.
22. The net proceeds of settlement shall be paid, after the deduction of the above payments, and shall be distributed to the Settlement Class members, or their assignees or transferees, as applicable, on a *pro rata* basis, based upon the amount and value of the RSUs that each Settlement Class member held.

Procedure for the distribution of settlement proceeds to the Settlement Class members

23. Lawson Lundell LLP is appointed as the **Administrator** of the settlement proceeds.
24. Following the expiration of the appeal period or the dismissal of any appeals related to this approval Order, the Administrator shall distribute the net settlement proceeds to the Settlement Class members as follows:
- (a) Settlement Class members who are currently employees of Secure Energy (formerly Tervita) and have not opted-out of the settlement class action will not need to do anything in order to receive compensation as directed by the Court. Rather, this will be paid directly to them by Secure Energy (formerly Tervita);
 - (b) Settlement Class members who are no longer employees of Tervita (now Secure Energy) and have not opted-out of the settlement class action will receive a distribution of their compensation from Lawson Lundell LLP as the Administrator. These Settlement Class members will need to complete a claim administration form in order to receive compensation in the form proposed as **Schedule D** to the application for approval of the settlement. These Settlement Class members will have six-months from the date of service of the filed Order approving the settlement and certification of the class action solely for the purpose of settlement to submit a completed claim administration form to Lawson Lundell LLP as the Administrator.
 - (c) If the six-month period expires without a claim by an individual member of the Settlement Class, the Administrator is entitled to make a *cypres* payment (that is, a donation) to the Alberta Law Foundation.
25. This Court retains jurisdiction to consider any further appropriate applications concerning the administration of the settlement.
26. There shall be no costs payable to any party in connection with this application.

Justice of the Court of King's Bench of Alberta

SCHEDULE A

NOTICE OF CERTIFICATION OF A CLASS PROCEEDING FOR THE PURPOSE OF SETTLEMENT ONLY AND APPROVAL OF THE PROPOSED SETTLEMENT OF THIS ACTION

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

TO THE SETTLEMENT CLASS MEMBERS

You are a settlement class member if you were granted Restricted Shares Units (**RSUs**) by Tervita Corporation (**Tervita**) between January 1 to December 31, 2017 pursuant to the terms of Tervita's 2017 Restricted Stock Unit Plan.

On •, 2025, the Court of King's Bench of Alberta granted an Order certifying *Stephen Smyth as Representative Applicant v. Tervita Corporation*, Court File No. 2001-17016 (the **Action**) as a class proceeding for the purpose of settlement only and approved a settlement as fair, reasonable, and in the best interests of the settlement class members pursuant to s. 35 of the *Class Proceedings Act*, S.A. 2003, c. C-16.5 (the **Act**) (the **Settlement Approval Order**).

To obtain a copy of the Approval Order granted on •, 2025, please go to www.tervita-class-action-lawson-lundell.com or contact class counsel using the contact information provided in section 2 below – **Contacting Class Counsel**.

1. Summary of the settlement approved by the Court on •, 2025

The Representative Plaintiff, Mr. Smyth, and the Respondent, Tervita, agreed to settle the class proceeding for a total all-inclusive payment of \$669,615 comprised of a settlement payment of \$667,615, interest of \$12,000, and costs of \$20,000. In exchange for the payment of \$669,615, Tervita has received a full release of all claims by the settlement class members who did not opt-out of this class proceeding.

The Court has approved the reduction of the settlement payment in order to pay the legal fees, disbursements, and GST to Lawson Lundell LLP as class counsel and an honorarium to Mr. Smyth as Representative Applicant. The net settlement funds will be distributed to the settlement class members on a *pro rata* basis based upon the amount and value of the RSUs that each settlement class member held.

2. What do you need to do to claim your share of the net settlement proceeds from Lawson Lundell LLP as the Court-Appointed Administrator?

If you are a settlement class member who is currently employed by Secure Energy Services Inc. (**Secure Energy**) (formerly Tervita) and have not opted-out of the settlement class action, you will *not* need to do anything in order to receive compensation as directed by the Court. Rather, this will be paid directly to you by Secure Energy (formerly Tervita).

If you are a settlement class member who is not currently employed by Secure Energy (formerly Tervita), you will need to **complete and submit the attached claim administration form to Lawson Lundell LLP as the Court-Appointed Administrator at the address provided below by no later than •, 2025** in order to receive compensation. Any claim submitted after that date will be rejected. The claim administration form is necessary to ensure that the claims Administrator has, among other things, your current address.

Lawson Lundell LLP can be contacted as class counsel and the court-appointed administrator at:

Lawson Lundell LLP
Suite 1100 Brookfield Place
225 – 6th Ave SW
Calgary, Alberta
T2P 1N2
Telephone: (403) 269-6900
Fax: (403) 269-9494
Lawyers: Grant Vogeli, KC and Jonathan H. Selnes
Email: jselnes@lawsonlundell.com

3. If you have questions

For more information, please visit www.tervita-class-action-lawson-lundell.com. If you have questions that are not answered by the information on this website, please do not hesitate to contact Lawson Lundell LLP as class counsel at the email address and number listed above.

The offices of the Court of King's Bench of Alberta are unable to answer any questions about the matters in this notice.

You are entitled, but not obligated, to hire your own lawyer to provide you with advice or assistance regarding your individual claim. If you do so, you will be personally responsible for paying that lawyer's legal fees.

THIS NOTICE WAS APPROVED BY ORDER OF THE COURT OF KING'S BENCH OF ALBERTA

SCHEDULE B

**NOTICE OF SETTLEMENT APPROVAL
ORDER OF *STEPHEN SMYTH AS
REPRESENTATIVE APPLICANT v.
TERVITA CORPORATION*
COURT FILE NO. 2001-17016**

On •, 2025, Court of King's Bench of Alberta granted an Order certifying *Stephen Smyth as Representative Applicant v. Tervita Corporation*, Court File No. 2001-17016 (the **Action**) as a class proceeding for the purpose of settlement only and approved a settlement as fair, reasonable, and in the best interests of the settlement class members pursuant to s. 35 of the *Class Proceedings Act*, S.A. 2003, c. C-16.5 (the **Act**) (the **Settlement Approval Order**). To determine if you are a settlement class member, to obtain a copy of the Settlement Approval Order, or to make a claim, please visit www.tervita-class-action-lawson-lundell.com or contact Lawson Lundell LLP as class counsel at (403) 269-6900.

SCHEDULE C

CLASS ACTION CLAIM FORM

**STEPHENSMYTH AS REPRESENTATIVE APPLICANT v. TERVITA CORPORATION COURT
FILE NO. 2001-17016
CLASS ACTION**

INSTRUCTIONS:

1. Please complete this form if you are a settlement class member.
2. Please ensure that you complete all sections of this Claims Form that apply to you.
3. This Claims Form may be completed, signed, and submitted electronically; or by printing the form, completing it (please write clearly and legibly) and submitting it to Lawson Lundell LLP as the Court-Appointed Administrator as follows:

Lawson Lundell LLP
Suite 1100 Brookfield Place
225 – 6th Ave SW
Calgary, Alberta
T2P 1N2
Telephone: (403) 269-6900
Fax: (403) 269-9494
Email: jselnes@lawsonlundell.com
Attention: Grant Vogeli, KC and Jonathan H. Selnes

CLAIMANT INFORMATION:

NAME (FIRST AND LAST): _____

NUMBER OF RESTRICTED SHARE UNITS YOU OWNED: _____

MAILING ADDRESS (Unit Number/Street/PO Box/City/Province/Country/Postal Code):

EMAIL ADDRESS: _____

TELEPHONE NUMBER: _____

HAVE YOU TRANSFERRED YOUR INTEREST IN THE ACTION (check one)?

☐ NO ☐ YES

IF YES, PLEASE EXPLAIN: _____

IF YES, PLEASE ALSO PROVIDE A COPY OF ANY SUPPORTING DOCUMENTATION WHEN SUBMITTING THIS FORM.

SIGNATURE: _____ DATE: _____

REMINDER CHECKLIST:

1. Please complete and sign the Claims Form where indicated.
2. Attach only a copy (not originals) of any supporting documentation as these documents will not be returned to you.
3. Keep a copy of the Claims Form for your records.
4. Lawson Lundell LLP as the Court-Appointed Administrator will acknowledge receipt of your Claims Form by mail or email within 20-days. Your claim is not deemed submitted until you receive an acknowledgement from Lawson Lundell LLP. If you do not receive an acknowledgement within 20-days, please call Lawson Lundell LLP at 403-269-6900.
5. If you move after submitting this Claims Form, please notify Lawson Lundell LLP of the change in your address, otherwise you may not receive additional notices or payment.
6. **CLAIMS FORMS SUBMITTED AFTER _____ WILL BE REJECTED.**

SCHEDULE D

OPT-OUT FORM

This is **NOT** a Claim Form

Completing this Opt Out Form **WILL EXCLUDE** you from the lawsuit and you must pursue your own lawsuit with your own lawyer at your own expense, if you so choose

To: Attention: Lawson Lundell LLP

I, _____ (insert full name), have received notice of a proposed settlement of the proposed class action claim commenced against Tervita Corporation (**Tervita** in the **Tervita Class Action**).

I am a former employee of Tervita and am *not* a Designated Individuals as defined in Tervita's Insider Trading Policy, was *not* terminated for cause, and did *not* voluntarily quit who was granted restricted share units pursuant to Tervita's 2017 Restricted Stock Unit Plan with a maturity date of January 2, 2020 but did not materially vest until March 27, 2020 (a **Settlement Class Member**).

- ☐ I **DO NOT** wish to participate in the Tervita Class Action.
- ☐ I understand that by opting out of this Tervita Class Action, I **WILL NOT BE ELIGIBLE** for any benefit that may be available to the Settlement Class Members upon resolution of this matter.
- ☐ I understand that, if I believe I suffered losses and wish to pursue any remedy with respect to my affected Tervita _____, **I MUST DO SO ON MY OWN**.
- ☐ I understand that any individual action brought on my own behalf **MUST BE COMMENCED WITHIN A SPECIFIED TIME (LIMITATION) PERIOD** or it may be legally barred.
- ☐ I understand that by opting out, **I TAKE FULL RESPONSIBILITY** for taking all necessary legal steps to protect any claim that I may have.

Mandatory – Plan Information:

Please list in the space approximately when you were first employed by Tervita and received Restricted Share Units from Tervita:

Optional – Please explain your reason(s) for opting out:

Date:	
Signature of Witness:	Signature of Settlement Class Member:
Name of Witness (Print Name):	Name of Settlement Class Member (Print Name):
Telephone:	Email:
Address:	

NOTE: To validly opt out, you must properly complete and submit this Opt Out Form and the “Mandatory Plan Information” (specified above) to Lawson Lundell LLP, so that it is received by no later than the Opt Out Deadline of _____, 2025 at 11:59 p.m.

