

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

NOTICE OF MOTION
(DISTRIBUTION AND DISCHARGE)
DATE OF HEARING:
THURSDAY, THE 18TH DAY OF FEBRUARY, 2016 AT 9:00 a.m.
BEFORE: THE HONOURABLE MR. JUSTICE DEWAR

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NOTICE OF MOTION

The Monitor, Deloitte Restructuring Inc., formerly called Deloitte & Touche Inc., will make a motion before The Honourable Mr. Justice Dewar on Thursday, February 18, 2016, at 9:00 a.m. or as soon after that time as the motion can be heard at the Winnipeg Law Courts Building, 408 York Avenue in Winnipeg, Manitoba.

THE MOTION IS FOR:

1. An Order, substantially in the form attached as Appendix 1:

- (a) if necessary, abridging the time for service in the Notice of Motion such that the motion is properly returnable February 18, 2016 and dispensing with further service thereof;
- (b) authorizing a further distribution of monies in the possession of the Monitor, in accordance with the recommendations as set out in the Eleventh Report of the Monitor, to be filed;
- (c) approving the Tenth and Eleventh Reports of the Monitor filed in this proceeding and the Monitor's activities as described therein;
- (d) passing and approving the accounts of the Monitor and its legal counsel as set out in the Eleventh Report of the Monitor, inclusive of an accrual for fees in connection with the completion of these proceedings;
- (e) providing for the termination of these proceedings and the discharge of the Monitor; and
- (f) granting such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. The provisions of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, (the "CCAA") and the inherent and equitable jurisdiction of this Court.
2. Rules 2.03, 3.02 and 37.08(2) of the *Queen's Bench Rules*, M.R. 553/88.
3. The terms of the Initial Order pronounced September 12, 2012 and the Fourth Extension Order pronounced January 4, 2013.
4. The Monitor is in possession of further monies which ought to be distributed to the secured creditors of the Applicants.
5. Counsel for the Monitor has reviewed the security granted by the Applicants to the Bank of Montreal ("BMO"), Farm Credit Canada ("FCC") and Manitoba Agricultural Services Corporation ("MASC"). Subject to the assumptions and qualifications contained in its written opinion (which was attached to the Seventh Report of the Monitor dated March 8, 2013), counsel for the Monitor has advised that BMO, FCC and MASC have valid and enforceable security interests in the real and personal property of the Applicants and referenced in each such party's security agreements and in respect of which registrations have been made against the Applicants in accordance with the provisions of *The Real Property Act* and *The Personal Property Security Act* (Manitoba).

Subject to very limited potential exceptions, counsel for the Monitor has advised that the security held by BMO, FCC and MASC ranks in priority to all other security interests and claims that may be advanced against the real and personal property of the Applicants and the monies held by the Monitor as a result of the realization of the assets of the Applicants.

6. The Monitor has prepared recommendations for the further distribution of monies to BMO, FCC and MASC. The recommendations are in accordance with the Intercreditor and Priority Agreements involving BMO, FCC and MASC and have been agreed to by those creditors. Following the recommended further interim distribution of funds, the remaining monies held by the Monitor ought to be sufficient to deal with any remaining matters required to complete the Monitor's duties. Any remaining monies on the completion of the Monitor's duties will be finally distributed to BMO, FCC and MASC as agreed upon or, failing such agreement, as further Ordered by this Court.
7. It is now appropriate that these proceedings be terminated and that the Monitor be discharged.
8. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Initial Order and the Fourth Extension Order pronounced January 4, 2013.
2. The Affidavit materials previously filed in this proceeding.
3. The Eleventh Report of the Monitor dated January 29, 2016, to be filed.
4. Such further and other materials as counsel may advise and as this Honourable Court may permit.

February 4, 2016

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Lawyers for the Monitor, Deloitte
Restructuring Inc.

TO: THE SERVICE LIST

AND TO: THE SUPPLEMENTARY SERVICE LIST USED FOR APPROVAL AND
VESTING MOTION

APPENDIX 1

File No. CI 12-01-79231

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1985, c. C-36, as amended

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Breeders Ltd. (the "Applicants")

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DISTRIBUTION AND DISCHARGE ORDER

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WINNIPEG CENTRE

THE HONOURABLE

Thursday, the 18th day of February, 2016

MR. 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

DISTRIBUTION AND DISCHARGE ORDER

THIS MOTION, made by the Deloitte Restructuring Inc. (the "Monitor"), for an order, *inter alia*, approving a further distribution of the monies held by the Monitor in accordance with the proposed distribution as set out in the Eleventh Report of the Monitor dated January 29, 2016 (the "Eleventh Report"), for approval of the Tenth Report of the Monitor dated March 28, 2014 (the "Tenth Report") and the Eleventh Report and the Monitor's activities as described therein, for an order passing and approving the accounts of the Monitor and its legal counsel and for an order providing for the termination of these proceedings

and the discharge of the Monitor, was heard this day at the Winnipeg Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

ON READING the Tenth Report and the Eleventh Report, and on hearing the submissions of counsel for the Applicants, the Monitor, the Bank of Montreal, and Farm Credit Canada, no other stakeholders appearing for any other person on the Service List and the Supplementary Service List, although duly served as appears from the Affidavit of Ross McFadyen affirmed February •, 2016,

SERVICE VALIDATED

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

DISTRIBUTION

2. THIS COURT ORDERS AND DIRECTS that the Bank of Montreal ("BMO"), Farm Credit Canada ("FCC") and Manitoba Agricultural Services Corporation ("MASC") shall forthwith file affidavits with the Court setting out the precise amount of remaining indebtedness respectively owed to each of them by the Applicants.

3. THIS COURT ORDERS that subject to the terms of paragraph 4 below, upon the filing of the affidavits as required by paragraph 2 above, the Monitor is hereby authorized and directed to make an further distribution from the monies

held by it in trust in accordance with the proposed distribution as set out in Eleventh Report. In particular, the Monitor is authorized and directed to make the following payments:

- (a) the sum of \$411,042.00 to the BMO;
- (b) the sum of \$109,834.00 to FCC; and
- (c) the sum of \$3,834.00 to MASC.

4. THIS COURT ORDERS that the Monitor shall only make the distributions contemplated by paragraph 3 above in the event that the affidavits to be filed by BMO, FCC and MASC confirm that the indebtedness owing to each of them by the Applicants is in excess of the amounts of the proposed interim distributions as set out in sub-paragraphs 3(a), (b) and (c), respectively.

PASSING AND APPROVAL OF FEES

5. THIS COURT ORDERS that the fees and disbursements of the Monitor and its legal counsel as set out in the Eleventh Report are hereby passed and approved.

APPROVAL OF MONITOR'S ACTIVITIES AND REPORTS

6. THIS COURT ORDERS that the Tenth Report and the Eleventh Report of the Monitor, and the activities described therein, are hereby approved.

TERMINATION OF PROCEEDINGS AND DISCHARGE

7. THIS COURT ORDERS that the proceedings under the *Companies Creditors' Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") herein shall be and are hereby terminated upon the Monitor filing with this Court a certificate indicating that it has completed all matters referenced in this Order (the "Discharge Certificate").

8. THIS COURT ORDERS that upon the filing of the Discharge Certificate, the Monitor shall be discharged and relieved from any further obligations, liabilities, responsibilities or duties in its capacity as Monitor pursuant to the Initial Order pronounced in this proceeding on September 12, 2012 (the "Initial Order"), any other Order of this Court in this proceeding and under the CCAA, provided that notwithstanding its discharge herein: (a) the Monitor shall be entitled to perform any and all matters that may be incidental to the completion of the administration of these proceedings and any other matters that the Monitor considers to be necessary or desirable for the completion or the termination of these proceedings, including providing a final accounting and distribution to BMO, FCC and/or MASC in respect of the professional fees of the Monitor and its legal counsel allocated for the completion of this proceeding; and (b) the Monitor shall continue to have the benefit of the provision of all Orders made in this proceeding, including all approvals, protections and stays of proceeding in favour of the Monitor in its capacity as the Monitor.

9. THIS COURT ORDERS that the Monitor is authorized and directed to provide BMO, FCC and MASC with a final accounting of all professional fees incurred by the Monitor in the completion of this proceeding, and thereafter to distribute any remaining funds in the hands of the Monitor to BMO, FCC and/or MASC as agreed upon, or failing such an agreement, as further Ordered by this Court. For further clarity, any further distribution to BMO, FCC and/or MASC pursuant to this paragraph shall only occur if, based on the evidence provided in the Affidavits to be filed pursuant to paragraph 2 above, the Monitor is satisfied that amounts remain due and owing by the Applicants to BMO, FCC and/or MASC.

10. THIS COURT ORDERS AND DECLARES that to the date of this Order, the Monitor has duly and properly discharged its duties, responsibilities and obligations as Monitor.

11. THIS COURT ORDERS that, in addition to the protections in favour of the Monitor as set out in the Initial Order, any other Order of this Court in this proceeding or under the CCAA, the Monitor shall not be liable for any act or omission on the part of the Monitor while acting in its capacity as Monitor pursuant to its appointment under the Initial Order, or otherwise, save and except for any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Monitor. Subject to the foregoing and in addition to the protections in favour of the Monitor as set out in the Initial Order, any other Order of this Court in this proceeding or under the CCAA, any claims against the Monitor in connection with the performance of its duties as Monitor are hereby

released, stayed, extinguished and forever barred and the Monitor shall have no liability in respect thereof.

12. THIS COURT ORDERS that no action or other proceeding shall be commenced as against the Monitor in any way arising from or related to its capacity or conduct as Monitor, except with prior leave of this Court and on prior written notice to the Monitor and such further order securing, as security for costs, the costs of the Monitor in connection with any proposed action or proceeding as the Court hearing the motion for leave to proceed may deem just and appropriate.

13. THIS COURT ORDERS that, notwithstanding any provision of this Order, nothing contained in this Order shall affect, vary, derogate from or amend any of the rights, approvals and protections in favour of the Monitor pursuant to the Initial Order, any other Order of this Court in these proceeding, the CCAA or otherwise, all of which are expressly continued and confirmed.

GENERAL

14. THIS COURT ORDERS that any and all administrative matters relating to these proceedings, which arise following the termination of these proceedings under the CCAA, may be brought before this Court for determination, advice and direction.

15. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the

United States of America or elsewhere to give effect to this Order and to assist the Monitor 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

February , 2016
