

**DUPLICATE
ORIGINAL**

Q.B. No. 1331 of 2012

CANADA
PROVINCE OF SASKATCHEWAN

IN THE COURT OF QUEEN'S BENCH FOR SASKATCHEWAN
JUDICIAL CENTRE OF SASKATOON

BETWEEN:

BANK OF MONTREAL

PLAINTIFF

- and -

SHANE SCOTT and MICHELLE SCOTT

DEFENDANTS
(RESPONDENTS)

BEFORE THE HONOURABLE) ON WEDNESDAY,
MADAM JUSTICE A.R. ROTHERY) THE 13TH DAY OF
IN CHAMBERS) FEBRUARY, 2013

AMENDED AND RESTATED RECEIVERSHIP ORDER

UPON THE APPLICATION OF Bank of Montreal in respect of Shane Scott and Michelle Scott (collectively, the "**Debtor**"), **AND UPON** having read the Notice of Motion on behalf of Bank of Montreal dated January 23, 2013 (the "**Bank of Montreal Notice of Motion**"), the Affidavit of Rick Donald sworn September 14, 2012, the Affidavit of Adrienne Waller sworn September 13, 2012, the Interim Receivership Order of the Honourable Madam Justice A.R. Rothery dated October 9, 2012; the First Report of the Interim Receiver dated November 6, 2012, the Second Report of the Interim Receiver dated November 20, 2012, the Third Report of the Interim Receiver dated November 30, 2012, the Fourth Report of the Interim Receiver dated December 11, 2012, the Claims Process Order of the Honourable Madam Justice A.R. Rothery dated December 6, 2012, as amended by further Order of December 11, 2012, the Fifth Report of the Interim Receiver dated January 15, 2013, the Sixth Report of the Interim Receiver dated January 23, 2013, the Supplementary Sixth Report of the Interim Receiver dated January 25, 2013, the Seventh Report of the Interim Receiver, the Affidavits of Rick Donald sworn February 7, 2013, February 11, 2013, and February 12, 2013, the Affidavit of Glen Snyder sworn February 11, 2013, the Affidavits of Shane Scott sworn January 25, 2013 and February 6, 2013, the Affidavit of Sheldon Guckert sworn February 1, 2013, and a proposed form of Order, all filed; **AND UPON** reading the consent of PricewaterhouseCoopers Inc. to act as receiver (the "**Receiver**") of the Debtor, filed; **AND UPON** hearing counsel for Bank of Montreal, counsel for

the Receiver, counsel for the Debtor, counsel for Sheldon and Belinda Guckert, and counsel for National Leasing Group Inc.;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the Bank of Montreal Notice of Motion and the materials filed in support thereof (collectively, the “**Application Materials**”) shall be and is hereby abridged and service thereof shall be and is hereby deemed good, valid, timely and sufficient.

APPOINTMENT

2. Pursuant to sections 47 and 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”), section 65(1) of *The Queen’s Bench Act, 1998*, S.S. 1998, c. Q-1.01 (the “**QB Act**”) and section 64(8) of *The Personal Property Security Act, 1993*, S.S. 1993, c. P-6.2 (the “**PPSA**”), effective as of 8:00 a.m. Saskatoon time on Tuesday February 19, 2013, the Interim Receivership Order shall be and is hereby continued and amended, but for clarity is restated as provided herein, whereby PricewaterhouseCoopers Inc. shall be and is hereby appointed Receiver, without security, of all of assets, undertakings and properties of the Debtor acquired for, or used in relation to the business carried on by the Debtor, including all proceeds thereof (the “**Property**”), provided that, subject to paragraph 2C hereof, the Property shall exclude all of the livestock listed at Schedule “B” hereto (the “**Excluded Livestock**”) pending final determination of all claims to such Excluded Livestock in accordance with the procedures and within the time limits prescribed by the Claims Process Order dated December 6, 2012, as amended by further Order of December 11, 2012 (the “**Claims Process**”). The Property shall include the lessee’s interest in any leases of lands to which the Debtors, or either of them, are lessees.
- 2A. To the extent (if any), that the Property includes any asset that would comprise an “implement” as defined in *The Saskatchewan Farm Security Act*, S.S., c. S-17.1 (the “**Implements**”):
 - (a) the Receiver shall be permitted to preserve, protect, maintain control of and utilize any such Implements (in the ordinary manner in which such Implements are intended to be used) for the purposes of carrying out its mandate under this Order, and such action by the Receiver shall not be construed as a breach of *The Saskatchewan Farm Security Act*, S.S., c. S-17.1; and
 - (b) this Order shall not be interpreted in such a manner as to construe the Receiver’s execution or enforcement of this Order as a seizure of any of the Implements unless and until the Receiver actually takes exclusive possession of any such Implement to the exclusion of the Debtor.
- 2B. In regard to any of the items which are subject to the Orders of the Honourable Mr. Justice T.J. Keene in the Judicial Centre of Swift Current in proceedings between Shane Scott (Applicant) and National Leasing Group Inc. (“**NLGI**”) (Respondent) in Q.B. Nos.

34, 35 and 36 of 2012 which the Interim Receiver has been using (the “NLGI Items”):

- (a) the Receiver shall pay to NLGI the amount already agreed upon between the Receiver (while in its capacity as Interim Receiver) and NLGI for the continued use of any of the NLGI Items; and
- (b) once the NLGI Items, or any of them, are no longer required by the Receiver for use in carrying out its duties under this Order, the Receiver shall notify NLGI that the Receiver surrenders any and all interests in the NLGI Items, upon delivery of which notice by the Receiver to NLGI, the Receiver shall have no further obligation or responsibility whatsoever in respect of the relevant NLGI Items.

2C. Upon final determination of the Claims Process, any and all of the Excluded Livestock subject to claims which are not proven in accordance with the Claims Process (which claims are thereby conclusively and irrevocably deemed to be extinguished and forever barred) shall be included in the Property without further Order of this Court.

RECEIVER’S POWERS

- 3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property, and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
 - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
 - (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
 - (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
 - (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver’s powers and duties including, without limitation, those conferred by this Order;
 - (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;

- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property or the business of the Debtor, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order or otherwise authorized by this Court;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000.00, provided that the aggregate consideration for all such transactions does not exceed \$150,000.00; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,and in each such case notice under ss. 59(10) of the PPSA shall not be required;
- (m) notwithstanding the preceding paragraph 3(l):
 - (i) to sell, convey, transfer or otherwise dispose of (including, without limitation, by immediate sale at public auction, in which case notice under section 59(10) of the PPSA shall not be required) any and all of: a) the livestock forming part of the Property (including by operation of paragraph 2C hereof) (the "**Livestock**"); and b) the hay forming part of the Property (the "**Hay**"), for sums approximating the market value of such

Livestock or Hay (as the case may be) without further approval of this Court, provided, however, that the Receiver shall, subject to paragraph 19 hereof, hold the proceeds of the sale of any such Livestock or Hay (as the case may be), net of any disbursements provided for herein (the "**Sale Proceeds**"); and

- (ii) to issue, upon delivery of any of the Livestock or Hay (as the case may be) to a person pursuant to the preceding subparagraph 3(m)(i), a certificate to such person substantially in the form attached as Schedule "C" hereto (the "**Receiver's Vesting Certificate**"), upon delivery of which Receiver's Vesting Certificate, all right, title and interest of the Debtor in such Livestock or Hay (as the case may be) shall pass to and vest in the name of such person absolutely and forever free and clear of any and all encumbrances of any kind whatsoever held by any other person or entity, and, for the purpose of determining the nature and priority of any claims to any of the Livestock or Hay (as the case may be), the resultant Sale Proceeds shall stand in the place and stead of the Livestock or Hay thereby sold (as the case may be) and all claims and encumbrances to the Livestock or Hay thereby sold (including, without limitation, the Receiver's Charge and the Receiver's Borrowings Charge) shall attach to the relevant Sale Proceeds with the same priority as they had with respect to the corresponding Livestock or Hay sold (as the case may be) immediately prior to the issuance of the Receiver's Vesting Certificate;
- (n) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (o) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (p) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (q) to apply for any permits, licenses, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (r) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (s) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;

- (t) to take such steps as in the opinion of the Receiver are necessary or appropriate to verify the existence and location of all of the Property, the terms of all related agreements or other arrangements relating thereto, whether written or oral, the existence or assertion of any lien, charge, encumbrance or security interest thereon, and any other matters which in the opinion of the Receiver may affect the extent, value, existence, preservation and liquidation of such Property;
- (u) to execute, sign, issue, endorse or negotiate in the name of and on behalf of the Debtor, all cheques, leases, bills of sale, transfers of land, conveyances, bills of lading, deeds and documents of whatever nature necessary or incidental to the exercise of the powers granted herein;
- (v) to take steps for the preservation and protection of the Property, including, without restricting the generality of the foregoing, the right to make payments for ongoing services in respect of the Property, and such payments are to be allowed to the Receiver in passing its accounts and shall form part of the Receiver's Charge (as defined below) on the Property;
- (w) to sell, convey, transfer, lease or assign the Property or any part of parts thereof in the ordinary course of business,
 - (i) on the basis that any representations and warranties to be given under any agreement of purchase and sale remain representations and warranties of the Debtor and shall not be or be deemed to be representations and warranties of the Receiver; and
 - (ii) if necessary, with such changes or amendments as are deemed appropriate by the Receiver, without prior approval or further order of the Court, and to do or perform all acts or things necessary for the completion of such transactions;
- (x) to abandon or surrender all or any part of the Property, including leased premises;
- (y) to enter on any real property in respect of which the Receiver determines or has reason to believe that any Property (including Livestock) is located, in order to determine whether any of such Property is present, and to take possession of any Property located on such lands;
- (z) to take all steps necessary, including, without limitation, taking possession of and exercising control over the Excluded Livestock, to carry the Claims Process through to its completion in accordance with its terms (except as amended hereby);
- (aa) to prepare an analysis concerning the allocation of costs of the Interim Receivership and the Receivership, including the feeding, securing and caring for Excluded Livestock, to the claimants under the Claims Process who are determined to be the owners of such Excluded Livestock, and if the relevant successful claimants under the Claims Process are not able to reach agreement

with the Receiver and with Bank of Montreal as to such allocation and the method of payment by each such successful claimant, to make recommendations to, and obtain directions from, the Court concerning the same before delivering possession of any Excluded Livestock to any successful claimant;

- (bb) to the extent deemed necessary or appropriate by the Receiver, in its sole discretion, to take steps to ensure the feeding and care of any Livestock comprised within the Property or in the possession of the Debtors, including, for greater certainty, Excluded Livestock (until possession of such Excluded Livestock is delivered to any successful Claimants in accordance with the Claims Process or such Excluded Livestock becomes included in the Property by operation of paragraph 2C hereof);
- (cc) to ascertain and supervise the status and location of, and if deemed necessary or appropriate by the Receiver, to take steps to preserve all Implements of the Debtors; and
- (dd) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person. For greater certainty, the Debtor shall not interfere with the Receiver in the carrying out of any of its duties pursuant to this Order, including in regard to the taking possession of and sale of the Property (including the Excluded Livestock and the Livestock). Further, the Debtor shall not attend at and/or disrupt any sales process in regard to the Property (including by means of auction), including by disseminating information that may discourage prospective purchasers from purchasing the Property.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

- 4. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver’s request.
- 5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that

Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.

6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. No proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver or its agents, including auctioneers engaged by the Receiver, except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. Subject to paragraph 8A and 8B hereof, no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement, if such proceeding is not commenced before the expiration of the stay provided by this paragraph 8.
- 8A. Nothing in this Order shall prevent any person from delivering a statutory notice prescribed pursuant to the *Farm Debt Mediation Act* and/or *The Saskatchewan Farm Security Act*. Where a statutory notice is served on the Debtor by a person and such statutory notice would, pursuant to the applicable statute in the absence of this Order, cause a time period to begin to run, such time period (including, without limitation, the

time periods prescribed in section 21 of the *Farm Debt Mediation Act* and section 48 of *The Saskatchewan Farm Security Act*) shall begin to run upon service of such notice upon the Debtor. Notwithstanding the foregoing, except for the service of additional statutory notices, no further or other steps shall be taken by the person delivering such notice without the written consent of the Receiver or leave of this Court.

- 8B. Nothing in this Order shall prevent NLGI from pursuing realization upon the NLGI Items as ordered by the Honourable Mr. Justice T.J. Keene in the Judicial Centre of Swift Current, in proceedings between Shane Scott (Applicant) and NLGI (Respondent) in Q.B. Nos. 34, 35 and 36 of 23012, upon notification from the Receiver as contemplated by clause 2B(b) thereof.

NO EXERCISE OF RIGHTS OR REMEDIES

9. All rights and remedies (including, without limitation, set-off rights) against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided, however, that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a mortgage, floating charge, or security interest, (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect a lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further steps shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Debtor and the Receiver or (v) prevent the delivery of a statutory notice in accordance with paragraph 8A hereof.

NO INTERFERENCE WITH THE RECEIVER

10. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, including, without limitation, insurance coverage, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. All Persons having oral or written agreements or existing arrangements with the Debtor or the Interim Receiver or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor or the Interim Receiver are 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 entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, 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 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.

RECEIVER TO HOLD FUNDS

12. 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 sale of all or any of the Property and 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 one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**"), which may be the same accounts opened pursuant to and in accordance with the Interim Receivership Order, and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

EMPLOYEES

13. Subject to the employees' rights to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate 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 section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) and 81.6(3) of the BIA.
14. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. Nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a

substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act 1999*, *The Environmental Management and Protection Act, 2010* (Saskatchewan), *The Environmental Management and Protection Act, 2002* (Saskatchewan), *The Clean Air Act* (Saskatchewan), *The Agricultural Operations Act* (Saskatchewan), *The Dangerous Goods Transportation Act* (Saskatchewan), *The Occupational Health and Safety Act, 1993* (Saskatchewan), *The Emergency Planning Act* (Saskatchewan), *The Saskatchewan Watershed Authority Act, 2005* (Saskatchewan), *The Litter Control Act* (Saskatchewan), and regulations thereunder (the “**Environmental Legislation**”), provided however that:

- (a) within seven (7) days of the date of this Order, the Receiver shall file a Receiver’s Certificate listing any of the property (the “**Excluded Property**”) of which the Receiver has determined it will not take Possession in accordance with the terms of this paragraph;
 - (b) upon filing by the Receiver of the Receiver’s Certificate listing the Excluded Property, any interested party may apply for, or this Honourable Court upon its own motion may direct, a hearing as to whether it is just and appropriate that the Receiver shall not take possession of the Excluded Property. Any such application shall be brought within thirty (30) days of the filing of the Receiver’s Certificate or such further time as this Court shall order; and
 - (c) unless ordered otherwise, the Receiver shall not be required to occupy or take Possession of any such Excluded Property, provided however that nothing herein shall exempt the Receiver from any duty to report or to make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any Property within the meaning of any Environmental Legislation, unless it is actually in possession thereof.
16. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
- (i) before the Receiver’s appointment; or
 - (ii) after the Receiver’s appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver’s gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts the Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the

Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,

- (i) if, within such time as is specified in the order, within ten (10) days after the order is made if no time is so specified, within ten (10) days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:
 - A. complies with the order, or
 - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
- (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within ten (10) days after the order is made or within ten (10) days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by,
 - A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
 - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- (iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

Nothing in this Order shall derogate from the protection afforded to the Receiver by s. 14.06 of the *BIA* or any other applicable legislation.

RECEIVER'S ACCOUNTS

17. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements and the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property as security for such fees and disbursements both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge, shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4) and 81.6(2) of the *BIA*. For greater clarity, the Receiver's Charge shall also secure the payment of the reasonable professional fees and disbursements of the Receiver and its counsel in

respect of services rendered by the Receiver and its counsel pursuant to the Interim Receivership Order, the accounts of the Receiver and its counsel for which services shall be rendered separately of the accounts of the Receiver and its counsel rendered from and after the date of this Order.

18. The Receiver and its legal counsel shall pass their accounts from time to time.
19. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. The Receiver shall be at liberty and is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount (including the borrowings made pursuant to the Interim Receivership Order) does not exceed \$400,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed by the Receiver:

- (a) pursuant to this Order; and
- (b) pursuant to the Interim Receivership Order,

together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge, and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

21. Neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
22. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “A” hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.
23. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.

ALLOCATION

24. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge, the Receiver's Borrowings Charge, and/or the value of any assets comprising the Property that are or have been consumed during the course of the Interim Receivership and the Receivership, amongst the various assets comprising the Property and the Excluded Livestock.

APPROVAL OF ACTIVITIES AND REPORTS OF THE INTERIM RECEIVER

25. The activities and reports of the Interim Receiver up to and including the date of this Order shall be and are hereby approved.

GENERAL

26. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
27. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
28. 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.
29. The Receiver shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
30. The Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
31. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and Bank of Montreal and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

FURTHER SERVICE

- 32. The Applicant shall, within ten (10) days of the date of this Order, cause a true copy of this Order to be served on all persons who appear on the Service List prepared and maintained by counsel for the Applicant in regard to these proceedings.
- 33. The Receiver shall be and is hereby deemed to have complied with the obligations imposed upon the Receiver by sections 245 and 246(1) of the *Bankruptcy and Insolvency Act* to serve notice of this Order upon the Debtor and upon creditors of the Debtor.
- 34. Nothing in this Order shall relieve a person serving any statutory notice pursuant to paragraph 8A hereof from complying with the service provisions of the applicable statutes.

ISSUED at the City of Saskatoon in the Province of Saskatchewan, this 15 th day of February, 2013.



(Deputy) Local Registrar

This Order was delivered by:

MILLER THOMSON LLP
123-2nd Avenue South, Suite 600
Saskatoon, SK S7K 7E6
Lawyer in charge of file: David G. Gerecke
Telephone Number: 306.667.5615
Facsimile: 306.652.1586

TO: Local Registrar, Judicial Centre of Saskatoon
AND TO: The Debtor
AND TO: Those persons listed on the Service List

SCHEDULE "A"

RECEIVER'S CERTIFICATE

CERTIFICATE NO. _____
AMOUNT \$ _____

1. THIS IS TO CERTIFY that PricewaterhouseCoopers Inc., the receiver (the "Receiver") of the assets, undertakings and properties of Shane Scott and Michelle Scott (the "Debtors") acquired for, or used in relation to the Debtors' business, including all proceeds thereof (the "Property") appointed by the Amended and Restated Receivership Order of the Court of Queen's Bench of Saskatchewan (the "Court") issued the 15th day of February, 2013 (the "Order"), made in action No. 1331 of 2012, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly not in advance on the ____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act* (Canada) and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at _____.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake any personal liability to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20__.

PricewaterhouseCoopers Inc., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____

Name:

Title:

SCHEDULE "B"
EXCLUDED LIVESTOCK

1. 55 heifers carrying the registered brand of Dirt Creek Enterprises Ltd.,
namely: " 5 " (R.R.)

2. 18 cows and 3 heifers carrying the registered brand of Belinda Guckert, namely:
(L.H.) together with any calves that appear to be the offspring of such cows and to
not have been weaned (provided that the entitlement of Sheldon and Belinda
Guckert to the value of any such calves shall be determined through the Claims
Process). " u "

SCHEDULE "C"
Receiver's Vesting Certificate

RECEIVER'S VESTING CERTIFICATE

WHEREAS:

- A. Pursuant to the Amended and Restated Receivership Order of the Honourable Madam Justice A.R. Rothery of the Saskatchewan Court of Queen's Bench (the "**Court**") issued February 15, 2013, PricewaterhouseCoopers Inc. was appointed as receiver (the "**Receiver**") of the undertakings, property and assets of Shane Scott and Michelle Scott;
- B. pursuant to the Amended and Restated Receivership Order, the Court approved the sale of certain livestock (the "**Livestock**") by the Receiver and provided for the vesting in the purchaser of any such Livestock all right, title and interest in and to the Livestock purchased, effective upon delivery by the Receiver to such purchaser of this Receiver's Certificate;
- C. the Receiver has sold certain Livestock (the "**Purchased Livestock**") to _____ (the "**Purchaser**"); and
- D. unless otherwise indicated herein, the terms with initial capitals have the meaning set out in the Amended and Restated Receivership Order.

THE RECEIVER HEREBY CERTIFIES THE FOLLOWING:

- 1. The Purchaser has paid and the Receiver has received the purchase price for the Purchased Livestock.
- 2. All terms and conditions of sale have been satisfied or waived by the Receiver and the Purchaser.
- 3. The purchase and sale of the Purchased Livestock have been completed to the satisfaction of the Receiver.
- 4. This Certificate was delivered by the Receiver at _____ a.m./p.m. on _____.

PricewaterhouseCoopers Inc., solely in its capacity as Receiver and not in its personal capacity

Per: _____