

receivable, comprise "**Property**" within the meaning of the Receivership Order, and that the Receiver is entitled to take possession of, exercise control of, and/or manage the Custom Cattle Operations to the exclusion of the Debtors;

- (c) requiring the Debtors to deliver to the Receiver forthwith, and in any event no later than five (5) calendar days after the date of the Order, invoices for the Custom Cattle Operations for the months of February 2021 and March 2021, as well as all income received by the Debtors, or any of them, from the Custom Cattle Operations since the date of the Receivership Order and not already provided by the Debtors to the Receiver, if any;
 - (d) requiring the Debtors and any other person having knowledge of the Order (including, without limitation, Horton Land & Cattle Co. Ltd.) to comply with directions from the Receiver in all respects in regard to the Custom Cattle Operations;
 - (e) approving the activities, reports, and receipts and disbursements of the Receiver; and
 - (f) approving the professional fees and disbursements of the Receiver and its legal counsel.
2. Although not directly the subject of an application by the Receiver, it is expected that the following matters will be addressed during the scheduled hearing, namely:
- (a) The form of Order amending the Receivership Order, as contemplated in paragraphs 9 through 11 of the Fiat delivered by Meschishnick J. in these proceedings on April 7, 2021 (the "**Meschishnick Decision**"); and
 - (b) The distribution of certain funds held by Debtors' counsel, as contemplated in paragraph 14 of the Meschishnick Decision.
3. Such further and other relief as counsel may request and this Honourable Court may allow.

Grounds for making this application:

Interim Distribution

- 4. The amounts collected by the Receiver as a result of its efforts to collect outstanding accounts receivable, take possession of cash on hand, and sell livestock and crop inventory exceed the disbursements made by the Receiver to the extent of approximately \$1,770,000.00.
- 5. Certain of these funds will be required for additional anticipated expenses of the Receivership (including professional fees to address two (2) pending appeals in the Court of Appeal for Saskatchewan on separate matters, one brought by Richardson Pioneer Limited and the other by the Debtors). Even so, there remain substantial funds in the receivership estate above the Receiver's expected costs to complete its mandate.

6. The Receiver's independent legal counsel has delivered an opinion which (subject to customary qualifications and assumptions) confirms the validity and enforceability of BMO's security interest in the personal property of the Debtors which is the source of the funds in the receivership estate.
7. Accordingly, it is prudent at this time to authorize the Receiver to make an interim distribution to BMO in order to reduce the indebtedness owing by the Debtors to BMO and to reduce the amount of interest accruing thereon on an ongoing basis.

Declaration and Directions Regarding Custom Cattle Operations

8. The Debtors have taken the position that the Custom Cattle Operations do not fall within the Receiver's power, and that the associated assets used or acquired in relation thereto do not form part of the Property.
9. The Debtors are, accordingly:
 - (a) refusing to provide the Receiver with invoices for the Custom Cattle Operations for the months of February 2021 and March 2021; and
 - (b) insisting that the income from the Custom Cattle Operations from the date of the Receivership (December 1, 2020) belong solely to the Debtors and do not form part of the Property.
10. There is no basis in fact or law for the Debtors' position described above. The Custom Cattle Operations, and all property connected therewith including all equipment and all income therefrom, form part of the Property and fall within the authority of the Receiver.
11. In order to enforce compliance with the Receivership Order going forward, the Receiver seeks declaratory and directory relief to this effect.

Approval of Activities, Reports, Fees and Disbursements and Receipts and Disbursements

12. As discussed in more detail in the Second Report of the Receiver dated February 1, 2021 (the "**Second Report**"), the Third Report of the Receiver dated March 29, 2021 (the "**Third Report**"), and the Fourth Report of the Receiver dated April 22, 2021 (the "**Fourth Report**"), the Receiver's actions taken to date have been commercially reasonable and taken in good faith. As well, the Second Report, Third Report, and Fourth Report establish that the professional fees and disbursements of the Receiver and its legal counsel are reasonable in the circumstances, as are the Receiver's own receipts collected and disbursements incurred to date in carrying out its mandate.

13. Accordingly, the Receiver seeks approval from this Honourable Court of its activities, reports, receipts and disbursements, and professional fees and disbursements, as well as the professional fees and disbursements of its legal counsel, MLT Aikins LLP.
14. Such further and other grounds as counsel may advise and this Honourable Court may allow.

Material or evidence to be relied on:

15. This Notice of Application, with proof of service;
16. Fourth Report of the Receiver dated April 22, 2021;
17. Draft Order (Interim Distribution and Other Relief); and
18. Such further and other materials as counsel may advise and this Honourable Court may allow.

Applicable Acts and regulations:

19. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, Part XI.
20. *The Queen's Bench Act, 1998*, SS 1998, c Q-1.01, ss 11 and 65.

DATED at Saskatoon, Saskatchewan, this 22nd day of April, 2021.

MLT AIKINS LLP

Per: 

Jeffrey M. Lee, Q.C. and Paul Olfert, counsel for the Receiver, Deloitte Restructuring Inc.

NOTICE

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

CONTACT INFORMATION AND ADDRESS FOR SERVICE:

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