

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

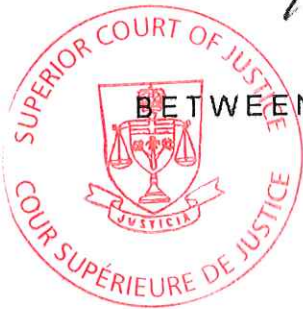
THE HONOURABLE

JUSTICE

*HAINEY*

WEDNESDAY, THE 25<sup>TH</sup>

DAY OF MARCH, 2020



BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

DEAN MYERS CHEVROLET LIMITED and 1125278 ONTARIO LIMITED

Respondents

OMNIBUS ORDER

THIS MOTION, made by Deloitte Restructuring Inc, in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of Dean Myers Chevrolet Limited and 1125278 Ontario Limited (collectively the "Debtor") pursuant to the Order of The Honourable Justice Hainey dated February 12, 2020 (the "Appointment Order") for an order:

- a) Prospectively authorizing the Receiver to accept an offer or offers to purchase, either by private sale or auction, of any or all of the unsold vehicles, parts inventory, fixed assets and equipment of the Debtor ("Unsold Units") provided that the sale price for each Unsold Unit to which such offer(s) relates is acceptable to the Receiver having regard to the value for such Unsold Unit(s) and prior sales of similar units and with consideration to the current market conditions and all other terms of the offer(s) are, in the Receiver's sole opinion, in the best interest of the stakeholders of the Debtor;
- b) Prospectively authorizing the execution of an agreement of purchase and sale or bill of sale in respect of each Unsold Unit by the Receiver, as vendor, and the purchase

of each Unsold Unit (each purchaser hereinafter referred to as the "**Purchaser**") substantially in the form as attached at Schedule "A1" and "A2" to this Order, together with any amendments or modifications thereto deemed necessary by the Receiver (each agreement hereinafter referred to as an "**Bill of Sale**");

- c) Prospectively approving the sale transactions (each such transaction a "**Transaction**" and together, the "**Transactions**") in respect of the Unsold Units; and,
- d) Providing that, upon delivery by the Receiver to the Purchaser of a Receiver's Certificate substantially in the form attached as Schedule "B" to this Order (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Unsold Unit(s) described in each applicable Bill of Sale (the "**Purchased Assets**") will vest in and to the applicable Purchaser, free and clear of any and all Claims and Encumbrances in paragraph 3 of this Order.

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Receiver dated March 19, 2020 and the Confidential Supplement of the Receiver dated March 19, 2020 and on hearing the submissions of counsel for the Receiver and any other counsel in attendance, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of Lindsay Provost sworn March 20, 2020 and March 23, 2020, filed:

1. **THIS COURT ORDERS** that the Receiver is hereby prospectively authorized to accept an offer or offers to purchase, either by private sale or auction, of any or all of the Unsold Units provided that the sale price for each Unsold Unit to which such offer(s) relates is acceptable to the Receiver having regard to the value for such Unsold Unit(s) and prior sales of similar units with consideration given to the current market conditions and all other terms of the offer(s) are, in the Receiver's sole opinion, in the best interest of the stakeholders of the Debtor.

2. **THIS COURT ORDERS AND DECLARES** that each Transaction is hereby prospectively approved, and the execution of each applicable Bill of Sale by the Receiver is hereby authorized and approved, with any amendments or modifications thereto deemed necessary by the Receiver. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of any Transaction and for the conveyance of the Purchased Assets to each applicable Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "B" hereto, all of the Debtor's right, title and interest in and to the Purchased Assets described in the applicable Bill of Sale and listed on Exhibit A of the applicable Receiver's Certificate in respect of such Unsold Unit Sale shall vest absolutely in the Purchaser, free and clear of and from any and 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: (i) any encumbrances or charges created by the Order of the Honourable Justice Hainey dated February 12, 2020; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system, (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof, and in any event no later than thirty (30) days after the date of the Transaction detailed in each applicable Bill of Sale.

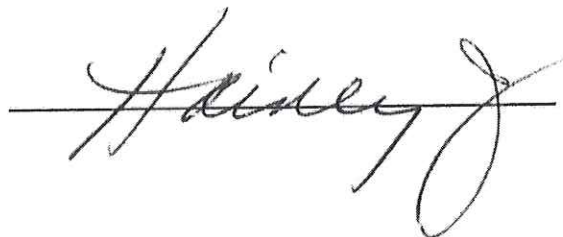
6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Debtor;


the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **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.

A handwritten signature in black ink, appearing to read "Hainey J.", written over a horizontal line.

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

MAR 27 2020

PER / PAR: 

SCHEDULE A1

BILL OF SALE

**Purchaser:** \_\_\_\_\_

**Description of Purchased Asset:** (attach schedule A if required)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Purchase Price:** \_\_\_\_\_

**WHEREAS** pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) file no. CV-20-00636095-00CL dated February 12, 2020 (the "**Appointing Order**"), Deloitte Restructuring Inc., was appointed as Receiver over the Property (as defined in the Appointing Order) of Dean Myers Chevrolet Limited ("**DMC**") and 1125278 Ontario Limited (in such capacity the "**Receiver**");

**AND WHEREAS** the Purchaser wishes to purchase and the Receiver wishes to sell certain parts as detailed above, (the "**Purchased Assets**"), in accordance with the terms outlined below;

**NOW THEREFORE**, in consideration of the sum described above (the "**Purchase Price**"), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Receiver, hereby sells, conveys, transfers, assigns and sets over unto the Purchaser, all of DMC's right, title and interest, if any, in and to the Purchased Vehicle on an absolutely "as is where is basis", and to the following terms:

**1.0 Purchase Price**

- a. The Purchaser will pay the Purchase Price to DELOITTE RESTRUCTURING INC. by way of electronic wire transfer to the Receiver's trust account or a bank draft drawn upon a Schedule 1 chartered bank and in addition to the Purchase Price, the Purchaser will pay all applicable federal and provincial taxes applicable in connection

with the purchase and sale of the Purchased Vehicle(s) including, without limitation, Harmonized Sales Tax ("HST").

## **2.0 Possession of Purchased Parts**

- a. The Purchaser will remove and transport the Purchased Assets from 3180 Dufferin Street, Toronto, Ontario (the "**Premises**") at its own expense. The Purchaser will be responsible for all damages to the Premises that is caused by the Purchaser during the removal of such Purchased Assets (if applicable).
- b. The Purchaser will take possession of the Purchased Assets where situated within five (5) days of execution of this Bill of Sale and the clearing of the payment of the Purchase Price. The Purchaser acknowledges that the Receiver has no obligation to deliver physical possession of the Purchased Assets to the Purchaser.
- c. It shall be the Purchaser's sole responsibility to obtain any consents to the transfer and any further documents or assurances which are necessary or desirable in the circumstances to carry out the sale of the Purchased Assets to the Purchaser.

## **3.0 As Is Where Is**

- a. The Purchaser acknowledges that the Receiver is selling the Purchased Assets on an "as is, where is" basis as they exist on the date of this Agreement without recourse to the Receiver. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Receiver does not guarantee title to the Purchased Assets and that the Purchaser has conducted such inspections of the condition of title to the Purchased Assets as it deemed appropriate and has satisfied itself with regard to these matters. The Purchaser further acknowledges that no representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, conditions, quantity or quality, assignability or in respect of any other matter or thing whatsoever concerning the Purchased Assets. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation do not apply to this transaction and have been waived by the Purchaser and the list of Purchased Assets hereto has been provided for reference purposes only and shall not affect the interpretation of this Agreement. The Receiver has made no representations,

warranties, statements or promises (save and except as expressly stated herein) and has not agreed to any conditions with respect to the Purchased Assets, express or implied, oral or written, legal, equitable, conventional, collateral or otherwise, all of which are expressly excluded.

- b. The Receiver hereby represents and warrants to the Purchaser that the Receiver has done no act to encumber the Purchased Vehicle or any part thereof and has the authority to sell, assign and transfer to the Purchaser DMC's right, title and interest, if any, in and to the Purchased Assets.

#### 4.0 General

- a. Upon payment of the Purchase Price and the execution and release of this Bill of Sale, the Purchaser will hold the Purchased Assets for its use and benefit without any manner of hindrance, interruption, molestation, claim or demand whatsoever of, from or by DMC or the Receiver, its successors and assigns.
- b. The Receiver represents and warrants that it is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).
- c. The Receiver shall, at all times and from time to time, at the request and sole expense of the Purchaser, execute all such additional documents as the Purchaser may reasonably require to sell, convey and transfer the Purchased Assets to the Purchaser according to the true intent and meaning of this Bill of Sale.
- d. The representations and warranties described above shall survive closing.
- e. The Bill of Sale may be executed by the parties herein in separate counterparts (which counterparts may be delivered by facsimile transmission, or as a PDF document attached to an email) each of which once executed and delivered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument, which shall be sufficiently evidenced by any such counterparts.
- f. This Bill of Sale shall enure to the benefit of and be binding upon the respective successors and assigns of the Receiver and the Purchaser.
- g. The Purchaser acknowledges and agrees that Deloitte Restructuring Inc., in executing the Bill of Sale, is acting solely in its capacity as court-appointed Receiver

pursuant to the Appointing Order and has no personal or corporate liability under this Bill of Sale.

**IN WITNESS WHEREOF** the parties have executed this Bill of Sale on the date first written above.

Dated at \_\_\_\_\_, Ontario this \_\_\_\_\_ day of \_\_\_\_\_, 2020

**DELOITTE RESTRUCTURING INC.**

Solely in its capacity as court-appointed Receiver of the Property of Dean Myers Chevrolet Limited, and not in its personal or corporate capacity

Per: \_\_\_\_\_

Name:

Title:

(I have authority to bind the Corporation)

**[PURCHASER]**

Witness: \_\_\_\_\_

Per: \_\_\_\_\_

Name:

Title:

(I have authority to bind the Corporation)

## SCHEDULE "A-2"

VIN: 10 <sup>th</sup>	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
DIGIT	5	6	7	8	9	A	B	C	D	E	F	G	H	J	K	L

# UCDA WHOLESALE BILL OF SALE

DATE: \_\_\_\_\_

**SELLER**

MVDA REG # \_\_\_\_\_

**PURCHASER**

MVDA REG # \_\_\_\_\_

NAME \_\_\_\_\_

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY / PROV / PC \_\_\_\_\_

CITY / PROV / PC \_\_\_\_\_

TEL # \_\_\_\_\_ FAX # \_\_\_\_\_

TEL # \_\_\_\_\_ FAX # \_\_\_\_\_

STOCK #	YEAR	MAKE	MODEL	COLOR	TRIM LEVEL	GAS / DIESEL / HYBRID	PRICE
SERIAL OR V.I.N. #			DISTANCE TRAVELLED			<input type="checkbox"/> KMS <input type="checkbox"/> MILES	

## SELLING DEALER'S INFORMATION

## PURCHASING DEALER'S INFORMATION

Salesperson's Registration # \_\_\_\_\_

Salesperson's Registration # \_\_\_\_\_

Salesperson's Name \_\_\_\_\_

Salesperson's Name \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

HST Registration # \_\_\_\_\_

HST Registration # \_\_\_\_\_

HST	\$
LICENCING	\$
TOTAL	\$

### TERMS OF THIS AGREEMENT:

The buyer and seller acknowledge having read the terms of the contract, including those on the reverse and understand and agree that the written terms on this contract form the entire agreement.

## SCHEDULE A to WHOLESALE BILL OF SALE

**WHEREAS** pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) file no. CV-20-00636095-00CL dated February 12, 2020 (the "**Appointing Order**"), Deloitte Restructuring Inc., was appointed as Receiver over the Property (as defined in the Appointing Order) of Dean Myers Chevrolet Limited ("**DMC**") and 1125278 Ontario Limited (in such capacity the "**Receiver**");

**AND WHEREAS** the Purchaser wishes to purchase and the Receiver wishes to sell the Vehicle(s) as detailed on the Wholesale Bill of Sale, (the "**Purchased Vehicle(s)**"), in accordance with the terms outlined below;

**NOW THEREFORE**, in consideration of the sum described on the Wholesale Bill of Sale (the "**Purchase Price**"), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Receiver, hereby sells, conveys, transfers, assigns and sets over unto the Purchaser, all of DMC's right, title and interest, if any, in and to the Purchased Vehicle on an absolutely "as is where is basis", and to the following terms:

### 1.0 Purchase Price

- a. The Purchaser will pay the Purchase Price to DELOITTE RESTRUCTURING INC. by way of electronic wire transfer to the Receiver's trust account or a bank draft drawn upon a Schedule 1 chartered bank and in addition to the Purchase Price, the Purchaser will pay all applicable federal and provincial taxes applicable in connection with the purchase and sale of the Purchased Vehicle(s) including, without limitation, Harmonized Sales Tax ("**HST**").

### 2.0 Possession of Purchased Vehicles

- a. The Purchaser will remove and transport the Purchased Vehicle from 3180 Dufferin Street, Toronto, Ontario (the "**Premises**") at its own expense. The Purchaser will be responsible for all damages to the Premises that is caused by the Purchaser during the removal of such Purchased Vehicle(s) (if applicable).
- b. The Purchaser will take possession of the Purchased Vehicle where situated on the within five (5) days of execution of this Bill of Sale and the clearing of the payment of

the Purchase Price. The Purchaser acknowledges that the Receiver has no obligation to deliver physical possession of the Purchased Vehicle to the Purchaser.

- c. It shall be the Purchaser's sole responsibility to register the vehicles and obtain any consents to the transfer and any further documents or assurances which are necessary or desirable in the circumstances to carry out the sale of the Purchased Vehicle to the Purchaser.

### **3.0 As Is Where Is**

- a. The Purchaser acknowledges that the Receiver is selling the Purchased Vehicle on an "as is, where is" basis as they exist on the date of this Agreement without recourse to the Receiver. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Receiver does not guarantee title to the Purchased Vehicle and that the Purchaser has conducted such inspections of the condition of title to the Purchased Vehicle as it deemed appropriate and has satisfied itself with regard to these matters. The Purchaser further acknowledges that no representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, conditions, quantity or quality, assignability or in respect of any other matter or thing whatsoever concerning the Purchased Vehicle. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation do not apply to this transaction and have been waived by the Purchaser and the list of Purchased Vehicles hereto has been provided for reference purposes only and shall not affect the interpretation of this Agreement. The Receiver has made no representations, warranties, statements or promises (save and except as expressly stated herein) and has not agreed to any conditions with respect to the Purchased Vehicles, express or implied, oral or written, legal, equitable, conventional, collateral or otherwise, all of which are expressly excluded.
- b. The Receiver hereby represents and warrants to the Purchaser that the Receiver has done no act to encumber the Purchased Vehicle or any part thereof and has the authority to sell, assign and transfer to the Purchaser DMC's right, title and interest, if any, in and to the Purchased Vehicle.

#### 4.0 General

- a. Upon payment of the Purchase Price and the execution and release of this Wholesale Bill of Sale, the Purchaser will hold the Purchased Vehicle for its use and benefit without any manner of hindrance, interruption, molestation, claim or demand whatsoever of, from or by DMC or the Receiver, its successors and assigns.
- b. The Receiver represents and warrants that it is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).
- c. The Receiver shall, at all times and from time to time, at the request and sole expense of the Purchaser, execute all such additional documents as the Purchaser may reasonably require to sell, convey and transfer the Purchased Vehicle to the Purchaser according to the true intent and meaning of this Bill of Sale.
- d. The representations and warranties described above shall survive closing.
- e. The Bill of Sale may be executed by the parties herein in separate counterparts (which counterparts may be delivered by facsimile transmission, or as a PDF document attached to an email) each of which once executed and delivered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument, which shall be sufficiently evidenced by any such counterparts.
- f. This Wholesale Bill of Sale shall enure to the benefit of and be binding upon the respective successors and assigns of the Receiver and the Purchaser.
- g. The Purchaser acknowledges and agrees that Deloitte Restructuring Inc., in executing the Wholesale Bill of Sale, is acting solely in its capacity as court-appointed Receiver pursuant to the Appointing Order and has no personal or corporate liability under this Wholesale Bill of Sale.
- h. The Purchaser acknowledges and agrees that the Receiver is unable to make the required disclosure statements as required by section 30 of the Motor Vehicles Dealer Act 2002, S.O. 2002, c. 30, Sched. B and releases the Receiver from any damages or claims resulting from such non-disclosure.

**IN WITNESS WHEREOF** the parties have executed this Wholesale Bill of Sale on the date first written above.

Dated at \_\_\_\_\_, Ontario this \_\_\_\_\_ day of \_\_\_\_\_, 2020

**DELOITTE RESTRUCTURING INC.**

Solely in its capacity as court-appointed Receiver of the Property of Dean Myers Chevrolet Limited, and not in its personal or corporate capacity

Per: \_\_\_\_\_

Name:

Title:

(I have authority to bind the Corporation)

**[PURCHASER]**

Witness: \_\_\_\_\_

Per: \_\_\_\_\_

Name:

Title:

(I have authority to bind the Corporation)

**Schedule B – Form of Receiver's Certificate**

Court File No. CV-636095-CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**ROYAL BANK OF CANADA**

Applicant

- and -

**DEAN MYERS CHEVROLET LIMITED and 1125278 ONTARIO LIMITED**

Respondents

**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice – Commercial List (the "**Court**") dated February 12, 2020, Deloitte Restructuring Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of Dean Myers Chevrolet Limited and 1125278 Ontario Limited (collectively the "**Debtor**").

B. Pursuant to an Order of the Court dated March 25, 2020, the Court pre-approved the sale of certain assets (the "**Purchased Assets**") subject to a Bill of Sale between [Purchaser] (the "**Purchaser**") and the Receiver dated [date] (the "**Bill of Sale**") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to closing, if any, as set out in the Bill of Sale have been satisfied or waived by the Receiver and the Purchaser; and (iii) the transaction subject to the Bill of Sale has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the closing date pursuant to the Bill of Sale;
2. The conditions to closing, if any, as set out in the Bill of Sale have been satisfied or waived by the Receiver and the Purchaser; and
3. The transaction contemplated by the Bill of Sale has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**Deloitte Restructuring Inc., in its capacity as  
Receiver of the undertaking, property and  
assets of Dean Myers Chevrolet Limited and  
1125278 Ontario Limited, and not in its  
personal capacity**

Per: \_\_\_\_\_

Name:

Title:

ROYAL BANK OF CANADA

Applicant

-and-

DEAN MYERS CHEVROLET LIMITED et al

Respondents

Court File No. CV-636095 CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
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PROCEEDING COMMENCED AT  
TORONTO

OMNIBUS ORDER

HARRISON PENZA LLP  
Barristers & Solicitors  
450 Talbot St.  
London, ON N6A 4K3

Timothy C. Hogan (LSO #36553S)

Tel: (519) 679-9660

Fax: (519) 667-3362

Lawyers for the Receiver,  
Deloitte Restructuring Inc.