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JAN 21 2011

CALGARY, ALBERTA

COURT FILE NO. 1001-03215

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF FIRST CALGARY SAVINGS & CREDIT UNION LTD.

DEFENDANTS PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L. PERERA AND SHIRANIE M. PERERA

PLAINTIFFS BY COUNTERCLAIM PERERA SHAWNEE LTD., DON L. PERERA AND SHIRANIE M. PERERA

DEFENDANTS BY COUNTERCLAIM FIRST CALGARY SAVINGS & CREDIT UNION LTD. AND DELOITTE & TOUCHE LLP

DOCUMENT

BRIEF OF ARGUMENT OF THE APPLICANT, DELOITTE & TOUCHE INC. in its capacity as Court-appointed receiver and manager of Perera Development Corporation ("PDC") and Perera Shawnee Ltd. ("PSL", or when reference is being made to PDC and PSL collectively, the "Debtor" or "Perera"), and not in its personal capacity (the "Receiver")

(Re: Receiver's Report)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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RELIEF SOUGHT

1. This Brief of Argument is submitted by the Receiver in support of the Receiver's Application filed January 14, 2011 (the "**Application**") seeking the relief substantially as set out in the Application, including a procedural Order (the "**Procedural Order**") declaring that pursuant to Rules 1.4 (1) and (2) of the *Alberta Rules of Court*¹, the Receivership Order (as defined below) is hereby amended and restated by inserting, as paragraph 3.1 thereof, the following *nunc pro tunc* procedural language:

"3.1 From the date of this Receivership Order, the Receiver shall report to this Court from time to time, which reporting need not be in Affidavit form, and such reports shall be considered as evidence in making a decision about an application, unless otherwise ordered by this Court."²

2. This relief, including the proviso for the Court to order otherwise, mirrors the general historical legal treatment of receiver's reports which are typically considered as evidence and further gives flexibility to a party to argue and the Court to decide that certain circumstances might warrant different treatment. The Procedural Order is fair and properly balances the interests of the various parties. It is consistent with the purpose and intention of the New Rules.

3. It is respectfully submitted that the Procedural Order ought to be granted.

BACKGROUND

4. On March 3, 2010, the Receiver was appointed as receiver and manager of the corporate defendants, Perera Shawnee Ltd. ("**PSL**") and Perera Development Corporation (collectively, "**Perera**") by a Receivership Order granted pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*³ and section 13(2) of the *Judicature Act*⁴ by the Honourable Madam Justice A. Kent of the Court of Queen's Bench of Alberta (the "**Receivership Order**"). The Receivership

¹ Alta. Reg. 124/2010 (the "New Rules"), Book of Authorities ("**BA**") Tab 1.

² Similar wording was recently included since the New Rules came into force in Receivership Orders granted by Romaine J. dated December 15, 2010 and Kent J. dated December 21, 2010, copies of which are attached hereto as Schedules "A" and "B", respectively.

³ R.S.C. 1985, c. B-3 ("**BIA**"), BA Tab 2.

⁴ R.S.A. 2000, c. J-2 ("*Judicature Act*"), BA Tab 3.

Order was the result of an application by the Plaintiff, First Calgary Savings & Credit Union Ltd. (“**First Calgary**”).

5. PSL is a condominium real estate developer which owns a condominium development project in Calgary. The individual Defendants, Don L. Perera and Shiranie M. Perera are guarantors (collectively, the “**Guarantors**”) of the obligations of Perera to First Calgary.

6. The Receiver has reported on its activities to this Court and stakeholders on numerous occasions through reports of the Receiver. In each instance, the Receiver has used reports, not affidavits, to update the Court on activities that have taken place during the receivership. Aspects of the reports have not been based on personal knowledge and have included facts as well as views, perspectives and recommendations made for the benefit of the Court and all concerned.

7. Because the Guarantors have previously raised concerns regarding the consideration of the Receiver’s reports as evidence under the New Rules, Court Orders have been granted in these proceedings containing the following provision:

The non-objection by parties to the use of an reliance by the Receiver on the [XX] Receiver’s Report on this Application is without prejudice to anyone’s ability to assert or claim in the future that the Receiver’s evidence must be filed in affidavit form, rather than in the form of a report.⁵

8. It is anticipated that the Guarantors will oppose the Application and seek to require the Receiver to provide its reports by way of affidavit.

ISSUE

9. The issue on this Application is whether it is appropriate in the circumstances for the Court to grant the Procedural Order.

LAW & ANALYSIS

10. In analyzing whether this Court ought to grant the Procedural Order, this Brief of Argument discusses: (a) the relationship between the BIA and the New Rules; (b) the role of an officer of the Court; (c) the historical treatment of receiver’s reports and requests to cross-

⁵ Attached as Schedule “C” hereto is an example of a Court Order granted November 29, 2010 in these proceedings containing that language.

examine a receiver; and (d) the impact of the New Rules on receiver's reports. It concludes by requesting that the Court grant the Procedural Order.

Relationship Between the BIA and the New Rules

11. In contrast to a private appointment of a receiver, when a creditor applies to the Court for the appointment of a receiver, it is seeking to surrender to the Court control of the realization process. Section 243(1) of the BIA provides that, on application by a secured creditor, a Court may appoint a receiver to take possession of all or substantially all of an insolvent person's property and control of its business. Such application is to be filed in a Court having jurisdiction in the judicial district of the locality of the debtor.⁶ In the Province of Alberta, the court with such jurisdiction is the Court of Queen's Bench of Alberta (the "**Alberta Court**").⁷ The *Judicature Act* also provides the Alberta Court with the authority to appoint a receiver.⁸

12. Section 3 of the *Bankruptcy and Insolvency General Rules*⁹ provides that "[i]n cases not provided for in the [BIA] or these Rules, the courts shall apply, within their respective jurisdictions, their ordinary procedure to the extent that that procedure is not inconsistent with the [BIA] or these Rules." A receiver appointed under the BIA is required to file "reports" relating to such receivership to the Superintendent of Bankruptcy, the insolvent person or trustee (in the case of a bankrupt) and to any creditor who requests a copy of such report.¹⁰ The BIA and the Bankruptcy Rules do not establish a practice or procedure for the filing of receiver's reports with the Court. Accordingly, the New Rules, which govern the practice and procedure in the Alberta Court,¹¹ apply to receivership proceedings commenced under the BIA in the Alberta Court. The New Rules also apply to receivers appointed under the *Judicature Act*.

⁶ *Supra* note 3, s. 243(5).

⁷ *Supra* note 3, s. 183(1)(d).

⁸ *Supra* note 4, s. 13(2).

⁹ *Bankruptcy and Insolvency General Rules*, C.R.C., c. 368 (the "**Bankruptcy Rules**"), BA Tab 4.

¹⁰ *Supra* note 3, s. 246.

¹¹ *Supra* note 1 at R. 1.1(1)(a).

13. Parenthetically, Rule 6.47 of the New Rules requires a court-appointed receiver other than one appointed “under an enactment” to file reports with the Alberta Court clerk.¹² This Rule does not, on its face, apply to the Receiver which, as noted above, was appointed under the BIA and the *Judicature Act*.

Officers of the Court

14. A court-appointed receiver is an officer and instrument of the Court and derives its power from orders of the Court and any applicable governing legislation. It does not represent the appointing creditor and must treat the interests of the various stakeholders in an even handed manner.¹³

15. The role of an officer of the Court was considered at length in the recent Alberta Court decision *Transglobal Communications Group Inc. (Re)*.¹⁴ In *Transglobal*, Yamauchi J. cited the following excerpt¹⁵ from *N.A.P.E. v. Newfoundland & Labrador (Minister of Justice)*¹⁶ as a list of the basic characteristics of an officer of the Court:

[A]n officer of the court has at least the following characteristics:

1. His duties and functions in the court process are *necessary* to enable the system to function properly;
2. In the performance of her duties, her role is to *facilitate the functioning of the court system* either directly or by assisting other officers of the court to perform their functions effectively;
3. In performing his functions he owes a *duty of loyalty and fidelity* to the court as an institution and to the rule of law, a duty which transcends other interests;
4. In acting as an officer of the court, she is the *personification of the court*; her acts are the acts of the court;
5. His duties, insofar as they impact on the effective functioning of the court, are subject to the *supervisory control* and *judicial direction* of the court;
6. Her role includes the duty to *carry out and comply with orders* of the court so as to

¹² *Supra* note 1 at R. 6.47.

¹³ Kevin P. McElcheran, *Commercial Insolvency In Canada* (LexisNexis Canada Inc.: Markham, 2005) at p. 147-149, BA Tab 5.

¹⁴ 2009 ABQB 195, 2009 CarswellAlta 464 [*Transglobal*], BA Tab 6.

¹⁵ *Ibid* at para. 57.

¹⁶ 2004 NLSCTD 54, 2004 CarswellNfld 97 at paras. 114 and 115, BA Tab 7.

ensure they are given practical effect;

7. His failure to comply with judicial directions or orders make him *subject to sanction*, including punishment for *contempt*.

In essence, then, an officer of the court is a person whose function is so integral to the functioning of an aspect of the court system that the court could not function effectively in that regard without being able to exercise control, by way of court order if necessary, over what is done and how the officer does it.

16. Accordingly, the Receiver owes a duty of loyalty and fidelity to this Court and must act within the framework of authority granted to it by the Receivership Order, and any governing legislation. In performing its duties, the Receiver is required to, *inter alia*, have regard for and balance the interests of the various stakeholders (i.e. not be an advocate for one side or the other), be the “eyes and ears”¹⁷ of the Court, exercise its business judgment to act in a commercially reasonable manner¹⁸, and give practical effect to the orders of this Honourable Court.

Historical Treatment of Receiver’s Reports and Requests to Cross-Examine

17. Historically, the general practice in Alberta is for receivers to file reports that are not in affidavit form.¹⁹ The issue as to whether such reports should be considered as evidence by Courts in making a decision about an application has arisen during contested applications and where counsel to an affected party desires to cross-examine a receiver (or a *Companies’ Creditors Arrangement Act* (“CCAA”) monitor) on the contents of its report.

18. The Ontario Supreme Court considered whether a receiver should be required to file its report by affidavit and be subject to cross-examination in *Mortgage Insurance Co. of Canada v. Innisfil Landfill Corp.*²⁰ In determining such issues, Farley J. held that affidavits should not be required, stating as follows at para. 5:

As to the question of there not being any affidavit of the Receiver to cross-examine on, I am somewhat puzzled by this. I do not understand that a Receiver, being an officer of the Court and being appointed by Court Order is required to give his reports by affidavit. I note that there is a

¹⁷ *Pine Valley Mining Corp., Re*, 2008 BCSC 446, 2008 CarswellBC 712 at para 17 [*Pine Valley*], BA Tab 8.

¹⁸ *Supra* note 3, s. 247.

¹⁹ *Bank of Montreal v. River Rentals Group Ltd.*, 2010 ABCA 16, 2010 CarswellAlta 57 [*BMO*] at para 16, BA Tab 9; and *Big Sky Living Inc., Re*, 2007 ABQB 249, 2007 CarswellAlta 489 [*Big Sky*] at para. 4, BA Tab 10.

²⁰ 30 C.B.R. (3d) 100, 1995 CarswellOnt 43 (O.C.J.) [*Innisfil*], BA Tab 11.

jurisprudence to the effect that it would have to be at least unusual circumstances for there to be any ability of other parties to examine (cross-examine in effect) the Receiver on any report. However, I do acknowledge that in, perhaps what some might characterize as a tearing down of an institution in the rush of counsel “to get to the truth of the matter” (at least as perceived by counsel), Receivers have sometimes obliged by making themselves available for such examination. Perhaps the watchword should be the three Cs of the Commercial List – cooperation, communication and common sense. Certainly, I have not seen any great need for (cross)examination when the Receiver is willing to clarify or amplify his material when such is truly needed. [*Emphasis added*]

19. *Bell Canada International, Re*²¹ is a CCAA case where the role of the report of a monitor was considered. Farley J. expanded on his reasoning in *Innisfil* and characterized a CCAA monitor’s report as evidence. At paragraph 6 of his decision, he states:

L disputes that the Monitor’s report is evidence but gives no basis for such a submission. With respect, I disagree. I do not think it necessary to delve deeply into this question but I do think it suffice to observe that such a report by a court appointed officer is recognized by the common law as being admissible evidence in a proceeding. For instance, see John Henry Wigmore, *Evidence in Trials at Common Law* (Little Brown & Company, Toronto & Boston; 1974) at pp. 791-6, Volume 5 (section 1670) discusses the ancient origins of reports being received as admissible evidence, stating at p. 791:

A report is to be distinguished from a return, as already defined (s. 1664 supra,) in that the latter is typically concerned with something done or observed personally by the officer, while the former embodies the results of his investigation of a matter not originally occurring within his personal knowledge. The older term customarily applied to the former type of statement - “inquisition” or “inquest” – suggest more clearly its special quality, namely that of resting upon means of information other than original personal observation.

Now an inquisition or report, if made under due authority, stands upon no less favourable a footing than other official statements. As a statement made under official authority, or duty, it is admissible under the general principle (sc 1633, 1635 supra). [*Emphasis added*]

20. Consistent with the foregoing characterization by John Henry Wigmore, a receiver’s report customarily contains and rests on information other than personal observation. It may also contain recommendations, views, perspectives and the like. The “general principle” being referred to above is that a report of an officer of the Court is considered to be evidence as an “official statement”, which is an existing exception to the hearsay rule. Exceptions to the hearsay rule are premised on concepts of “necessity” and “reliability”.

21. Hearsay evidence that falls within an exception to the hearsay rule is presumptively admissible so long as it is supported by indicia of necessity and reliability.²² Necessity in this context is “reasonable necessity” and does not require an absolute impossibility to give evidence

²¹ 2003 CarswellOnt 4537 (O.S.C.J.) [*Bell Canada International*], BA Tab 12.

²² *R. v. Khelawon*, [2006] 2 S.C.R. 787, 2006 CarswellOnt 7825 at para. 42, BA Tab 13.

because of death, for example.²³ John Henry Wigmore noted in *Treatise on the System of Evidence in Trials at Common Law* that “...this rigorous application of the principle of necessity is found relaxed. Something less than an absolute impossibility is regarded as sufficient [to meet the necessity test for an exception to the hearsay rule]. The necessity reduces itself to a high degree of expediency.”²⁴ He also noted that:

Were there no exception for Official Statements, hosts of officials would be found devoting the greater part of their time to attending as witnesses in court or delivering their depositions before an officer. The work of administration of government and the needs of the public having business with officials would alike suffer in consequence. Although, then, there is strictly no necessity for employing hearsay, in the sense that the personal attendance of the officer is corporally impossible to obtain, there is nevertheless a high degree of expediency that the public business be not deranged by insisting on the strict enforcement of the Hearsay rule. The principle, therefore, is in spirit here identical with that of the preceding exceptions.²⁵

22. The foregoing applies to a receiver, as an officer of the Court. In particular, it is submitted that admitting a receiver’s report as evidence is highly expedient and practically necessary. As noted above, a receiver is not a pure fact witness but rather it is required to exercise its business judgment in a commercially reasonable way and investigate matters to provide the Court and stakeholders with even-handed recommendations, views, perspectives and the like, which may rest upon means of information other than personal observation or knowledge. This kind of information has a unique quality and is best conveyed in the form of a report and not an affidavit where pure facts are meant to be described.

23. Further, requiring a receiver to report through affidavits has other procedural implications. For example, it may also impact the ability of a receiver to apply for final relief. If an applicant intends to rely on an affidavit to dispose of all or a part of a claim, Rule 13.18(3) provides that “the affidavit must be sworn on the basis of the personal knowledge of the person swearing the affidavit”.²⁶ If a receiver is required to file its reports by Affidavit, it may never be in a position to have personal knowledge of a matter and may be precluded from seeking final relief such as a sale of assets and a vesting order through the expedient summary application

²³ *R. v. Khan*, [1990] 2 S.C.R. 531, 1990 CarswellOnt 108 at para. 31, BA Tab 14.

²⁴ John Henry Wigmore, *Treatise on the System of Evidence in Trials at Common Law: Including the Statutes and Judicial Decisions of All Jurisdictions of the United States* (1904) (HeinOnline) at section 1631, BA Tab 15.

²⁵ *Ibid.*

²⁶ *Supra* note 1 at R. 13.18(3).

process. Reports are thus expedient and reasonably necessary to allow for the expedient and effective implementation of the broad duties of an officer of the Court referred to above.

24. In terms of reliability, hearsay must be accompanied by some circumstantial guarantee of trustworthiness in order for it to be admitted as evidence. Chief Justice Lamer in *R v. Smith* held that “[i]f a statement sought to be adduced by way of hearsay evidence is made under circumstances which substantially negate the possibility that the declarant was untruthful or mistaken, the hearsay evidence may be said to be “reliable”, i.e., a circumstantial guarantee of trustworthiness is established”.²⁷ It is submitted that a receiver’s report is inherently reliable since it has been prepared by an officer of the court who owes the Court a duty of loyalty and fidelity. Any breach of this duty puts the officer at risk of sanction including punishment for contempt.²⁸ Further, a receiver is required to remain neutral as between competing claims of the various stakeholders. Absent any evidence to the contrary, the receivers’ reports to the Court should thus be presumed to be truthful and therefore reliable.

25. The foregoing is consistent with the common law treatment of reports of receivers and monitors by Courts in Canada.²⁹ In *Pine Valley*, Garson J. of the Supreme Court of British Columbia stated that “[p]resumptively a monitor’s report, such as the one here, is admissible in evidence at a hearing concerning the subject matter of the report.”³⁰ Romaine J. of the Alberta Court cited *Pine Valley* favourably in commenting on the admissibility of monitor’s reports. In *SemCanada* at para. 99-100, she states:

Initially, Celtic submitted that the Monitor’s Reports were hearsay and could not be referred to in evidence. During later submissions however, Celtic indicated that, given the special position of the Monitor as a court appointed officer under the CCAA and having regard to established authority with respect to the acceptability of Monitor’s Reports in evidence generally, it had over-stated its position, but nevertheless maintained that it was inappropriate to adduce as evidence portions of the Monitor’s Report in this application.

²⁷ [1992] 2 S.C.R. 915, 1992 CarswellOnt 103 at para. 34, BA Tab 16.

²⁸ *Supra* note 14 at para. 57.

²⁹ *BMO*, *supra* note 19 at para 16; *Big Sky*, *supra* note 19 at para. 4; *Anvil Range Mining Corp., Re*, 21 C.B.R. (4th) 194, 2001 CarswellOnt 908 (O.S.C.J.) [*Anvil*] at para. 4, BA Tab 17; *SemCanada Crude Co., Re*, 2010 ABQB 531, 2010 CarswellAlta 1702 [*SemCanada*] at para’s 99-100, BA Tab 18; *Kerr Interior Systems Ltd., Re*, 2008 ABQB 286, 2008 CarswellAlta 661 at para 104, BA Tab 19; *Canwest Publishing Inc./Publications Canwest Inc., Re*, 2010 ONSC 1328, 2010 CarswellOnt 1344 at para 22, BA Tab 20; *Stomp Pork Farm Ltd., Re*, 2008 SKCA 73, 2008 CarswellSask 358 at para 34, BA Tab 21; *supra* note 17 at para 12.

³⁰ *Supra* note 17 at para 12.

There is no reason why these portions of the Monitor's Reports should not be adduced as evidence. As noted by Farley, J. in *Bell Canada International (Re)*, [2003] O.J. 4738 (Ont. S.C.J.) (QL) at paragraph 6, such reports are recognized as being admissible evidence in a CCAA proceeding. This approach was followed in *Pine Valley Mining Corporation (Re)*, 2008 B.C.S.C. 446, and in many unreported applications of this kind in Alberta... .

26. It should be noted that just because a receiver brings an application in a proceeding does not convert such receiver into an adversarial party in such proceedings that is subject to cross-examination. With respect to an application brought by an interim receiver, Farley J. commented on this issue as follows:

The Interim Receiver is an officer of the Court. That designation with all of its obligations and responsibilities does not change merely because the Interim Receiver has brought a sanctioning motion. I disagree with and reject Mr. Jones' submissions that the Interim Receiver by virtue of bringing this motion has become an adversarial party in a contentious matter. Nor is this an exceptional or unusual circumstance situation which would require cross-examination.³¹
[Emphasis added]

27. Context for the rationale behind permitting receiver's to file reports was provided by Lee J. of the Alberta Court in *Big Sky*. In the course of considering whether to permit cross-examination of a receiver, at paragraph 4 of his decision, he states:

Receivers should not be subject to harassment for doing their job, particularly given that most Receivers in doing their jobs usually offend the parties against who the receivership is ordered. This is particularly so if the parties against whom the receivership is ordered against are using the examination of the Receiver as a fishing expedition, or to allow them to establish a basis of potential lawsuits against the Receiver, at the cost of the petitioning party...³²

28. With respect to cross-examining a receiver on the contents of its report, historically, the practice is only to allow cross-examinations of court officers in exceptional or unusual circumstances. Typically, exceptional or unusual circumstances are found to exist where a receiver refuses to cooperate in clarifying a part of its report or does not answer reasonable requests for an expanded answer.³³ As noted above in the quote from *Big Sky*, a receiver should not be subject to harassment for doing its job.

³¹ *Anvil*, *supra* note 29 at para. 3.

³² *Big Sky*, *supra* note 19 at para. 4.

³³ *Supra* note 21 at para. 8; *Re Ravelston Corp.*, 29 C.B.R. (5th) 1, 2007 CarswellOnt 661 (O.S.C.J.) at para. 37 and 38, BA Tab 22 (confirmed by the Ontario Court of Appeal in *Re Ravelston Corp.*, 29 C.B.R. (5th) 45, 2007 CarswellOnt 1115 (C.A.), BA Tab 23); *supra* note 17 at para. 12; *Canadian Airlines Corp., Re.*, 2000 ABQB 442, 2000 CarswellAlta 662 [*Canadian Airlines*] at para. 111-114, BA Tab 24; and *Big Sky*, *supra* note 19 at para. 6.

29. In summary, receiver's reports have historically been received as evidence and a party may only cross-examine a receiver on its report in exceptional or unusual circumstances. If a party wants a receiver to clarify a point in its report or to provide additional information, the case law suggests that such party ought to submit questions in writing to the receiver.

Impact of the New Rules on Receiver's Reports

30. Pursuant to Rule 1.2, the purpose and intention of the New Rules is "to provide a means by which claims can be fairly and justly resolved in or by a court process in a timely and cost-effective way."³⁴ In particular, the New Rules are intended to be used "to provide an effective, efficient and credible system of remedies and sanctions to enforce these rules and orders and judgments."³⁵

31. With respect to evidence this Court may consider in making a decision about an application, Rule 6.11(1) of the New Rules provides:

Evidence at application hearings

6.11(1) When making a decision about an application the Court may consider only the following evidence:

- (a) affidavit evidence, including an affidavit by an expert;
- (b) a transcript of questioning under this Part;
- (c) the written or oral answers, or both, to questions under Part 5 that may be used under rule 5.31;
- (d) an admissible record disclosed in an affidavit of records under rule 5.6;
- (e) anything permitted by any other rule or by an enactment;
- (f) evidence taken in any other action, but only if the party proposing to submit the evidence gives every other party written notice of that party's intention 5 days or more before the application is scheduled to be heard or considered and obtains the Court's permission to submit the evidence;
- (g) with the Court's permission, oral evidence, which, if permitted, must be given in the same manner as at trial. [*Emphasis added*]

Although Rule 6.11 does not expressly enumerate receiver's reports as evidence the Court may consider when making a decision about an application, it does provide that this Court may consider "anything permitted by any other rule or enactment." Accordingly, this Court may consider receiver's reports as evidence if another rule or enactment permits.

32. The Procedural Order requested by the Receiver is contemplated by Rules 1.4(1) and (2)(d) of the New Rules, which read as follows:

³⁴ *Supra* note 1 at R. 1.2(1).

³⁵ *Ibid* at R. 1.2(2)(e).

Procedural Order

1.4(1) To implement and advance the purpose and intention of these rules described in rule 1.2 the Court may, subject to any specific provision of these rules, make any order with respect to practice or procedure, or both, in an action, application or proceeding before the Court.

(2) Without limiting subrule (1), and in addition to any specific authority the Court has under these rules, the Court may, unless specifically limited by these rules, do one or more of the following...

(d) make a ruling with respect to how or if these rules apply in particular circumstances or to the operation, practice or procedure under these rules;

33. The Receiver submits that the Procedural Order it seeks falls within the purpose and intention of the New Rules in that it facilitates a timely and cost-effective receivership proceeding. Requiring receivers to file affidavits instead of reports, and allowing a receiver to be subjected to cross-examination on each occasion it wishes to update the Court and stakeholders, has the potential to cause undue delays, limit the available relief and increase professional and other costs, all to the detriment of the estate, which is undesirable and contradicts the overall purpose of the New Rules. Further, the Procedural Order is consistent with the well-founded historical practice and procedure and its underlying rationale as described above. Moreover, it fairly balances and protects the interests of the Receiver and other parties.


34. Finally, from a policy perspective, if the New Rules require court-appointed receivers in Alberta to submit reports by way of affidavit, the cases referred to herein suggest that there will be inconsistencies in the practice of receivers across Canada which may encourage "forum shopping" to jurisdictions where reports are permitted.

CONCLUSION

35. In summary, for the reasons outlined above, the Receiver respectfully submits that it is reasonable and appropriate in the circumstances for this Court to grant the Procedural Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 20th day of January, 2011.

OSLER, HOSKIN & HARCOURT LLP



Christa Nicholson/Doug Schweitzer
Counsel for the Receiver, Deloitte & Touche Inc.

LIST OF AUTHORITIES

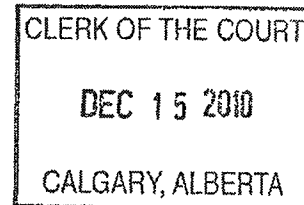
1. *Alberta Rules of Court*, Alta. Reg. 124/2010.
2. *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3.
3. *Judicature Act*, R.S.A. 2000, c. J-2.
4. *Bankruptcy and Insolvency General Rules*, C.R.C., c. 368.
5. Kevin P. McElcheran, *Commercial Insolvency In Canada* (LexisNexis Canada Inc.: Markham, 2005).
6. *Transglobal Communications Group Inc. (Re)*, 2009 ABQB 195, 2009 CarswellAlta 464.
7. *N.A.P.E. v. Newfoundland & Labrador (Minister of Justice)*, 2004 NLSCTD 54, 2004 CarswellNfld 97.
8. *Pine Valley Mining Corp., Re*, 2008 BCSC 446, 2008 CarswellBC 712.
9. *Bank of Montreal v. River Rentals Group Ltd.*, 2010 ABCA 16, 2010 CarswellAlta 57.
10. *Big Sky Living Inc., Re*, 2007 ABQB 249, 2007 CarswellAlta 489.
11. *Mortgage Insurance Co. of Canada v. Innisfil Landfill Corp.*, 30 C.B.R. (3d) 100, 1995 CarswellOnt 43 (O.C.J.).
12. *Bell Canada International Inc., Re*, 2003 CarswellOnt 4537 (O.S.C.J.).
13. *R. v. Khelawon*, [2006] 2 S.C.R. 787, 2006 CarswellOnt 7825.
14. *R. v. Khan*, [1990] 2 S.C.R. 531, 1990 CarswellOnt 108.
15. John Henry Wigmore, *Treatise on the System of Evidence in Trials at Common Law: Including the Statutes and Judicial Decisions of All Jurisdictions of the United States* (1904) (HeinOnline).
16. *R v. Smith*, [1992] 2 S.C.R. 915, 1992 CarswellOnt 103.
17. *Anvil Range Mining Corp., Re*, 21 C.B.R. (4th) 194, 2001 CarswellOnt 908 (O.S.C.J.).
18. *SemCanada Crude Co., Re.*, 2010 ABQB 531, 2010 CarswellAlta 1702.
19. *Kerr Interior Systems Ltd., Re*, 2008 ABQB 286, 2008 CarswellAlta 661.
20. *Canwest Publishing Inc./Publications Canwest Inc., Re*, 2010 ONSC 1328, 2010 CarswellOnt 1344.
21. *Stomp Pork Farm Ltd., Re*, 2008 SKCA 73, 2008 CarswellSask 358.

22. *Ravelston Corp, Re.*, 29 C.B.R. (5th) 1, 2007 CarswellOnt 661 (O.S.C.J.).
23. *Ravelston Corp, Re.*, 29 C.B.R. (5th) 45, 2007 CarswellOnt 1115 (C.A.).
24. *Canadian Airlines Corp., Re.*, 2000 ABQB 442, 2000 CarswellAlta 662.

Schedule "A"

I hereby certify this to be a true copy of
the original Order
Dated this 15 day of Dec 2010
[Signature]
for Clerk of the Court

Clerk's stamp:



COURT FILE NUMBER 1001-18532

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT **BANK OF MONTREAL**

RESPONDENTS **STATESMAN RIVERSIDE QUAYS LTD., RIVERSIDE QUAYS LIMITED PARTNERSHIP, and THE STATESMAN GROUP OF COMPANIES LTD.**

DOCUMENT **RECEIVERSHIP ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
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File No.: 503819-204

DATE ON WHICH ORDER WAS PRONOUNCED: December 15, 2010

NAMES OF MASTER/JUDGE WHO MADE THIS ORDER: THE HONOURABLE JUSTICE B.E.C. ROMAINE

RECEIVERSHIP ORDER

UPON THE APPLICATION of Bank of Montreal ("BMO") in respect of Statesman Riverside Quays Ltd. and Riverside Quays Limited Partnership (collectively the "Debtors"); **AND UPON** having read the Statement of Claim, Notice of Application, the Affidavit of Gregory Fedoryn sworn December 13, 2010 (the "Fedoryn Affidavit"), filed, and the Affidavit of Service of Ronica Cameron, sworn, December 15, 2010; **AND UPON** reading the consent of Ernst & Young Inc. to act as receiver and manager (the "Receiver") of the Debtors;

AND UPON it appearing that all interested and affected parties have been served with notice of this application;

AND UPON hearing counsel for BMO and counsel to other interested parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

Service

1. The time for service of the notice of application for this order is hereby abridged and service thereof is deemed good and sufficient.

Appointment

2. Pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA"), section 13(2) of the *Judicature Act*, R.S.A. 2000, c. J-2, and section 54 of the *Builders' Lien Act*, R.S.A. 2000, c.B-7, Ernst & Young Inc. is hereby appointed Receiver, without security, of all of the current and future assets, undertakings, and properties (including proceeds thereof) of the Debtors (and of either of the Debtors) of every nature and kind whatsoever and wherever situate (collectively, the "Property"), including the real property described in Schedule "A" hereto.

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 and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
 - (b) to receive, preserve, protect and maintain control of 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, counsel, accountants, managers (including without limitation Statesman Master Builders Inc.), and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties 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 either of the Debtors and to exercise all remedies of either of the Debtors in collecting such monies, including, without limitation, to enforce any security held by either of the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to or by either of 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 either of the Debtors, for any purpose pursuant to this Order, including without limitation agreements with The Alberta New Home Warranty Program;
- (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 either of 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;

- (k) to complete the construction and finishing of condominium units and common areas of the building (the "**Completed Building**") constructed on the real property described in Part One of Schedule "A" to the extent consented to in writing by BMO and Alberta Treasury Branches ("ATB");
- (l) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (m) to sell and transfer any condominium unit or condominium units in the Completed Building, in the ordinary course of business of either of the Debtors with the prior written consent of BMO and ATB or otherwise with further order of this Court;
- (n) to sell and transfer the Property or any part or parts thereof (other than condominium units in the Completed Building) out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; 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 shall not be required;

- (o) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (p) 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;

- (q) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (r) 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 either of the Debtors;
- (s) to enter into agreements with any trustee in bankruptcy appointed in respect of either of the Debtors, including, without limiting the generality of the foregoing, to enter into occupation agreements for any property owned or leased by either of the Debtors;
- (t) to exercise any shareholder, partnership, joint venture or other rights which either of the Debtors may have; and
- (u) to take any steps reasonably incidental to the exercise of these powers;

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

- 3.1 The Receiver will report to the Court from time to time, which reporting need not be in Affidavit form.
- 4. The Receiver shall not, subject to subparagraph 3(b) of this Order, take any steps to complete or to further construction of any building other than the Completed Building.

Duty to Provide Access and Co-Operation to the Receiver

- 5. (i) The Debtors, (ii) all of the Debtors' current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on the Debtors' 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 dependant on maintaining possession) to the Receiver upon the Receiver's request.

6. 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 either 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 6 or in paragraph 7 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.
7. 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

8. 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 Debtors or the Property

9. No Proceeding against or in respect of either 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 either 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 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 9.

No Exercise of Rights or Remedies

10. All rights and remedies (including, without limitation, set-off rights) against either of the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or either of the Debtors to carry on any business which either of the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or either of the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, (iv) prevent BMO or ATB from taking any steps that may be necessary or advisable in connection with the matters set forth in paragraph 27 of the Fedoryn Affidavit, or (v) prevent the registration of a claim for lien.

No Interference with the Receiver

11. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by either of the Debtors, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an "eligible financial contract" (as defined in section 2(1)

of the *Companies' Creditors Arrangement Act*) with either of the Debtors from terminating such contract or exercising any rights of set-off, in accordance with its terms.

Continuation of Services

12. All Persons having oral or written agreements with either of the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to either of the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and this Court directs that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of such Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court. Despite this paragraph 12 or any other provision of this Order, BMO and ATB shall not have any obligation to make any advance or extend any credit to either of the Debtors or the Receiver, except as may be arranged pursuant to paragraph 21 of this Order.

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 either of the Debtors shall remain the employees of such Debtor until such time as the Receiver, on such Debtors' 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").

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 applicable Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

Limitation on Receiver's Liabilities

16. The Receiver shall incur no liability or obligation as a result of its appointment or carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the WEPPA. Nothing in this Order shall derogate from the protection afforded to the Receiver by Section 14.06 of the BIA or any other applicable legislation.

Limitation on Environmental Liabilities

17. (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 willful misconduct.
- (b) Nothing in sub-paragraph (a) exempts the 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.

Nothing in this Order shall derogate from the protection afforded to the Receiver by section 14.06 of the BIA or any other applicable legislation.

Receiver's Accounts

- 18. Any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel, incurred at the standard rates and charges of the Receiver and its counsel, shall be allowed to it in passing its accounts and shall form a first charge on the Property in priority to all other security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (the "Receiver's Charge").
- 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 from BMO and ATB (or from BMO, as agent for itself and ATB) by way of a revolving credit or otherwise pursuant to a revolving credit agreement or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$700,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the

Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge.

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 "B" 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.

Allocation

25. 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

26. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
27. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of either of the Debtors.
28. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be

necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

29. 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.
30. The Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of BMO's security or, if not so provided by BMO's security, then on a solicitor and its own client full indemnity basis to be paid by the Receiver from the Debtors' estates with such priority and at such time as this Court may determine.
31. 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.
32. Upon request by the Receiver, the Registrar of Alberta Land Titles shall register this Order against the lands described in the attached Schedule "A" to this Order immediately and notwithstanding the requirements of section 191(1) of the *Land Titles Act* (Alberta), R.S.A. 2000, c L-4.

"B.E.C. Romaine"

J.C.C.Q.B.A.

SCHEDULE "A"

**LANDS OWNED BY STATESMAN RIVERSIDE QUAYS LTD. FOR THE BENEFIT OF
RIVERSIDE QUAYS LIMITED PARTNERSHIP
AS AT DECEMBER 7, 2010**

PART ONE – COMPLETED BUILDING

1. CONDOMINIUM PLAN 0914935
UNIT 22
AND 11 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
2. CONDOMINIUM PLAN 0914935
UNIT 46
AND 10 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
3. CONDOMINIUM PLAN 0914935
UNIT 51
AND 14 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
4. CONDOMINIUM PLAN 0914935
UNIT 54
AND 13 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
5. CONDOMINIUM PLAN 0914935
UNIT 56
AND 14 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
6. CONDOMINIUM PLAN 0914935
UNIT 57
AND 10 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
7. CONDOMINIUM PLAN 0914935
UNIT 73
AND 13 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
8. CONDOMINIUM PLAN 0914935
UNIT 81
AND 13 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
9. CONDOMINIUM PLAN 0914935
UNIT 90

AND 12 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

10. CONDOMINIUM PLAN 0914935
UNIT 95
AND 13 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
11. CONDOMINIUM PLAN 0914935
UNIT 97
AND 14 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
12. CONDOMINIUM PLAN 0914935
UNIT 99
AND 12 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
13. CONDOMINIUM PLAN 0914935
UNIT 100
AND 12 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
14. CONDOMINIUM PLAN 0914935
UNIT 107
AND 9 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
15. CONDOMINIUM PLAN 0914935
UNIT 108
AND 13 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
16. CONDOMINIUM PLAN 0914935
UNIT 112
AND 12 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
17. CONDOMINIUM PLAN 0914935
UNIT 138
AND 13 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
18. CONDOMINIUM PLAN 0914935
UNIT 140
AND 14 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
19. CONDOMINIUM PLAN 0914935
UNIT 144

AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

20. CONDOMINIUM PLAN 0914935
UNIT 145
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
21. CONDOMINIUM PLAN 0914935
UNIT 151
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
22. CONDOMINIUM PLAN 0914935
UNIT 154
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
23. CONDOMINIUM PLAN 0914935
UNIT 155
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
24. CONDOMINIUM PLAN 0914935
UNIT 158
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
25. CONDOMINIUM PLAN 0914935
UNIT 164
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
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26. CONDOMINIUM PLAN 0914935
UNIT 165
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
27. CONDOMINIUM PLAN 0914935
UNIT 166
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
28. CONDOMINIUM PLAN 0914935
UNIT 169
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
29. CONDOMINIUM PLAN 0914935
UNIT 170

AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

30. CONDOMINIUM PLAN 0914935
UNIT 171
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
31. CONDOMINIUM PLAN 0914935
UNIT 173
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
32. CONDOMINIUM PLAN 0914935
UNIT 175
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
33. CONDOMINIUM PLAN 0914935
UNIT 176
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
34. CONDOMINIUM PLAN 0914935
UNIT 178
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
35. CONDOMINIUM PLAN 0914935
UNIT 179
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
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36. CONDOMINIUM PLAN 0914935
UNIT 180
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
37. CONDOMINIUM PLAN 0914935
UNIT 181
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
38. CONDOMINIUM PLAN 0914935
UNIT 182
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
39. CONDOMINIUM PLAN 0914935
UNIT 183

AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

40. CONDOMINIUM PLAN 0914935
UNIT 184
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
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41. CONDOMINIUM PLAN 0914935
UNIT 186
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
42. CONDOMINIUM PLAN 0914935
UNIT 187
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
43. CONDOMINIUM PLAN 0914935
UNIT 190
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
44. CONDOMINIUM PLAN 0914935
UNIT 192
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
45. CONDOMINIUM PLAN 0914935
UNIT 195
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
46. CONDOMINIUM PLAN 0914935
UNIT 197
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
47. CONDOMINIUM PLAN 0914935
UNIT 198
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
48. CONDOMINIUM PLAN 0914935
UNIT 199
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
49. CONDOMINIUM PLAN 0914935
UNIT 200

AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

50. CONDOMINIUM PLAN 0914935
UNIT 201
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
51. CONDOMINIUM PLAN 0914935
UNIT 202
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
52. CONDOMINIUM PLAN 0914935
UNIT 205
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
53. CONDOMINIUM PLAN 0914935
UNIT 216
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
54. CONDOMINIUM PLAN 0914935
UNIT 217
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
55. CONDOMINIUM PLAN 0914935
UNIT 218
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
56. CONDOMINIUM PLAN 0914935
UNIT 219
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
57. CONDOMINIUM PLAN 0914935
UNIT 221
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
58. CONDOMINIUM PLAN 0914935
UNIT 222
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
59. CONDOMINIUM PLAN 0914935
UNIT 227

- AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
60. CONDOMINIUM PLAN 0914935
UNIT 238
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
61. CONDOMINIUM PLAN 0914935
UNIT 241
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
62. CONDOMINIUM PLAN 0914935
UNIT 242
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
63. CONDOMINIUM PLAN 0914935
UNIT 243
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
64. CONDOMINIUM PLAN 0914935
UNIT 246
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
65. CONDOMINIUM PLAN 0914935
UNIT 251
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
66. CONDOMINIUM PLAN 0914935
UNIT 261
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
67. CONDOMINIUM PLAN 0914935
UNIT 262
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
68. CONDOMINIUM PLAN 0914935
UNIT 263
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
69. CONDOMINIUM PLAN 0914935
UNIT 267

AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

70. CONDOMINIUM PLAN 0914935
UNIT 269
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
71. CONDOMINIUM PLAN 0914935
UNIT 272
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
72. CONDOMINIUM PLAN 0914935
UNIT 273
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
73. CONDOMINIUM PLAN 0914935
UNIT 274
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
74. CONDOMINIUM PLAN 0914935
UNIT 276
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
75. CONDOMINIUM PLAN 0914935
UNIT 278
AND 2 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
76. CONDOMINIUM PLAN 0914935
UNIT 280
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
77. CONDOMINIUM PLAN 0914935
UNIT 297
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
78. CONDOMINIUM PLAN 0914935
UNIT 311
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
79. CONDOMINIUM PLAN 0914935
UNIT 312

- AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
80. CONDOMINIUM PLAN 0914935
UNIT 314
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
81. CONDOMINIUM PLAN 0914935
UNIT 315
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
82. CONDOMINIUM PLAN 0914935
UNIT 316
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
83. CONDOMINIUM PLAN 0914935
UNIT 318
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
84. CONDOMINIUM PLAN 0914935
UNIT 324
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
85. CONDOMINIUM PLAN 0914935
UNIT 325
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
86. CONDOMINIUM PLAN 0914935
UNIT 329
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
87. CONDOMINIUM PLAN 0914935
UNIT 341
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
88. CONDOMINIUM PLAN 0914935
UNIT 343
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
89. CONDOMINIUM PLAN 0914935
UNIT 345

AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

90. CONDOMINIUM PLAN 0914935
UNIT 346
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
91. CONDOMINIUM PLAN 0914935
UNIT 368
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
92. CONDOMINIUM PLAN 0914935
UNIT 370
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
93. CONDOMINIUM PLAN 0914935
UNIT 371
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
94. CONDOMINIUM PLAN 0914935
UNIT 372
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
95. CONDOMINIUM PLAN 0914935
UNIT 373
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
96. CONDOMINIUM PLAN 0914935
UNIT 374
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
97. CONDOMINIUM PLAN 0914935
UNIT 378
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
98. CONDOMINIUM PLAN 0914935
UNIT 379
AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
99. CONDOMINIUM PLAN 0914935
UNIT 382

AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

100. CONDOMINIUM PLAN 0914935
UNIT 387

AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

101. CONDOMINIUM PLAN 0914935
UNIT 390

AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

102. CONDOMINIUM PLAN 0914935
UNIT 392

AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

103. CONDOMINIUM PLAN 0914935
UNIT 403

AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

104. CONDOMINIUM PLAN 0914935
UNIT 404

AND 1 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

PART TWO – ADDITIONAL LANDS

105. CONDOMINIUM PLAN 0914922
UNIT 2
AND 1449 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
106. CONDOMINIUM PLAN 0914922
UNIT 3
AND 871 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
107. CONDOMINIUM PLAN 0914922
UNIT 4
AND 1167 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
108. CONDOMINIUM PLAN 0914922
UNIT 5
AND 2097 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
109. CONDOMINIUM PLAN 0914922
UNIT 6
AND 1105 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
110. CONDOMINIUM PLAN 0914922
UNIT 7
AND 25 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
111. CONDOMINIUM PLAN 0914922
UNIT 8
AND 25 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
112. CONDOMINIUM PLAN 0914922
UNIT 9
AND 25 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
113. CONDOMINIUM PLAN 0914922
UNIT 10
AND 25 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
114. CONDOMINIUM PLAN 0914922
UNIT 11

- AND 25 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
115. CONDOMINIUM PLAN 0914922
UNIT 12
AND 25 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
116. CONDOMINIUM PLAN 0914922
UNIT 13
AND 25 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
117. CONDOMINIUM PLAN 0914922
UNIT 14
AND 25 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
118. CONDOMINIUM PLAN 0914922
UNIT 15
AND 270 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
119. CONDOMINIUM PLAN 0914922
UNIT 16
AND 308 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
120. CONDOMINIUM PLAN 0914922
UNIT 17
AND 308 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
121. CONDOMINIUM PLAN 0914922
UNIT 18
AND 273 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
122. CONDOMINIUM PLAN 0914922
UNIT 19
AND 232 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS
123. CONDOMINIUM PLAN 0914922
UNIT 20
AND 109 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

MAXIMUM PRINCIPAL

AMOUNT

\$ _____

1. THIS IS TO CERTIFY that the undersigned, Ernst & Young Inc., the receiver and manager (the "Receiver") of all of the assets, undertakings and properties of Statesman Riverside Quays Ltd. and Riverside Quays Limited Partnership, having been so appointed by Order of the Court of Queen's Bench of Alberta dated the ____ day of December, 2010 (the "Order") made in Action Number _____:
 - (a) has received as such Receiver from _____ (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; or
 - (b) has entered into a revolving credit agreement with _____ (the "Lender") whereby the Receiver may borrow from time to time an amount permitted thereunder provided that the maximum principal amount outstanding thereunder shall not exceed \$_____ which the Receiver is authorized to borrow pursuant to the Order.
2. The principal sum owing in respect of this certificate shall be payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the first day of each month after the date hereof at a fluctuating rate per annum equivalent to the rate of _____ per cent above the prime commercial lending rate of Bank of Montreal from time to time as designated by Bank of Montreal.
3. Such principal sum and interest thereon are, 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 on the whole of the Property in priority

to the charges, security interests and encumbrances of any other person, but subordinate in priority to the Receiver's Charge.

4. All sums payable in respect of principal and interest under this certificate are payable at the office of the Lender designated by the Lender from time to time.
5. Until all indebtedness in respect of this certificate has been paid in full, 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 Lender without the prior written consent of the Lender.
6. The Receiver's Borrowings Charge securing payment of the indebtedness owing in respect of 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 shall not be under any personal liability to pay any sum in respect of which it may issue certificates under the terms of the Order.
8. Words capitalized in this certificate and defined by the Order shall have the meanings assigned to them by the Order.

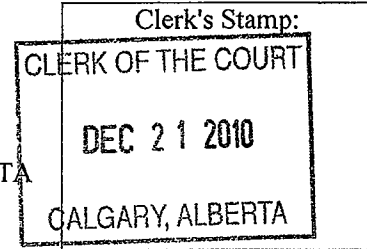
DATED the _____ day of _____, _____.

Ernst & Young Inc., solely in its capacity as
Receiver of the Property (as defined in the Order),
and not in its personal capacity

Per: _____

Schedule "B"

COURT FILE NUMBER 1001-18777
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF CLARITY LIFE SCIENCES LTD., CLARITY ENTERPRISES LTD. AND TRAFALGAR UNIVERSAL LIMITED
DEFENDANT SAPONIN INC.
DOCUMENT ORDER



I hereby certify this to be a true copy of
the original Order
Dated this 21 day of Dec 2010
D. J. J. J.
for Clerk of the Court

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Burnet, Duckworth & Palmer LLP
1400, 350 - 7 Avenue SW
Calgary, Alberta T2P 3N9
Lawyer: Douglas S. Nishimura
Phone Number: (403) 260-0269
Fax Number: (403) 260-0332
Email Address: dsn@bdplaw.com
File No. 63032-5

DATE ON WHICH ORDER WAS PRONOUNCED: December 21, 2010

NAME OF JUSTICE WHO MADE THIS ORDER: Justice Kent

ORDER

UPON the application of the Plaintiffs in respect of Saponin Inc. (the "Debtor"); AND UPON having read the Notice of Application, the Affidavit of James Anthony Wetherall, filed; AND UPON reading the consent of Deloitte & Touche Inc. to act as interim receiver and receiver and manager ("Receiver") of the Debtor, filed; AND UPON hearing counsel for the Plaintiffs; IT IS HEREBY ORDERED AND DECLARED THAT:

Service

1. The time for service of the notice of application for this order is hereby abridged and service thereof is deemed good and sufficient.

Appointment

2. Pursuant to section 47 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 ("BIA"), and sections 13(2) of the *Judicature Act*, R.S.A. 2000, c.J-2, 99(a) of the *Business Corporations Act*, R.S.A. 2000, c.B-9, and 65(7) of the *Personal Property Security Act*, R.S.A. 2000, c.P-7 (choose applicable statute(s)) Deloitte & Touche Inc. is hereby appointed Receiver, without security, of

all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the "Property").

3. The Receiver will report to the Court from time to time, which reporting need not be in Affidavit form.

Receiver's Powers

4. 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 and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
 - (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
 - (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part other business, or cease to perform any contracts of the Debtor;
 - (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;
 - (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
 - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
 - (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;
 - (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
 - (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
 - (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 Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review

in respect of any order or judgment pronounced in any such proceeding, 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.

- (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 \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; 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 shall not be required.

- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (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;
- (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 Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers;

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

Duty to Provide Access and Co-operation to the Receiver

5. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependant on maintaining possession) to the Receiver upon the Receiver's request.
6. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.
7. 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

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

No Proceedings against the Debtor or the Property

9. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall 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 8.

No Exercise of Rights of Remedies

10. All rights and remedies (including, without limitation, set-off rights) against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

No Interference with the Receiver

11. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an "eligible financial contract" (as defined in section 11.1(1) of the *Companies' Creditors Arrangement Act*) with the Debtor from terminating such contract or exercising any rights of set-off, in accordance with its terms.

Continuation of Services

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

Receiver to Hold Funds

13. 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 Debtor shall remain the employees of the Debtor 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 wages, severance pay, termination pay, vacation pay, and pension or benefit amounts, other than such amounts as the Receiver may specifically agree in writing to pay, or such amounts as may be determined in a Proceeding before a court or tribunal of competent jurisdiction.
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 Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

Limitation on Environmental Liabilities

16. (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.

Nothing in this Order shall derogate from the protection afforded to the Receiver by Section 14.06 of the BIA or any other applicable legislation.

Receiver's Accounts

17. Any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel, incurred at the standard rates and charges of the Receiver and its counsel, shall be allowed to it in passing its accounts and shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (the "Receiver's Charge").
18. The Receiver and its legal counsel shall pass their accounts from time to time.
19. 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

20. 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 \$20,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge.

21. 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.
22. 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.
23. 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.

Allocation

24. 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

25. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
26. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
27. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
28. 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.
29. The Plaintiff shall have its costs of this motion, 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 to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
30. 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.

"C.A. Kent"
Justice of the Court of Queen's Bench of Alberta

Schedule "C"

ACTION NO. 1001-03215

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

I hereby certify this to be a true copy of
the original order
Dated this 29 day of Nov
[Signature]
for Clerk of the Court

CLERK OF THE COURT
NOV 29 2010
CALGARY, ALBERTA
Plaintiff

FIRST CALGARY SAVINGS & CREDIT UNION LTD.

and

PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L.
PERERA and SHIRANIE M. PERERA

Defendants

AND BETWEEN:

PERERA SHAWNEE LTD., DON L. PERERA and SHIRANIE M. PERERA

Plaintiffs by Counterclaim

and

FIRST CALGARY SAVINGS & CREDIT UNION LTD.
and DELOITTE & TOUCHE LLP

Defendants by Counterclaim

BEFORE THE HONOURABLE)
MADAM JUSTICE ^ J. STREKAF)
IN CHAMBERS)

AT THE COURTHOUSE, IN THE CITY)
OF CALGARY, IN THE PROVINCE OF)
ALBERTA, ON ^ MONDAY, THE ^ 29TH)
DAY OF ^ NOVEMBER, 2010)

AMENDED AND RESTATED CLOSING PROCESS ORDER

UPON the application of Deloitte & Touche Inc., in its capacity as Court-appointed receiver and manager of Perera Development Corporation ("PDC") and Perera Shawnee Ltd. ("PSL", or when reference is being made to PDC and PSL collectively, the "Debtors"), and not in its personal capacity (the "Receiver"); AND UPON noting the Order issued by Madam Justice A. Kent on March 3, 2010 (the "Receivership Order"); AND UPON noting the Affidavit of Service of Sandra Bazian, sworn October 12, 2010 (the "First Affidavit of

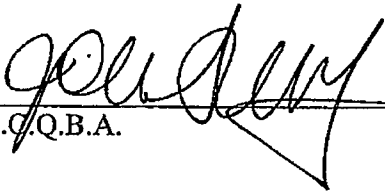
Service”); AND UPON noting the Affidavit of Service of Pamela Nutter, sworn October 27, 2010 (the **“Second Affidavit of Service”**) (the First Affidavit of Service and the Second Affidavit of Service are collectively referred to as the **“Affidavits of Service”**); **AND UPON** reading the First Report of the Receiver, dated July 30, 2010 (the **“First Receiver’s Report”**); **AND UPON** reading the Confidential Second Report of the Receiver, dated August 11, 2010 (the **“Confidential Second Receiver’s Report”**); **AND UPON** reading the Third Report of the Receiver, dated October 7, 2010 (the **“Third Receiver’s Report”**); **AND UPON** reading the Confidential Fourth Report of the Receiver, dated October 7, 2010 (the **“Confidential Fourth Receiver’s Report”**); **AND UPON** reading the Fifth Report of the Receiver, dated October 26, 2010 (the **“Fifth Receiver’s Report”**); **AND UPON** reading the Confidential Sixth Report of the Receiver, dated October 2, 2010 (the **“Confidential Sixth Receiver’s Report”**); **AND UPON** noting the Adjournment Order granted by Madam Justice A. Kent on October 22, 2010; **AND UPON** noting the Sealing Order granted by Madam Justice A. Kent on October 27, 2010 (the **“Third Sealing Order”**); **AND UPON** noting the Order (Re: Advice and Directions regarding Service) granted by Madam Justice A. Kent on October 27, 2010 (the **“Service Order”**); **AND UPON** reading the Tenth Report of the Receiver, dated November 24, 2010 (the “Tenth Receiver’s Report”); **AND UPON** hearing from counsel for the Receiver and counsel for any other persons present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

1. The time for service of the Notice of Motion dated October 7, 2010 (the **“October 7 Motion”**) and the Notice of Motion dated October 26, 2010 (the **“October 26 Motion”**) (the October 7 Motion and the October 26 Motion are collectively referred to as, the **“Motions”**), the Third Receiver’s Report and the Fifth Receiver’s Report (collectively, the **“Receiver’s Reports”**) is abridged if necessary, the Motions are properly returnable today, service of the Motions and the Receiver’s Reports on the persons listed in Schedule **“G”** to the Motion and Schedule **“C”** to the October 26 Motion (collectively, the **“Service List”**) in the manner described in the Affidavits of Service is good and sufficient and no persons other than the persons on the Service List are entitled to notice of the Motions or service of the Receiver’s Reports.
2. Upon *ex parte* application by the Receiver by letter in the form attached as Schedule **“A”** to this Order from the solicitors for the Receiver (the **“Letter”**), the Court may grant a

vesting order, substantially in the form attached as Schedule "B" to this Order (the "Vesting Order"), in order to effect the closing of any purchase contracts that the Receiver has or may enter into with any persons for the purchase of units in Condominium Plan 0915321 (a "Purchase Contract") provided that:

- (a) the sale price pursuant to a Purchase Contract in respect of a unit in the Plan ("Unit") is in compliance with Schedule "4", Column "F" of the Confidential Fourth Receiver's Report;
 - (b) the unredacted Purchase Contract is filed under seal pursuant to the Third Sealing Order; ^
 - (c) the Purchase Contract is filed in the within proceedings as part of the public record with redaction of the purchaser's address ^ (the "**Redacted Purchase Contract**"); and
 - (d) the certificate of title ("**Title**") to a Unit is in the same state as it was on the date of this Order, except only for any new registrations or discharges respecting builders' liens or certificates of lis pendens which have been registered on the Title to a Unit since the date of this Order (collectively, "**New Builders' Registrations**"), the existence of which New Builders' Registrations shall not prevent the Court from granting the Vesting Order.
3. In the event only that registrations, other than discharges or New Builders' Registrations, are registered on the title to a unit subsequent to the date of this Order (collectively, the "**Subsequent Registrations**"), the Receiver will not proceed with an *ex parte* application as described above in paragraph 2 unless each of the holders of the Subsequent Registrations (collectively, the "**Subsequent Registrants**") have provided their Written Consent (as defined in the Vesting Order). If any of the Subsequent Registrants do not provide such Written Consent, the Receiver will make application for the Vesting Order on notice only to those Subsequent Registrants who have not provided their Written Consent.

4. The Redacted Purchase Contract and the Vesting Order may be served in accordance with the Service Order to the persons listed on the Service List, as it may be amended from time to time, and such service shall constitute good and sufficient service of same.
5. The non-objection by parties to the use of and reliance by the Receiver on the Tenth Receiver's Report on the Motions is without prejudice to anyone's ability to assert or claim in the future that the Receiver's evidence must be filed in affidavit form, rather than in the form of a report.
6. This Order may be served in accordance with the Service Order to the persons listed on the Service List, as it may be amended from time to time, and such service shall constitute good and sufficient service of this Order.



J.C.Q.B.A.

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**SCHEDULE "A" TO THE AMENDED AND RESTATED CLOSING PROCESS ORDER
LETTER**

[Date, Month, Year]

Honourable Justice
Court of Queen's Bench of Alberta
Calgary Courts Centre,
601 - 5 Street SW,
Calgary, AB T2P 5P7

Dear Sir or Madam:

Re: Deloitte and Touche Inc. (the "Receiver"), Perera Shawnee Ltd. ("PSL") and Perera Development Corporation ("PDC", or when reference is being made to PSL and PDC collectively, the "Debtors")

Court of Queen's Bench (the "Court") Action No. 1001-03215 (the "Receivership Proceedings")

We are the solicitors for the Receiver. The Receiver was appointed as receiver of the Debtors pursuant to an Order issued by the Honourable Madam Justice A. Kent on March 3, 2010 (the "**Receivership Order**").

On ●, 2010, the Honourable Madam Justice A. Kent issued in the Receivership Proceedings, a closing process order (the "**Amended and Restated Closing Process Order**"). A copy of the Amended and Restated Closing Process Order is enclosed with this correspondence.

On ●, 20●, the Receiver entered into a purchase contract (the "**Purchase Contract**") with ● (the "**Purchaser**") for the purchase of a unit in Condominium Plan 0915321 (the "**Plan**"). On ● the Receiver issued a closing notice to the Purchaser pursuant to the Purchase Contract setting ● as the closing date (the "**Closing Date**").

The Amended and Restated Closing Process Order directs that, upon the receipt of this letter, on *ex parte* application by the Receiver, the Court may grant a vesting order that is substantially in the form attached as Schedule "**B**" to the Amended and Restated Closing Process Order (the "**Vesting Order**") (excluding the schedules thereto). We have enclosed a completed Vesting Order in respect of the Purchase Contract (the "**Enclosed Order**") (including the schedules thereto), and we confirm that the Enclosed Order is substantially in the form as the Vesting Order. We hereby apply for the Enclosed Order in accordance with the direction contained in the Amended and Restated Closing Process Order.

Yours Truly,

[Receiver's counsel]

**SCHEDULE "B" TO THE AMENDED AND RESTATED CLOSING PROCESS ORDER
VESTING ORDER**

^

Clerk's stamp:

COURT FILE NUMBER: 1001-03215

COURT OF QUEEN'S BENCH OF
ALBERTA

JUDICIAL CENTRE OF CALGARY

PLAINTIFF: FIRST CALGARY SAVINGS & CREDIT UNION
LTD.

DEFENDANTS: PERERA SHAWNEE LTD., PERERA
DEVELOPMENT CORPORATION, DON L.
PERERA and SHIRANIE M. PERERA

PLAINTIFFS BY COUNTERCLAIM PERERA SHAWNEE LTD., DON L. PERERA and
SHIRANIE M. PERERA

DEFENDANTS BY COUNTERCLAIM FIRST CALGARY SAVINGS & CREDIT UNION
LTD. and DELOITTE & TOUCHE LLP

DOCUMENT: VESTING ORDER

(Re: Purchase by ● of Legal Unit ●)

OSLER, HOSKIN & HARCOURT LLP

Barristers & Solicitors

Suite 2500, 450 – 1st Street SW

Calgary, AB T2P 5H1

Solicitor: Christa Nicholson

Telephone: (403) 260-7025

Facsimile: (403) 260-7024

File Number: 1121689

DATE ON WHICH ORDER WAS PRONOUNCED: [DAY], [MONTH] [DATE], 20●

NAME OF JUDGE WHO MADE THIS ORDER: Honourable Justice ●

VESTING ORDER
(Re: Purchase by ●, Legal Unit ●, Suite ●)

UPON the *ex parte* application (the “Application”) of Deloitte & Touche Inc., in its capacity as Court-appointed receiver and manager of Perera Development Corporation (“PDC”) and Perera Shawnee Ltd. (“PSL”, or when reference is being made to PDC and PSL collectively, the “Debtors”), and not in its personal capacity (the “Receiver”); AND UPON noting the Order issued by Madam Justice A. Kent on March 3, 2010 (the “Receivership Order”); ^AND UPON ^noting the Confidential Fourth Report of the Receiver, dated October 7, 2010 (the “Confidential Fourth Receiver’s Report”); ^ AND UPON noting the Amended and Restated Closing Process Order granted by Madam Justice A. Kent on October 27, 2010; AND UPON noting the Sealing Order granted by Madam Justice A. Kent on October 27, 2010; AND UPON reading the ● Report of the Receiver, dated [MONTH] ●, 20● (the “● Receiver’s Report”); AND UPON reading the Confidential ● Report of the Receiver, dated [MONTH] ●, 2010 (the “Confidential ● Receiver’s Report”); AND UPON reference being made to any other materials filed by the Receiver; ^IT IS HEREBY ORDERED AND DECLARED THAT:

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APPROVAL OF THE SALE

1. The sale contemplated by the purchase contract between PSL and ● (the “Purchaser”), dated ●, (the “Purchase Contract”) regarding the unit in Condominium Plan 0915321 (the “Plan”) legally described as follows:

Condominium Plan 0915321
Unit ●
And ● undivided one ten thousandth shares in the
common property
Excepting thereout all mines and minerals

(the “Unit”),

for the Purchase Price (as that term is defined in the Purchase Contract) is hereby approved.

CLOSING OF THE TRANSACTION

2. To close the Purchase Contract and convey title to the Unit to the Purchaser (the "**Transaction**"), the Purchaser shall provide the Receiver with written notice of the name and address of his/her solicitor for the Transaction (the "**Purchaser's Solicitors**") within 5 days of being served with a copy of this Vesting Order.
3. The closing of the Transaction shall be effected in accordance with the terms of the Purchase Contract and upon such trust conditions as may be agreed upon between the conveyancing solicitors for the Receiver, Kathleen S. Davis, (the "**Receiver's Conveyancing Solicitors**") and the Purchaser's Solicitors.
4. The closing date for the Transaction shall be [MONTH] ●, 20●, or such other date as may be agreed upon by the Purchaser and the Receiver (the "**Closing Date**"). There shall be an adjustment, in accordance with section 6 of the Purchase Contract of, *inter alia*, taxes on the Closing Date.
5. Upon the delivery of a certified copy of this Vesting Order to the Registrar of the South Alberta Land Titles Office (the "**Registrar**") and a written request from the Receiver's Conveyancing Solicitors to do so, the Registrar shall:
 - (a) cancel certificate of title number 091 368 709 +● to the Unit (the "**Old Title**");
 - (b) issue a new certificate of title to the Unit in the name of the Purchaser or his/her nominee (the "**New Title**"), which shall ^ include the encumbrances listed in Schedule "A" to this Vesting Order (collectively, the "**Permitted Encumbrances**");
 - (c) discharge any and all of the encumbrances from the New Title that are listed in Schedule "B" to this Vesting Order (collectively, the "**Listed Encumbrances**");
and

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- (d) register a discharge, as it pertains to the ^ Unit including the Purchaser's share in the common property, on the condominium additional plan sheet certificate (the "CAPSC") of the encumbrances that are listed in Schedule "C" to this Vesting Order (collectively, the "CAPSC Encumbrances", which together with the Listed Encumbrances are collectively referred to as the "Discharged Encumbrances")^.

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6. The Registrar shall perform the steps specified in paragraph ^5 of this Vesting Order:
 - (a) in the order specified in paragraph ^5 of this Vesting Order; and
 - (b) notwithstanding the requirements of section 191(1) of the *Land Titles Act*, R.S.A. 2000, c. L-4 (the "LTA").

VESTING OF TITLE TO THE UNIT

7. Upon the Registrar issuing a certified copy of the New Title in accordance with paragraphs ^5 and ^6 of this Vesting Order all right, title, interest, estate and equity of redemption of PSL, if any, and any persons claiming by, through or under PSL, in and to the Unit shall vest absolutely in the Purchaser free and clear of and from all security interests (whether contractual, statutory or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (a) any encumbrances or charges created by the Receivership Order or by any other Order(s) in these or any other proceedings and (b) the Discharged Encumbrances (all of which are collectively referred to as the "Encumbrances", which term shall include the Claims but shall not include the Permitted Encumbrances) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Unit are hereby expunged and discharged as against the Unit.

8. Upon the Registrar completing the steps identified in paragraphs [^]5 and [^]6 of this Vesting Order, the Registrar shall forthwith make available to the Purchaser's Solicitors a certified copy of the New Title.

AMENITIES HOLDBACK

9. The Receiver shall deduct from all amounts paid by the Purchaser's Solicitors to the Receiver's Conveyancing Solicitors pursuant to the Purchase Contract (collectively, the "**Total Proceeds**") the sum of \$● (the "**Amenities Holdback Amount**"), in accordance with section 14(5) of the *Condominium Property Act*, R.S.A. 2000, c. C-22.
10. The Amenities Holdback Amount shall not be disbursed by the Receiver unless an Order allowing for a disbursement of the Amenities Holdback Amount is issued by this Court.

HOLDING OF THE NET PROCEEDS

11. The Receiver shall hold the Total Proceeds, less the Amenities Holdback Amount, less any holdback the Receiver may be required to make in order to obtain or verify (if necessary) Alberta New Home Warranty Program warranty coverage for the Unit, less closing costs including real estate commissions, taxes, conveyancing costs of the Receiver, and other usual closing costs (the "**Net Proceeds**") pursuant to and in accordance with the terms of this Vesting Order.
12. The Net Proceeds shall stand in the place and stead of the Unit and any holder of the Encumbrances ("**Encumbrancers**") may assert their Claims against the Net Proceeds with the same right and priority that the Encumbrancers had against the Unit immediately prior to the sale of the Unit, as if the Unit had not been sold and remained in the possession and control of PSL.
13. The Net Proceeds shall not be disbursed by the Receiver unless an Order allowing for a disbursement of the Net Proceeds is issued by this Court.

FEES ASSOCIATED WITH THE ISSUANCE OF THE NEW TITLE

14. All costs, fees and disbursements associated with the steps outlined in paragraph ⁵ of this Vesting Order, including the registration of any mortgage against the Unit in favour of the Purchaser's lender, shall be for the Purchaser's account.

ENCUMBRANCES REGISTERED ON OR AFTER OCTOBER 27, 2010

15. Prior to making the within Application for this Vesting Order, the Receiver shall obtain a copy of the Old Title and identify the holders of the New Builders' Registrations (as that term is defined in the Amended and Restated Closing Process Order) (collectively, the "New Builders' Registrants") and the Subsequent Registrants (as that term is defined in the Amended and Restated Closing Process Order).
16. The Receiver shall contact each of the New Builders' Registrants and each of the Subsequent Registrants and shall:
- (a) advise each of the New Builders' Registrants and each of the Subsequent Registrants of the Receivership Order and the Amended and Restated Closing Process Order;
 - (b) provide each of the New Builders' Registrants and each of the Subsequent Registrants with a copy of this Vesting Order; and
 - (c) add each of the New Builders' Registrants and each of the Subsequent Registrants to the Service List (as defined in the Amended and Restated Closing Process Order, and as may be amended from time to time).
17. The Receiver shall add any New Builders' Registrants to Schedule "B" to this Vesting Order so that each of the New Builders' Registrations constitute one of the Listed Encumbrances.
18. The Receiver shall have obtained the written consent ("Written Consent") of the Subsequent Registrants to have their Subsequent Registration (as that term is defined in the Amended and Restated Closing Process Order) constitute one of the Listed

Encumbrances and be added to and form part of Schedule "B" to this Vesting Order; or, in the absence of same, a Court Order to such effect.

SERVICE OF THIS ORDER

19. This Vesting Order shall be sufficiently served by serving the same on the Purchaser or on the person identified as counsel for the Purchaser on the Service List (the "**Purchaser's Counsel of Record**"), or by posting a copy of the Vesting Order on the Receiver's website at:

http://www.deloitte.com/view/en_CA/ca/specialsections/insolvencyandstructuringproceedings/perera/index.htm

and no other persons are entitled to be served with a copy of this Vesting Order. Service of this Vesting Order on the Purchaser or the Purchaser's Counsel of Record shall be good and sufficient:

- (a) if being served on the Purchaser's Counsel of Record, by delivery of this Vesting Order on the Purchaser's Counsel of Record by PDF email, facsimile, rush courier or personal delivery to the office of the Purchaser's Counsel of Record; or
- (b) if being served on the Purchaser directly, by delivery of this Vesting Order by PDF email, or by rush courier or personal delivery to the address provided by the Purchaser in the Purchase Contract or such other address as the Purchaser may provide to the Receiver.

J.C.Q.B.A.

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SCHEDULE "A" TO THE VESTING ORDER
PERMITTED ENCUMBRANCES

REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
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[Details to be added]

SCHEDULE "B" TO THE VESTING ORDER
LISTED ENCUMBRANCES

REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
[Details to be added]		

SCHEDULE "C" TO THE VESTING ORDER
CAPSC ENCUMBRANCES

REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
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[Details to be added]

ACTION NO: 1001-03215

IN THE COURT OF QUEEN'S BENCH
OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

FIRST CALGARY SAVINGS & CREDIT
UNION LTD.

Plaintiff

and

PERERA SHAWNEE LTD., PERERA
DEVELOPMENT CORPORATION, DON L.
PERERA and SHIRANIE M. PERERA

Defendants

AND BETWEEN:

PERERA SHAWNEE LTD., DON L. PERERA
and SHIRANIE M. PERERA

Plaintiffs by Counterclaim

and

FIRST CALGARY SAVINGS & CREDIT
UNION LTD. and DELOITTE & TOUCHE
LLP

Defendants by Counterclaim

AMENDED AND RESTATED CLOSING
PROCESS ORDER

OSLER, HOSKIN & HARCOURT LLP

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