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**COURT OF** by Kelly Wilson  
**QUEEN'S BENCH** Date: 2012.11.22  
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Doc. No. 71

No. CI 12-01-79231

**THE QUEEN'S BENCH**  
**WINNIPEG CENTRE**

IN THE MATTER OF THE: *Companies' Creditors Arrangement Act*, R.S.C.  
1985, c. C-36, as Amended

AND IN THE MATTER OF: A Proposed Plan of Compromise or Arrangement of  
The Puratone Corporation, Pembina Valley Pigs Ltd.  
and Niverville Swine Breeders Ltd. (the  
"Applicants")

Application under the: *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as  
Amended

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**ORDER**  
**(Assignment of Assumed Contracts)**

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Client File No. 15611-250 DJAC

**THE QUEEN'S BENCH**  
**WINNIPEG CENTRE**

THE HONOURABLE MR. )  
 ) The 22nd day of November, 2012  
JUSTICE DEWAR )

IN THE MATTER OF THE: *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as Amended

AND IN THE MATTER OF: A Proposed Plan of Compromise or Arrangement of The Puratone Corporation, Pembina Valley Pigs Ltd. and Niverville Swine Breeders Ltd. (the "Applicants")

Application under the: *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as Amended

**ORDER**  
**(Assignment of Assumed Contracts)**

THIS MOTION made by the Applicants for an Order authorizing the assignment of the Applicants' interest in the Assumed Contracts (as defined herein) to the Purchaser was heard this day at Winnipeg.

ON READING the pleadings and proceedings herein and in particular the Affidavit of Raymond Alan Hildebrand sworn November 1, 2012, the Affidavit of Larry Sveinbjorn Johnson sworn November 20, 2012, the Third Report of the Monitor dated November 5, 2012, the Fourth Report of the Monitor dated November 14, 2012 and the Fifth Report of the Monitor dated November 20, 2012 and on hearing the submissions of counsel for the Applicants, the Monitor, Bank of Montreal, Farm Credit Canada, and Maple Leaf Foods Inc. or its permitted assignee (the "Purchaser"), no one appearing on

behalf of any other person including those persons on the Service List and the Counter-Parties to the Assumed Contracts as appears from the Affidavit of Service of Laura Leigh Buley sworn November 21, 2012 and the Affidavit of Service of Ross McFadyen sworn November 20, 2012.

1. THIS COURT ORDERS AND DECLARES that this Order shall be a continuation of the Approval and Vesting Order pronounced November 8, 2012 and entered November 13, 2012 in these proceedings ("Approval & Vesting Order") such that the same provisions set out in the Approval & Vesting Order, including without limitation paragraphs 5 and 8, apply to the assignment set out below, and all capitalized terms used herein and not otherwise defined shall have the same meaning ascribed thereto.

**SERVICE VALIDATED**

2. THIS COURT ORDERS that the service of the Notice of Motion and the supporting materials is hereby validated and time periods abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.

**AGREEMENTS ASSIGNED**

3. THIS COURT ORDERS that, upon delivery of the Monitor's Certificate, all of the rights and obligations of the Applicants in respect of the Assumed Contracts as listed in Schedule A hereto between the Applicants and the Counter-Parties listed therein (the "Assumed Contracts") shall be assigned by the Applicants to the Purchaser as part of

the Transaction pursuant to Section 11.3 of the CCAA, and shall remain in full force and effect for the benefit of the Purchaser in accordance with their respective terms.

4. THIS COURT ORDERS that the assignment of the rights and obligations of the Applicants to the Purchaser under the Assumed Contracts is valid and binding upon all of the counter-parties to the Assumed Contracts, without the necessity of further documentation, as if the Purchaser was a party to the Assumed Contracts, notwithstanding any restriction, condition or prohibition contained in any such Assumed Contracts relating to the assignment thereof, including any provision requiring the consent of any party to the assignment of such Assumed Contracts.

5. THIS COURT ORDERS that each Counter-Party to the Assumed Contracts is prohibited from exercising any right or remedy under the Assumed Contracts by reason of any defaults then existing or previously committed by the Applicants under, or caused by the Applicants under, and the non-compliance of the Applicants with, any of the Assumed Contracts arising as a consequence of these CCAA proceedings or the insolvency of the Applicants, or any failure of the Applicants to perform any non-monetary obligation under the Assumed Contracts, or as a result of any actions taken pursuant to or as a result of the Sale Agreement and all such Counter-Parties shall be deemed to have waived such defaults. Any notices of default and demand given in connection with any such defaults under, or non-compliance with the Assumed Contracts, shall be deemed to have been rescinded and shall be of no further force or effect.

6. THIS COURT ORDERS that as a condition of the Closing of the Transaction, any existing monetary defaults in relation to the Assumed Contracts, other

than those arising by reason of the Applicants' insolvency, the commencement of these CCAA proceedings, or the Applicants' failure to perform a non-monetary obligation, shall be paid as Cure Costs by the Applicants in accordance with the Sale Agreement.

7. THIS COURT ORDERS that notwithstanding anything contained in this Order, nothing shall derogate from the obligations of the Purchaser to assume the Assumed Contract Liabilities as defined in the Sale Agreement and to perform its obligations under the Assumed Contracts as set out in the Sale Agreement.

**R.A. Dewar J.**

Digitally signed by R.A. Dewar J.  
DN: c=ca, o=ldrc, cn=R.A. Dewar J.,  
Date: 2012.11.22 12:18:25 -06'00'

J.

APPROVED AS TO FORM AND CONTENT  
THOMPSON DORFMAN SWEATMAN LLP

Per: 

Solicitors for the Monitor

**SCHEDULE A**  
**ASSUMED CONTRACTS**

**Feed, Ingredient and Nutrition Agreements**

1. Liquid Permeate Agreement dated September 10, 1998 between Puratone and Parmalat Dairy & Bakery Inc.
2. Permeate Supply Agreement dated June 24, 2009 between Puratone and Saputo Dairy Products Canada GP.

**Software License Agreements**

3. VMware International Limited ("VMware") Software Licenses, including terms and conditions set forth in VMware's applicable End User License Agreements, set out with respect to Contract ID No. 41570931, as follows:

| <u>Product</u>  | <u>Quantity</u> | <u>End Date</u> |
|---|-----------------|-----------------|
| VMware Advanced Acceleration Kit for 6 processors (includes vSphere Advanced for 6 processors, 1 vCenter Server Foundation) | 1               | Sept. 9, 2013   |
| VMware vCenter Server Foundation for vSphere up to 3 hosts  | 1               | Sept. 9, 2013   |
| VMware vCenter Server 5 Foundation for vSphere up to 3 hosts  | 1               | Sept. 9, 2013   |
| VMware vSphere 4 Advanced for 1 processor   | 6               | Sept. 9, 2013   |
| VMware vSphere 4 Standard for 1 processor   | 2               | Sept. 9, 2013   |
| VMware vSphere 5 Enterprise for 1 processor   | 6               | Sept. 9, 2013   |
| VMware vSphere 5 Standard for 1 processor   | 2               | Sept. 9, 2013   |

4. Symantec Corporation ("Symantec") Software Licenses, including terms and conditions set forth in Symantec's applicable Software License Agreement (End User License Agreement form) and Support, set out in Certificate No. 12134207 dated June 27, 2012 and Certificate No. 11727967 dated February 14, 2012, as follows:

| <u>Serial No.</u> | <u>Product Name/Description</u>                           | <u>Quantity</u> | <u>End Date</u> |
|-------------------|---|-----------------|-----------------|
| M0307328102       | Backup Exec 2012 Agent for Windows Win                    | 2               | July 13, 2012   |
| M0611931356       | Backup Exec 2012 Agent for VMWare and Hyper-V Win         | 3               | July 13, 2012   |
| M0513032043       | Protection Suite Enterprise Edition 4.0                   | 145             | July 13, 2013   |
| M1613232352       | Backup Exec 2012 Server Win                               | 1               | July 13, 2013   |
| M5713432791       | Desktop Laptop Option 7.0 Win 1-10 Users                  | 2               | Aug. 26, 2013   |
| M7135117903       | Backup Exec 2012 Agent for Applications and Databases Win | 1               | July 13, 2013   |
| M5834517796       | Backup Exec 2012 Agent for Applications and Databases Win | 1               | July 13, 2013   |
| M5333917097       | Backup Exec 2012 Agent for Applications and Databases Win | 1               | July 13, 2013   |
| M0337217014       | Backup Exec 2012 Agent for Applications and Databases Win | 1               | July 13, 2013   |
| M2536917839       | Desktop Laptop Option 7.0 Win 1-10 Users                  | 1               | July 13, 2013   |
| M3836717254       | Desktop Laptop Option 7.0 Win 1-10 Users                  | 1               | July 13, 2013   |
| M4611656774       | Desktop Laptop Option 7.0 Win 1-10 Users                  | 1               | July 13, 2013   |
| M3121907905       | Desktop Laptop Option 7.0 Win 1-10 Users                  | 1               | July 13, 2013   |
| M1255846908       | Backup Exec 2010 Agent for Windows Systems Win            | 1               | Mar. 5, 2013    |

5. Double-Take Software, Inc. ("DTSI") Software Licenses, including terms and conditions set forth in DTSI's applicable End User License Agreement, for Double-Take Availability Standard Edition with first year maintenance, Contract No.'s AVAI-241108, AVAI-266136 and AVAI-83850, each with an end dated of April 19, 2013.

6. Feed Management Systems, Inc. ("FMS") FMS End-User Software License Agreement for Feed Mill Manager, expiring January 31, 2013, including the following:

| <u>Description</u>  | <u>Quantity</u> |
|---|-----------------|
| Maint. Multi User FMM Sys Mgr, incl 1 user Annual Maintenance Plan Feb. 1, 2012 thru January 31, 2013, Serial #10100127 | 1               |
| Maint. FMM User – Additional Users  | 6               |
| Maint. FMM User – Additional Users  | 15              |
| Maint. Advanced Pricing/Costing   | 1               |
| Maint. Drug Reconciliation  | 1               |
| Maint. Automatic Stage Feeding  | 1               |
| Maint. Consumption Based Order Entry  | 1               |
| Maint. Grain Bank   | 1               |
| Maint. Purchase Contracts   | 1               |
| Maint. Sales Contracts  | 1               |
| Maint. Production Interface – Batching  | 2               |
| Maint. Feed Tag on Demand – required FMS Feed Tags  | 1               |
| Maint. Accounting Interface   | 1               |
| Maint. FMS Integration Pack 1 to 5 BFW Users  | 1               |
| Maint. Production Interface – Manual  | 2               |
| Maint. Freight Management   | 1               |

7. FMS End-User Software License Agreement – Toolkit for Brill Formulation, expiring December 31, 2012, including the following:

| <u>Description</u>  | <u>Quantity</u> |
|---|-----------------|
| Maint. 4 User Brill For Windows Package Annual Maintenance Plan Jan. 1, 2012 to December 31, 2012 Serial #11400605 & 10400475 | 1               |



|  |   |
|--|---|
| Maint. Multi-blend Complete -- Advanced -- Heritage Hog                              | 1 |
| Maint. Multi Blend, Additional User  | 1 |
| Maint. Interface, Batch Controller   | 1 |
| Maint. Archiving   | 1 |
| Maint. Ingredient Swing  | 1 |
| Maint. Formula Includes  | 1 |
| Maint. Feed Tags   | 1 |
| Maint. Feed Tags Compendium Update   | 1 |
| 8. Numara Software, Inc. ("Numara") Software License Agreement for TrackIT HelpDesk. |   |

**Other Agreements**

9. Consulting Services Agreement dated December 19, 2011 between Puratone and Jack Reams Agri Business Consulting.
10. License Agreement dated April 17, 2012 between The Manitoba Hydro-Electric Board and Puratone.

**Genetics Agreements**

11. Swine Genetics Agreement dated March 1, 2002, as amended by an Amendment to Swine Genetics Agreement dated January 1, 2011 and an Amendment to Swine Genetics Agreement dated May 1, 2012, between Newsham Choice Genetics, LLC (as successor in interest to Monsanto Choice Genetics, LLC) and Puratone.

**Equipment Leases**

12. Rental Agreement dated October 20, 2011 between Puratone and National Leasing Group Inc. (1 Mitel 3360 Telephone System and Equipment).
13. Lease Agreement No. 8414486-001 dated March 2, 2009 between Puratone and RFS Canada (as successor to IOS Financial Services) (AFICIO MP6000SP Digital System).
14. Master Maintenance and Sale Agreement dated November 13, 2009 between Puratone and Ikon Office Solutions, Inc. (re IOS Financial Services Leases).

15. Lease Agreement No. 8414486-002 dated November 13, 2009 between Puratone and RFS Canada (as successor to IOS Financial Services) (AFICIO MP 171 SPF).
16. Lease Agreement No. 8414486-003 between Puratone and RFS Canada (as successor to IOS Financial Services) (Aficio MP 2851SP Digital System).

**Real Property Leases**

17. Lease Agreement dated December 30, 2011 between Moonfleet Poultry Inc. and Puratone.
18. Lease Agreement dated March 6, 2012 between E & M Green Gable Piglets and Puratone.
19. Lease Agreement dated February 13, 2012 between Lone Tree Pork Inc. and Puratone.