

- [3] **SEEING** the submissions of the parties and the consent of the Debtor to the appointment sought herein;
- [4] **SEEING** that the Petitioner served on the Debtor a notice pursuant to the terms of Article 244 of the BIA;
- [5] **SEEING** that it is appropriate to appoint a receiver to the Property (such as defined herein) of the Debtor;

WHEREFORE THE COURT:

- [6] **GRANTS** the Motion;

SERVICE

- [7] **ORDERS** that any prior delay for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof;

APPOINTMENT

- [8] **APPOINTS** Samson Bélair Deloitte & Touche Inc. to act as receiver (the "**Receiver**") to the Property (as defined herein) of the Debtor until one of the following events comes to pass:
 - (a) the filing with the Court record of a certificate by the Receiver confirming that (i) the sale of substantially all of the Debtor' assets is completed and that (ii) the distribution of the net sale proceeds in respect thereto has been made; or
 - (b) the issuance of any order by the Court terminating the mandate of the Receiver;
- [9] **DECLARES** that this order (the "**Order**") and its effects shall remain in force notwithstanding the issuance of an initial order in regard of the Debtor pursuant to the terms of the *Companies Creditors Arrangements Act* (the "**CCAA**") or the bankruptcy of the Debtor, unless the Court orders otherwise.

RECEIVER'S POWERS

- [10] **AUTHORIZES** the Receiver to exercise the following powers:

10.1 Powers related to the possession of the Property

- (a) take possession of all movable and immovable property of the Debtor, of every nature and kind whatsoever, wherever situated, and regardless of whose possession it may be in, save and except for the HSBC Bank Account, said term as defined in the Motion (the "**Property**") and to exercise the following powers listed hereinafter in the place and stead, for and in the name of the Debtor, in respect of the Property;

10.2 Powers related to the preservation of the Property

- (b) all the powers necessary for the preservation and for the protection of the Property;
- (c) all the powers necessary to control the Property, the place of business and the premises occupied by the Debtor;
- (d) all the powers necessary to grant the Receiver access, at all times, to the place of business and to the premises of the Debtor, to the Property, and to change the locks granting access to such premises and places of business of the Debtor;
- (e) all the powers necessary to grant the Receiver access to all the accounting records of the Debtor, as well as to any document, contract, register of any nature or kind whatsoever, wherever they may be situated and regardless of the medium on which they may be recorded (the "Records"), as well as the powers necessary to make copies of all the Records necessary or useful to the execution of the Receiver's functions;
- (f) all the powers necessary to undertake an analysis of the Debtor's Records;

10.3 Powers related to the Debtor's operations

- (g) manage, operate, and carry on, all or any part of the Debtor's operations, including the powers to enter into any agreements, incur any obligations in the ordinary course of the business carried on by the Debtor, cease to carry on all or any part of the business, or terminate any agreements of the Debtor, the whole, subject to paragraph [27] of this Order;
- (h) all the powers necessary to control the Debtor's receipts and disbursements;
- (i) all the powers necessary to collect all the accounts receivable and all the other claims of the Debtor and to transact in respect of same, as well as to sign any document for this purpose;
- (j) all the powers necessary to (i) file a voluntary assignment in bankruptcy for an on behalf of the Debtor, or (ii) seek creditor protection under the CCAA in respect of the Debtor, the whole subject to the prior written consent of Petitioner;
- (k) all the powers necessary to (i) open any required bank account, pursuant to the terms and conditions the Receiver may determine, with any chartered Canadian bank, or any other financial institution; or (ii) modify the signatories of any of the existing bank accounts of the Debtor, the whole, in order to cash any item payable to the Debtor, and to issue any payment which, in the opinion of the Receiver, is necessary or useful to the Debtor's operations;

10.4 Powers related to the disposition or sale of the Property

- (l) all the powers necessary to carry out the sale or the disposition of the Property in the ordinary course of business of the Debtor, to transact in that regard, and to sign any

document or any contract required or useful for these purposes or meant to give effect to any such sale or disposition;

- (m) all the powers necessary to interest or solicit one or several potential buyers of all or any part of the Property, including, without limitation, the right to carry out a public call for tenders or private solicitations in order to dispose of the Property;
 - (n) all the powers necessary to engage or to continue the engagement (including on a temporary basis) of consultants appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons (including Colliers International) from time to time, provided that in respect to existing engagements, the continuation of same shall be made on terms and conditions which provide monetary compensation that is no more favourable than the existing terms, to assist with the exercise of the Receiver's powers and duties relating to the disposition of the Property or otherwise, including, without limitation, those conferred by this Order;
 - (o) to petition the Court for the issuance of vesting order or other orders necessary to convey the Property free and clear of any liens or encumbrances affecting such Property, the whole, in accordance with paragraph [11] of this Order;
 - (p) to petition the Court for the issuance of an order authorizing the transfer of certain of the rights and interest of the Debtor in any of its agreements, as the case may be, in accordance with Sections 66 (1.1) and 84.1 of the BIA.
- [11] **ORDERS** the Receiver to petition the Court for authorization to sell all or any part of the Debtor's Property outside the ordinary course of business, upon finding a purchaser and pursuant to conditions it deems reasonable in the circumstances;
- [12] **GRANTS** the Receiver all the powers necessary to initiate, prosecute and continue the prosecution of any and all proceedings it considers appropriate, including for the purpose of Sections 34 and 249 of the BIA, within the performance of its duties regarding the Property;
- [13] **AUTHORIZES** the Receiver to retain the services of any lawyer, notary or any other person or business in order to appropriately fulfil its functions;
- [14] **DECLARES** that the Receiver may provide creditors and other relevant stakeholders with information in response to requests made by them in writing. A copy of such requests must be sent to the Petitioner's attorney. Where the Receiver has been advised by the Petitioner that information is confidential, proprietary or competitive, the Receiver shall not provide such information to any person without the consent of the Petitioner unless otherwise directed by this Court. For greater certainty, the foregoing does not apply to information that the Receiver is required to provide in accordance with Sections 245 and 246 of the BIA;

DEBTOR'S DUTIES

- [15] **ORDERS** the Debtor, its directors, officers, employees, agents and representatives to forthwith provide the Receiver with access to the Property, to the places of business and to the premises of the Debtor, as well as to the Records;

- [16] **ORDERS** the Debtor, its directors, officers, employees, agents and representatives to cooperate with the Receiver in the exercise of the powers that are granted pursuant to the terms of the Order;
- [17] **ORDERS** the Debtor not to dispose, alienate, encumber or otherwise transact in any manner whatsoever, with regard to the Property, other than with the authorization of the Receiver;

NON-INTERFERENCE WITH THE RECEIVER, THE DEBTOR AND THE PROPERTY

- [18] **ORDERS** that subject to any other order rendered by the Court, which may only be rendered after a prior notice has been duly sent to the Receiver and to the Petitioner, no proceeding, seizure, revendication, or any other enforcement process shall be commenced or enforced against the Property;
- [19] **ORDERS** that no person shall interrupt, modify, terminate or fail to execute its obligations pursuant to any contract, agreement, license or permit entered into with the Debtor without the prior consent of the Receiver or without the authorization of the Court;

CONTINUATION OF SERVICES

- [20] **ORDERS** that any person having an oral or written agreement with the Debtor, as well as any supplier of goods or services to the Debtor is 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 that the Receiver shall be authorized to continue use of the Debtor's current premises, telephone numbers, facsimile numbers, internet addresses, domain names and other services, 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 the 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;

EMPLOYEES

- [21] **AUTHORIZES** the Receiver to continue to engage the services of the Debtor's employees until the Receiver, acting for and on behalf of the Debtor, terminates 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 sections 14.06(1.2) of the *BIA*, other than such amounts as the Receiver may specifically agree in writing to pay, or be required to pay, under sections 81.4(5) and 81.6(3) of the *BIA*, and shall have no obligation and/or liability towards the employees other than to provide information under the *Wage Earner Protection Program Act*;

CASH MANAGEMENT

- [22] **ORDERS** that the Receiver shall be authorized but not required to pay any existing liabilities and/or account payables of the Debtor, and shall continue to benefit, be entitled to use and have access to, in the name of and on behalf of the Debtor, any and all of the Debtor's existing bank accounts;

- [23] **DECLARES** that the Receiver is not obligated to incur any obligations without having received from the Petitioner prior funding or other payment assurance satisfactory to the Receiver in accordance with paragraph [36] of this Order;

RECEIVER TO HOLD FUNDS

- [24] **ORDERS** that 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 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 the Debtor's existing bank accounts, save and except in respect of the proceeds that shall derive from the sale of the Debtor's business and/or assets in connection with the Sale Process (defined below) which sale proceeds shall be deposited and segregated 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, shall not be disbursed until further Order of this Court;

SALE PROCESS

- [25] **APPROVES and AUTHORIZES** the Receiver to continue and complete the sale process as further described in the Motion (the "**Sale Process**") including by continuing the engagement of Colliers International to assist it in connection therewith, with such engagement to be in accordance with the terms of this Order;

PROTECTION OF PERSONAL INFORMATION

- [26] **DECLARES** that pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* or any similar provision of any applicable provincial legislation, the Receiver is authorized and permitted to disclose and transfer personal information on identifiable individuals, which information it has in its possession or under its responsibility, to interested parties or to investors, financiers, prospective purchasers or potential strategic partners, as well as to their advisors, but only to the extent desirable or required, and only upon condition that the persons to whom such personal information is disclosed shall undertake to maintain and protect the privacy of such information and limit the use of such information pursuant to confidentiality agreements entered into with the Receiver;

LIMITATION OF LIABILITY

- [27] **DECLARES** that subject to the powers granted to the Receiver pursuant to the terms of this Order, nothing herein contained shall require the Receiver to occupy or to take control, or to otherwise manage all or any part of the Property. The Receiver shall not, as a result of this Order, be deemed to be in possession of any of the Property within the meaning of environmental legislation, the whole pursuant to the terms of the *BIA*;
- [28] **DECLARES** that the powers of the Receiver shall be exercised pursuant to its sole discretion and judgment;

- [29] **DECLARES** that the Receiver shall be entitled to be indemnified out of the Property (and any proceeds that may result from the sale of same) from and against all liabilities arising from the due and proper performance of its duties as Receiver and that the Receiver shall have no personal or corporate liability as a result of its appointment or as a result of the performance of its duties, save and except for liabilities arising as a result of the negligence or willful misconduct of the Receiver;
- [30] **DECLARES** that section 215 of the *BIA* applies *mutatis mutandis*, and hence that no action lies against the Receiver by reason of its appointment or the execution of the powers granted by the Court, except by leave of the Court. The entities related to the Receiver or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph;

FEES

- [31] **DECLARES** that as security for the professional fees and disbursements incurred in relation to these proceedings (the "**Receiver's Fees and Disbursements**"), both before and after the date of the Order, a charge and security over the Property is hereby constituted in favour of the Receiver, of the Receiver's attorneys and other advisors, to the extent of the aggregate amount of \$200,000.00 (the "**Administration Charge**");
- [32] **DECLARES** that the Administration Charge shall rank in priority to any and all other hypothecs, mortgages, liens, security interests, priorities, charges, encumbrances or security of whatever nature or kind (collectively, the "**Encumbrances**") affecting the Property charged by such Encumbrances;
- [33] **DECLARES** that the Administration Charge is effective and shall charge, as of 12:01 a.m. (Montreal time) the day of the Order (the "**Effective Time**"), all the Debtor's Property present and future;
- [34] **DECLARES** that notwithstanding: (i) these proceedings and any declaration of insolvency made herein, (ii) any application for a receiving order filed pursuant to the *BIA* in respect of the Debtor and any receiving order granting such petition or any assignment in bankruptcy made or deemed to be made in respect of the Debtor and (iii) the provisions of any federal or provincial statute, the payments or disposition of Property made by the Receiver pursuant to the Order and the granting of the Administration Charges do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions or conduct meriting a recourse for abuse under an applicable law, and shall be valid and enforceable as against any person, including any trustee in bankruptcy, and any receiver to the Property of the Debtor;
- [35] **AUTHORIZES** the Receiver to collect the payment of its Receiver's Fees and Disbursements and those of its attorneys, with the consent of the Petitioner, the whole subject to taxation in conformity with the *BIA*, if applicable;

FUNDING OF THE RECEIVERSHIP

[36] **AUTHORIZES** the Receiver, in the name and on behalf of the Debtor, to be at liberty and empowered to borrow from the Petitioner, by way of written request (in a form and manner satisfactory to the Petitioner) to the Petitioner from time to time such monies as the Receiver may consider necessary or desirable (including to fund the Receiver's Fees and Disbursements), with such borrowings to constitute indebtedness of the Debtor towards the Petitioner under the Loan Agreement (Exhibit P-6) and to accrue interest at the rates provided for in the Loan Agreement, it being understood that such borrowings shall be funded at the sole discretion of the Petitioner and shall be repaid in full upon demand. Such borrowings and any interest thereon shall be secured by the existing security granted by the Debtor in favour of the Petitioner (Exhibit P-8);

GENERAL

[37] **DECLARES** that the Order, the Motion and the affidavit do not, in and of themselves, constitute a default or failure to comply by the Debtor under any statute, regulation, license, permit, contract, permission, covenant, agreement, undertaking or any other written document or requirement;

[38] **DECLARES** that the Receiver is at liberty to serve any notice, circular or any other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to persons or other appropriate parties at their respective given address as last shown in the Records; the documents served in this manner shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three (3) business days after mailing if delivered by ordinary mail;

[39] **DECLARES** that the Receiver may serve any court materials in these proceedings on all represented parties, by emailing a PDF or other electronic copy of such materials to counsels' email addresses, provided that the Receiver shall deliver "hard copies" of such materials upon request to any party as soon as practicable thereafter;

[40] **DECLARES** that any party interested in these proceedings may serve any court material in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses, provided that such party shall deliver a "hard copy" on paper of such PDF or electronic materials to the Debtor's and the Receiver's counsel and to any other party who may request such delivery;

[41] **DECLARES** that, unless otherwise provided herein, ordered by this Court, or provided by the BIA, no document, order or other material need be served on any person in respect of these proceedings, unless such person has served a notice of appearance on the solicitors for the Debtor and the Receiver and has filed such notice with the Court;

[42] **DECLARES** that any interested Person may apply to this Court to vary or rescind the Order or seek other relief upon five (5) days notice to the Receiver, the Petitioner and any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order;

- [43] **ORDERS** that the Franchise Agreement (Exhibit P-4), the Comfort Letter (Exhibit P-9), the Forbearance Agreement (Exhibit P-16) and the letter dated May 23, 2014 (Exhibit P-17), be kept confidential and under seal in the office of counsel for the Petitioner until, as the case may be, further order of this Court. However, all creditors of the Petitioners shall be entitled to obtain disclosure of the said Exhibits upon written request and provided they have signed a confidentiality agreement in standard form;
- [44] **DECLARES** that the present Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada;
- [45] **DECLARES** that the Receiver shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and any subsequent orders of this Court and, without limitation to the foregoing, an order under Chapter 15 of the *U.S. Bankruptcy Code*, for which the Receiver shall be the foreign representative of the Debtor. All courts and administrative bodies of all such jurisdictions are hereby respectively requested to make such orders and to provide such assistance to the Receiver as may be deemed necessary or appropriate for that purpose;
- [46] **REQUESTS** the aid and recognition of any Court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order;
- [47] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever;




, REGISTRAR

Me Chantal Flamand, registraire

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COPIE CLERK


Greffier adjoint, C.S.M.