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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

CV2012--010429

HSBC BANK CANADA, a National
Banking Association,

Plaintiff,

v.

DESAUTELS CREATIVE
PRINTING PAPERS INC., a
Canadian corporation; CREATIVE
INTERNATIONAL, L.L.C., an
Arizona limited liability company;
and MERCHANT SALES INC., a
South Dakota corporation,

Defendants.

Case No.

**STIPULATED ORDER APPOINTING
RECEIVER**

Pursuant to Rule 66, Ariz. R. Civ. P., and A.R.S. §§ 12-1241 and 12-1242, the Court, upon consideration of the “Verified Complaint for Appointment of Receiver” (the “Complaint”) filed by Plaintiff, HSBC Bank Canada, a National Banking Association (“Plaintiff” or “Lender”), against Defendants Desautels Creative Printing Papers Inc., a Canadian corporation (“DCCP”), Creative International, L.L.C., an Arizona limited liability company (“Creative”), and Merchant Sales Inc., a South Dakota corporation (“Merchant”), the “Stipulation and Joint Request for Entry of Stipulated Order Appointing Receiver” (the “Stipulation”), and good cause appearing therefore:

1 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** approving the
2 Stipulation in its entirety.

3 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** as
4 follows:

5 1. **APPOINTMENT OF RECEIVER:** PricewaterhouseCoopers Inc. (“PwC”
6 or the “Receiver”) is hereby immediately appointed as the general Receiver in this action
7 over DCCP, Creative, and Merchant (collectively, the “Receivership Entities”), such
8 appointment to be effective upon the Receiver’s filing of (i) an Oath of Receiver and
9 (ii) a Certificate of Appointment of Receiver.

10 2. **POSSESSION OF RECEIVER:** The Receiver is hereby authorized to
11 take exclusive possession, custody, and control of the Receivership Entities and all of the
12 Receivership Entities’ real, personal, tangible and intangible business assets, including
13 without limitation all real property, personal property, buildings, improvements and
14 structures, wherever located, and all goods, furniture, fixtures, equipment, machinery,
15 motor vehicles, materials, supplies, furnishings, inventory, books, records, leases, lists,
16 customer lists, agreements, documents, instruments, chattel paper, deposits, intangible
17 property and rights, accounts, accounts receivable, rights to payment, notes, documents of
18 title, policies, certificates, insurance claims, plans, specifications, rents, funds, receivables,
19 sums, deposit accounts, issues, profits, revenue, income, proceeds, insurance proceeds,
20 awards, refunds, overpayments, credits, bank accounts, investment accounts, rights of
21 payment, intellectual property, including patents, tradenames and trademarks, computer
22 software, company websites and email accounts, and all other property and assets of the
23 Receivership Entities, wherever located (collectively, the “Receivership Assets”).

24 3. The Receiver shall have all of the rights of the Receivership Entities with
25 respect to the Receivership Assets, and is authorized to liquidate the Receivership Assets
26 for the benefit of the Plaintiff and take all actions that the Receiver believes, in its
27 business judgment, will benefit, protect, and/or preserve the value of the Receivership
28 Assets.

1 4. **POWERS, DUTIES AND AUTHORITY OF THE RECEIVER:**

2 Pending the Receiver's liquidation of the Receivership Assets, the Receiver is granted the
3 full and complete power and authority to operate the businesses of the Receivership
4 Entities, to preserve, protect, control, continue, manage, and operate the Receivership
5 Entities in the ordinary course of their business, and to incur expenses necessary to carry
6 out its powers and duties. The Receiver's powers, duties and authority shall include, but
7 are not limited to, the following:

8 (a) *Exclusive Possession.* To have exclusive possession and control of
9 the Receivership Assets. The Receiver may exclude all persons with knowledge
10 of this Order, or any other unauthorized person, from the Receivership Assets by,
11 among other things, changing locks and passwords of the Receivership Assets, or
12 seeking assistance from this Court.

13 (b) *Liquidation of the Receivership Assets.* To market, sell, liquidate,
14 transfer, assign, or convey the Receivership Assets, in whole or in part, and, after
15 paying or reserving sufficient funds to pay the expenses of the Receivership Estate
16 (which means the totality of the Receivership Assets, accounts, assets, rights, and
17 obligations the Receiver has authority to manage and control in accordance with
18 this Order) (the "Receivership Estate") as set forth in Paragraph 4(k) below, to
19 transfer the proceeds of any such sale, transfer, assignment or conveyance to the
20 Plaintiff in satisfaction of the Receivership Entities' secured obligations thereto;

21 (c) *General Operation and Management.* To operate, manage, maintain,
22 repair, preserve, lease, encumber, pledge, lien, list, market, sell, convey or transfer
23 any and all of the Receivership Assets and operations, wherever located, in whole
24 or in part. If appropriate, the Receiver may continue any ongoing business of the
25 Receivership Entities in accordance with the Receiver's business judgment. The
26 Receiver may enter into contracts with third parties to operate, manage, maintain,
27 repair, and preserve the Receivership Assets and the ongoing business of the
28 Receivership Entities. The Receiver may, in its business judgment, incur the

1 expenses necessary in such operation, management, control and conduct in the
2 ordinary and usual course of business, and do all things and incur the risks and
3 obligations ordinarily incurred by owners, managers and operators of similar
4 businesses. No such risks or obligations so incurred shall be the personal risk or
5 obligation of the Receiver, but shall be a risk or obligation of the Receivership
6 Estate, as defined below;

7 (d) *Receiver's Agents.* To employ, hire, engage, and retain attorneys,
8 accountants, engineers, appraisers, investigators, security guards, consultants
9 (including business consultants), environmental specialists, brokers, auctioneers
10 and any other personnel or employees which the Receiver deems necessary to
11 assist the Receiver in the discharge of its duties;

12 (e) *Collections.* To demand, collect, negotiate and receive all
13 receivables, revenues, rents, issues, profit and income derived from the
14 Receivership Entities' business operations and the Receivership Assets, or any part
15 thereof, including those arising out of the Receivership Entities' accounts
16 receivable, whether the same are due or shall hereafter become due and payable,
17 and including all deposits and all proceeds in the possession or name of the
18 Receivership Entities or any of their members, principals, affiliates, agents,
19 servants or employees, which are derived from the revenues generated by the
20 Receivership Assets (including tax credits or refunds), and to bring and prosecute
21 all proper actions for the: (i) collection of revenues derived from the Receivership
22 Assets, (ii) removal from the Receivership Assets of persons not entitled to entry
23 thereon, (iii) protection of the Receivership Assets, and (iv) damage caused to the
24 Receivership Assets. The Receiver is authorized to present for payment any
25 checks, money orders or other forms of payment made payable to the Receivership
26 Entities or any of their members, principals, affiliates, agents, servants or
27 employees, which constitute revenues of the Receivership Assets, and to endorse
28 same and collect the proceeds thereof, such proceeds to be used and maintained as

1 elsewhere provided herein;

2 (f) *Utility Services and Deposits.* To, in the name of the Receivership
3 Estate, continue to utilize the Receivership Entities' utility accounts that provide
4 services to the Receivership Assets; or transfer the Receivership Entities' existing
5 utility accounts to the name of the Receivership Estate; or to open new utility
6 accounts in the name of the Receivership Estate to provide services to the
7 Receivership Assets. The Receiver shall be entitled to utilize any of the
8 Receivership Entities' utility deposits or transfer any utility deposits to the
9 Receivership Estate. No third party is authorized to combine the accounts of the
10 Receivership Estate with the accounts of any other Receivership Estate in which
11 the Receiver has been or may be appointed;

12 (g) *Insurance.* To confirm that the Receivership Assets are adequately
13 insured and in proper repair, to promptly report any evidence or findings to the
14 contrary to Plaintiff and to the Court and, if necessary, to disburse funds from the
15 Receivership Estate for the purchase or maintenance of fire, hazard and liability
16 insurance for the Receivership Assets, as applicable. The Receiver shall notify all
17 insurers of the Receivership Entities and Receivership Assets that the Receiver is
18 to be named as an additional insured on each insurance policy;

19 (h) *Books, Records, and Accounts.* To take possession and control of all
20 of the books, records, correspondence and other accounting documents or
21 computer programs of the Receivership Entities, whether paper or electronic,
22 which relate to, refer to, or account for the assets, revenues and/or liabilities of the
23 Receivership Assets, whether in the possession and control of the Receivership
24 Entities, parties to this action, or in possession of their members, principals,
25 affiliates, agents, accountants, servants or employees, and to take possession of all
26 of the Receivership Entities' bank and deposit accounts used in connection with
27 the Receivership Assets. The Receivership Entities, if they have not already done
28 so, shall provide the Receiver with the tax identification number(s) utilized by the

1 Receivership Entities for the operation of the Receivership Assets. The Receiver
2 shall be entitled to utilize the aforementioned tax identification number(s) during
3 its operation of the Receivership Assets and Receivership Entities for any lawful
4 purposes. All banks and financial institutions, upon presentation of a copy of this
5 Order, shall provide copies of any requested records regarding any such accounts
6 to the Receiver or its agent;

7 (i) *Contracts.* To continue in effect or cure any contracts presently
8 existing and relating to the Receivership Assets or affecting the Receivership
9 Entities. The Receiver may enter into, modify and/or reject contracts affecting any
10 part or all of the Receivership Assets or Receivership Entities, and may exercise
11 rights existing under such contracts, including but not limited to filing suit thereon,
12 if necessary. The appointment of the Receiver shall not constitute a breach or
13 default under any contracts presently affecting the Receivership Assets or
14 Receivership Entities;

15 (j) *Bank Accounts.* To issue demands for the freezing and turnover of
16 funds upon any financial institution, which the Receiver has determined is a
17 depository of funds belonging to, or arising from, the Receivership Assets,
18 whether such accounts be titled in the name of the Receivership Entities or not,
19 and to, if necessary, indemnify the institution upon whom such demand is made on
20 behalf of the Receivership Estate. The Receiver may open and utilize bank
21 accounts for receivership funds used in connection with the Receivership Assets.

22 (k) *Payment of Receivership Expenses.* To pay and discharge out of the
23 funds coming into the Receiver's possession all the current and on-going expenses
24 of the Receivership Estate (including compensation to the Receiver and any
25 professional person, including any law firm or accounting firm employed by the
26 Receiver) and the current and on-going costs and expenses of operating and
27 maintaining the Receivership Assets incurred at any time from and after the date
28

1 of entry of this Order. The Receiver shall have the power to advance funds to
2 keep current any liens encumbering the Receivership Assets;

3 (l) *Payment of Business Expenses.* To expend funds to purchase
4 merchandise, materials, supplies, fuel and services as the Receiver reasonably
5 deems necessary and advisable to assist it in performing its duties hereunder and to
6 pay therefore the ordinary and usual rates and prices out of the funds that may
7 come into the Receiver's possession;

8 (m) *Payment of Pre-Receivership Debts.* Except as the Receiver may
9 deem to be critically necessary to protect and preserve the Receivership Assets, the
10 Receiver may not pay and discharge out of the funds coming into the Receiver's
11 hands any outstanding unsecured debt that the Receivership Entities incurred prior
12 to the entry of this Order;

13 (n) *Permits and Licenses.* To apply, obtain, and pay any reasonable fees
14 for any lawful license, permit or other governmental approval relating to the
15 Receivership Assets, to confirm the existence of and exercise the privileges of any
16 existing license or permit or the operation thereof related to the Receivership
17 Assets, and to do all things necessary to protect and maintain such licenses,
18 permits and approvals, including, but not limited to, taking such license in the
19 name of the Receiver personally or its nominee. The Receiver may, in the name of
20 the Receivership Estate, continue to utilize all of the Receivership Entities' permits
21 and licenses related to the Receivership Assets, or transfer the Receivership
22 Entities' permits and licenses related to the Receivership Assets to the name of the
23 Receivership Estate, or apply for new permits and licenses related to the
24 Receivership Assets in the name of the Receivership Estate. The appointment of
25 the Receiver shall not constitute a breach or default under any licenses, approvals,
26 or permits presently affecting the Receivership Assets;

27 (o) *Receiver's Certificates.* To borrow such funds as may be necessary
28 to satisfy the costs and expenses of the Receivership Estate, to the extent that the

1 net revenues derived from the Receivership Assets are insufficient to satisfy such
2 costs and expenses. All such amounts so advanced shall be deemed secured by the
3 Receivership Assets on a first priority basis. The Receiver is further authorized to
4 issue and execute such documents as may be necessary to evidence the obligation
5 to repay the advances, including, but not limited to, the issuance of a receiver's
6 certificate of indebtedness evidencing the obligation of the Receivership Estate
7 (and not the Receiver individually) to repay such sums. The principal sum of each
8 such certificate or document, together with reasonable interest thereon, shall be
9 payable out of the next available funds from the Receivership Assets;

10 (p) *Receiver's Reports.* To prepare and serve on Plaintiff and
11 Defendants, but not file with the Court, by the 15th day of each month, subject to
12 the condition of the Receivership Entities' books and records, an accounting of the
13 income received and all disbursements made during the immediately preceding
14 month;

15 (q) *Payment of Receiver.* The Receiver shall be compensated for its
16 duties as Receiver under this Order at the following rates, plus five percent (5%)
17 of fees from its billed time to cover expenses: Partner/Senior Vice President:
18 \$450/hour, Vice President: \$375/hour, Manager: \$300/hour, Senior Associate:
19 \$225/hour. In addition, the Receiver shall be reimbursed for all reasonable costs
20 and expenses, including, but not limited to, fees for legal expenses, the premium
21 incurred to obtain the Receiver's Bond, and travel expenses in performing its
22 services in this matter. The Receiver will prepare and deliver to Plaintiff monthly
23 fee statements and billing details of all professionals, which shall serve as notice to
24 all parties advising that any objections thereto must be made in writing within ten
25 (10) days. If no objections are filed by Plaintiff, the Receiver will pay the monthly
26 fees and expenses from available Receivership Estate funds;

1 (r) *Disclosure.* The Receiver shall disclose to Plaintiff any financial
2 relationship between the Receiver and any company or person it hires to assist in
3 the management of the Receivership Estate;

4 (s) *Receivership Assets Name and Description.* The Receiver is
5 authorized to operate the Receivership Assets and Receivership Entities under any
6 existing name or trade name (or a new name, if the Receiver deems it appropriate
7 to do so) and utilize any existing intellectual property that is part of the
8 Receivership Assets;

9 (t) *Litigation.* The Receiver may, in its discretion, intervene in,
10 prosecute, defend, and/or resolve any action related to the Receivership Assets or
11 Receivership Entities, including, without limitation, those brought against the
12 Receivership Entities, whether currently pending or filed in the future. Any
13 lawsuit or claim filed against the Receiver or the Receivership Entities or the
14 Receivership Assets may, at the Receiver's discretion, be resolved by this Court.
15 The Receiver may file an appropriate pleading or motion in any such lawsuit to
16 consolidate or transfer such other matters into this case. No judgment creditor
17 may execute a judgment against any of the Receivership Assets without notice and
18 an opportunity to be heard having first been given to the Plaintiff and the Receiver;
19 and

20 (u) *General Powers.* To do any acts which the Receiver, in its sole
21 discretion and business judgment, deems appropriate or desirable to protect the
22 value of the Receivership Assets. To use such measures, legal or equitable, as the
23 Receiver deems desirable, necessary or appropriate in its business judgment to
24 protect and preserve the value of the Receivership Assets; and to generally do such
25 other things as may be necessary or incidental to the foregoing specific powers,
26 directions and general authorities and to take actions relating to the Receivership
27 Assets beyond the scope contemplated by the provisions set forth above, provided
28

1 the Receiver first obtains approval from this Court for any actions beyond the
2 scope contemplated herein.

3 **5. NON-INTERFERENCE WITH RECEIVER:** All creditors of the
4 Receivership Entities (other than the Plaintiff), all persons or entities with actual
5 knowledge of this Order, and the officers, directors, members, principals, affiliates,
6 agents, servants and employees (current or former) of the Receivership Entities, are
7 hereby enjoined from:

8 (a) Interfering with the Receiver, directly or indirectly, in the
9 management and operation of the Receivership Assets or business operations of
10 the Receivership Entities;

11 (b) Interfering with the Receiver, directly or indirectly, in the collection
12 of revenues derived from the Receivership Assets;

13 (c) Collecting or attempting to collect from the Receivership Assets or
14 Receivership Entities;

15 (d) Extending, dispersing, transferring, assigning, selling, conveying,
16 devising, pledging, mortgaging, creating a security interest in or disposing of the
17 whole or any part of the Receivership Assets without the prior written consent of
18 the Receiver and this Court;

19 (e) Doing any act which will, or which will tend to, impair, defeat,
20 divert, prevent or prejudice the preservation of the Receivership Assets (including
21 the revenues thereof); and

22 (f) Doing any act which directly or indirectly interferes in any manner
23 with the discharge of the Receiver's duties under this Order and the operation and
24 management of the Receivership Assets.

25 **6. TURNOVER:** To the extent they have not done so already, the
26 Receivership Entities, and their officers, directors, members, principals, affiliates, agents,
27 servants, employees, contractors and subcontractors, and all other persons with actual or
28 constructive knowledge of this Order and their agents and employees, shall immediately:

1 (a) Turn over to the Receiver exclusive possession, custody and control
2 of the Receivership Assets and all assets and operations of the Receivership
3 Entities, including, without limitation, all keys to all locks on the Receivership
4 Assets, and the records, books of account, ledgers and all business records for the
5 Receivership Assets, wherever located and in whatever mode maintained
6 (including, without limitation, information contained on computers and any and all
7 software relating thereto, as well as all banking records, statements and canceled
8 checks);

9 (b) Make such reports and accountings to the Receiver of the property,
10 assets, accounts, rents and profits from the Receivership Entities' assets and
11 operations as is requested by the Receiver, including, but not limited to, a copy of
12 the detailed accounting provided by Defendants' principal, Arthur Desautels, prior
13 to the commencement of this case, showing all transfers, collection, and any other
14 disposition of inventory and accounts receivable of the Receivership Entities, from
15 January 1, 2012 through the date of entry of this Order;

16 (c) Turn over to the Receiver all bank accounts used in connection with
17 the Receivership Assets;

18 (d) Turn over to the Receiver all documents which constitute or pertain
19 to the Receivership Assets or Receivership Entities, including, without limitation,
20 all licenses, permits or governmental approvals relating to the Receivership Assets
21 or Receivership Entities;

22 (e) Turn over to the Receiver all documents which constitute or pertain
23 to insurance policies, whether currently in effect or lapsed, which relate to the
24 Receivership Assets or Receivership Entities;

25 (f) Turn over to the Receiver all contracts, agreements, license
26 agreements, leases and subleases, management agreements, franchise agreements,
27 royalty agreements, employment agreements, licenses, assignments or other
28 agreements of any kind whatsoever, whether currently in effect or lapsed, which

1 relate to or are related to any part or all of the Receivership Assets or Receivership
2 Entities;

3 (g) Turn over to the Receiver all documents of any kind pertaining to any
4 and all toxic chemicals or hazardous materials, if any, ever brought, used and/or
5 remaining upon the Receivership Assets, including, without limitation, all reports,
6 surveys, inspections, checklists, proposals, orders, citations, fines, warnings and
7 notices;

8 (h) Turn over to the Receiver all revenues derived from the Receivership
9 Assets, wherever and whatsoever mode maintained; and

10 (i) Turn over to the Receiver all passwords needed to access all records
11 and files maintained on any computer, server, or other electronic device that are
12 part of the Receivership Assets, or any other computers, servers or other electronic
13 devices on which information related to the Receivership Assets is stored.

14 7. **BANKRUPTCY:** If a Receivership Entity files a bankruptcy case, or if a
15 case is filed against it, during the receivership, that Receivership Entity shall immediately
16 provide notice to the Receiver and Plaintiff of such filing. Upon the Receiver's receipt of
17 notice that a bankruptcy has been filed and part of the bankruptcy estate includes property
18 that is the subject of this order, the Receiver shall have the following duties:

19 a. *Turn over Property if no relief from stay or relief from the Receiver's*
20 *turnover obligations will be sought:* The Receiver shall immediately contact Plaintiff and
21 inquire whether it intends to move in the bankruptcy court for an order for (1) relief from
22 the automatic stay, and/or (2) relief from the Receiver's obligation to turn over the
23 property of the bankruptcy estate pursuant to 11 U.S.C. § 543. If Plaintiff advises the
24 Receiver it has no intention of making such a motion, the Receiver shall immediately turn
25 over the property to the appropriate entity – either to the trustee in bankruptcy if one has
26 been appointed or, if not, to the debtor in possession – and otherwise comply with 11
27 U.S.C. § 543.

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1 b. *Remain in possession pending resolution:* If Plaintiff advises the
2 Receiver it intends to seek relief from the automatic stay and/or from the Receiver's
3 obligation to turn over the property of the bankruptcy estate, the Receiver may remain in
4 possession and preserve the property pending the bankruptcy court's ruling on such
5 motion(s). The Receiver's authority to preserve the property until such ruling is issued
6 shall be limited as follows:

7 1. The Receiver may continue to collect rents and other income
8 generated by the Receivership Assets and Receivership Entities;

9 2. The Receiver may make only those disbursements necessary
10 to preserve and protect the Receivership Assets and Receivership Entities;

11 3. The Receiver shall not execute any new leases or other long-
12 term contracts; and

13 4. The Receiver shall do nothing that would effect a material
14 change in the circumstances of the Receivership Assets or the Receivership Entities.

15 c. *Turn over property if no motion for relief from stay or relief from the*
16 *Receiver's turnover obligations is filed within ten (10) days after notice of the bankruptcy:*
17 If Plaintiff fails to file a motion with the bankruptcy court within ten (10) days after its
18 receipt of notice of the bankruptcy filing, the Receiver shall immediately turn over the
19 property of the bankruptcy estate to the appropriate entity – either to the trustee in
20 bankruptcy if one has been appointed or, if not, to the debtor in possession – and
21 otherwise comply with 11 U.S.C. § 543.

22 8. d. *Retain bankruptcy counsel:* The Receiver may petition the
23 bankruptcy court to retain legal counsel to assist the Receiver with issues arising out of
24 the bankruptcy proceedings that affect the receivership.

25 9. **RECEIVERSHIP ESTATE:**

26 (a) *Litigation Stay.* No person or entity shall file suit against the
27 Receiver, or take other legal action against the Receiver or the Receivership Assets
28 or Receivership Entities, without an order of this Court permitting the suit or

1 action, provided, however, no prior Court order is required to file a motion in this
2 action to enforce the provisions of this Order or any other order of this Court in
3 this action. In any event, no such suit shall be brought against the Receiver
4 personally, but only against the Receivership Estate.

5 (b) *Limitation of Liability.* The Receivership Estate and its employees,
6 agents, attorneys and all professionals and management companies retained by the
7 Receiver shall have no liability for any obligations or debts incurred by the
8 Receivership Estate or the Receivership Entities. The Receiver and its employees,
9 agents and attorneys shall have no personal liability, and they shall have no claim
10 asserted against them relating to the Receiver's duties under this Order, without
11 prior authority from this Court as stated in ¶ 8(a) above. In any event, no suit shall
12 be maintained against the Receiver unless the Receiver has acted outside the scope
13 of his authority or committed fraud or gross negligence in the administration of his
14 duties. PwC is acting solely in its capacity as a Receiver and the debts of the
15 Receiver are solely the debts of the Receivership Estate. In no event shall PwC
16 personally have any liability or obligations for the debts of the Receiver, the
17 Receivership Entities and/or the Receivership Estate.

18 (c) *Indemnification of Receiver.* The Receiver's liability for any action
19 taken in the course of its duties shall be limited to the Receivership Estate. The
20 Receivership Estate shall reimburse the Receiver for the costs and expenses of
21 defending any suit filed against it.

22 (d) *Non-interference.* Unless otherwise authorized by the Court upon
23 application, following notice and an opportunity to be heard having been given to
24 the Plaintiff and the Receiver, all lessors, lessees, customers, principals, investors,
25 suppliers, and creditors seeking to enforce any claim, right, or interest against the
26 Receivership Assets or Receivership Entities, are barred by this Order from using
27 any "self-help" remedies, post-judgment or provisional remedies, or taking any
28 other action against the Receiver or Receivership Assets, that may interfere with

