

Court File #CV-14-10537-00CL

Estate # 31-457693

Estate # 31-457694

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**QUALITY MEAT PACKERS HOLDINGS LIMITED**

Applicant

- and -

**QUALITY MEAT PACKERS LIMITED AND  
TORONTO ABATTOIRS LIMITED**

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985, c.B-3, AS AMENDED AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, c.C-43, AS AMENDED

**FIRST REPORT OF THE RECEIVER**

**JUNE 12, 2014**

## TABLE OF CONTENTS

INTRODUCTION .....	1
PURPOSE OF THIS REPORT.....	2
LIMITATION OF REVIEW .....	3
SALE OF ASSETS PROCESS.....	3
RECOMMENDATION .....	5
ORDER SOUGHT .....	5

## LIST OF APPENDICES

- "A" Appointment Order dated May 6, 2014 of the Honourable Mr, Justice Brown.
- "B" Schedule of Auction and Liquidation Proposals received
- "C" Hilco Liquidation Proposal
- "D" Proposed Form of Liquidation Services Agreement

Court File #CV-14-10537-00CL  
Estate # 31-457693  
Estate # 31-457694

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**QUALITY MEAT PACKERS HOLDINGS LIMITED**

Applicant

- and -

**QUALITY MEAT PACKERS LIMITED AND  
TORONTO ABATTOIRS LIMITED**

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985, c.B-3, AS AMENDED AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, c.C-43, AS AMENDED

**FIRST REPORT OF THE RECEIVER**

**June 12, 2014**

**A. Farber & Partners Inc.** (“Farber”), in its capacity as the Court-Appointed Receiver of Quality Meat Packers Limited (“QMP”) and Toronto Abattoirs Limited (“TAL”) (collectively the “Companies”), hereby reports to the Court as follows:

**INTRODUCTION**

1. On April 3, 2014, the Companies each filed a Notice of Intention to Make a Proposal (the “NOI’s”) pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”), and named Farber as proposal trustee (“**Proposal Trustee**”).
2. QMP operated a pork processing business located 2 Tecumseth Street, Toronto, Ontario which is leased from a related party. Prior to the NOI’s, the Companies received approximately

24,000 live hogs a week (normally shipped Monday to Thursday), which were generally slaughtered within a day of receipt, then cut, packaged and shipped.

3. TAL is a separate legal entity that provided the slaughter services to QMP and is integrated into the QMP production facilities. QMP purchased the hogs from the hog farmers, transferred the hogs to TAL for slaughter and then transferred the products back to QMP. TAL does not have a direct relationship with the hog farmers or the customers. Collectively, the Companies employed approximately 750 people.

4. There were two main secured creditors with general security agreements: TD Asset Finance (“**TD**”) and Quality Meat Packers Holdings Limited (“**Holdings**”) which were owed approximately \$8,082,000 and \$19,300,000. During the NOI period, the TD secured debt was paid in full.

5. The Companies did not file proposals or seek a Court-approved extension of the stay period; accordingly, the Companies were deemed bankrupt effective May 6, 2014 and the Proposal Trustee became the bankruptcy trustee (the “**Trustee**”).

6. Also on May 6, 2014, Holdings sought the appointment of Farber as receiver of the Companies. Farber became the Court-appointed receiver (the “**Receiver**”) of QMP and TAL pursuant to the May 6, 2014 Order of the Honourable Mr. Justice Brown (the “**Appointment Order**”), a copy of which is attached as **Appendix “A”**.

#### **PURPOSE OF THIS REPORT**

7. The Receiver has marketed and solicited offers, including auction proposals, for the Companies’ property (excluding frozen inventory and accounts receivable) pursuant to the authority granted in paragraph 4(k) of the Appointment Order. This First Report of the Proposal Trustee (“**First Report**”) has been prepared to provide an overview on the marketing process, a summary of the offers received and to seek this Honourable Court’s approval of one of the auction proposals.

8. The Receiver will report on its activities since its appointment and the realizations of the other assets at a later date.

## LIMITATION OF REVIEW

9. Farber has relied upon the financial records and information provided by the Companies, as well as other information supplied by management, appraisers, accountants, auditors and advisors, and Farber has not independently reviewed or verified such information. The Receiver has prepared this First Report for the sole use of the Ontario Superior Court of Justice (Commercial List) (the “Court”) and of the other stakeholders in these proceedings.

## SALE OF ASSETS PROCESS

### Marketing Process:

10. The Receiver published an ad in the Globe & Mail on May 16, 2014 seeking offers for the Companies’ equipment, systems, parts inventory and office furniture and equipment (the “Equipment”). The deadline to submit offers was June 3, 2014.

11. The Receiver also reached out to various auctioneers and other parties that expressed an interest in purchasing some or all of the Equipment during the NOI period.

12. The Receiver also prepared a listing of the key Equipment to assist interested parties in reviewing the assets. Photos of the key pieces of Equipment were also made available to interested parties.

13. The Receiver also prepared draft terms and conditions for the sale of the Equipment as well as for the intellectual property and distributed this to interested parties.

14. As a result of the Receiver’s marketing efforts, a total of 17 parties expressed interest and received the various documents referred to above.

15. 13 of the interested parties scheduled visits to view the Equipment, although only 7 actually attended.

### Royal Bank Leases

16. The key Equipment listing referred to in paragraph 12 above included a notation on certain of the equipment that such was leased from Royal Bank of Canada (“Royal”). The leased assets

included many of the forklifts and pallet trucks, casing equipment and the butina which is a large piece of equipment used in the hog slaughtering process (collectively, the “**Royal Assets**”).

17. The Receiver received an independent legal opinion that the Royal security for the leases was valid and enforceable against the Trustee. Counsel to Holdings has confirmed that it is not disputing the priority of the Royal security ahead of the general security of Holdings.

18. The Receiver has satisfied itself that there is no equity in the leases to justify the Receiver paying out the Royal leases and trying to sell the assets for the benefit of the receivership. This was based on discussions with management and various of the auctioneers/liquidators that were reviewing the assets. As well, the various auction/buy-out proposals received did not attribute a sufficient portion of the net minimum guarantees to the Royal Assets to contemplate paying Royal in full. As a result, the Receiver proposed to release the Royal Assets to Royal.

19. Royal thereafter agreed to include the Royal Assets in the Receiver’s sale of the Companies’ assets with an agreed upon split of the auction proceeds, split of the net minimum guarantee and methodology to contribute towards the costs of the auction. By grouping all assets in one sale it was believed that there would be a better sale price achieved and a cost reduction and sharing which would benefit both Royal and the Receiver.

*Summary of Offers Received:*

20. The Receiver received 2 offers for small lots of equipment, no offers for the equipment on a going concern basis and 6 liquidation proposals for the Equipment and Royal Assets. A summary of the offers is attached as Appendix “B”. The Receiver is requesting that Appendices B and C be kept sealed pending the completion of the proposed auction process. The top 3 bidders were asked to confirm their bids both on the basis of the inclusion of Royal Assets and on the basis of the exclusion of those assets.

21. None of the offers received will generate sufficient proceeds for the Companies to be able to repay Holdings in full, even after consideration of the realizations from the Companies’ other assets. As noted above, a full report on the Receiver’s activities and realizations will be submitted to this Honourable Court on a future date.

22. None of the offers anticipate generating sufficient proceeds to repay Royal in full.
23. The Receiver has reviewed the liquidation proposals with Holdings and Royal.
24. Both Holdings and Royal have stated their preference for the Receiver to accept the auction proposal received from Hilco Asset Sales Canada Corp. ("**Hilco**") (the "**Liquidation Proposal**"), a redacted copy of which is attached as Appendix "C". It provides for the highest net minimum guarantee as well as a competitive gross realization for the receivership estate compared to the other offers. The split of the net minimum guarantee with Royal is reflected on Appendix B, and the split of gross proceeds is proportionate to the receipts for each pool of assets.
25. The Receiver has tabled a Liquidation Services Agreement to Hilco which it would propose to enter into, subject to the Court's approval of this transaction, and the proposed form of that is shown as Appendix D, omitting the information that would be in Confidential Appendix C

#### **RECOMMENDATION**

26. The Receiver agrees with the assessment of Holdings and Royal and is recommending that this Honourable Court authorize the Receiver to accept the Liquidation Proposal.
27. The Receiver is of the view that the Liquidation Proposal and the Liquidation Services Agreement should be approved by the Court as (i) the Receiver of the view that the market was canvassed and a competitive process undertaken; (ii) the purchase price is the best offer received and is of terms most acceptable to the Receiver; (iii) the Purchaser is providing a substantial deposit; (iv) Quality Meat Packers Holdings Limited as the largest remaining secured creditor has consented to the Receiver entering into the said transaction and (iv) by proceeding with this proposal, Royal will agree to include the Royal Assets which should benefit both the Receiver and Royal.

#### **ORDER SOUGHT**

28. The Receiver will be seeking an order for the following:
- (a) approving the Receiver's actions with respect to the sale of equipment;
  - (b) approving the Liquidation Proposal of Hilco;



- (c) vesting title in assets to purchasers at the auction;
- (d) sealing Appendices B and C hereof pending completion of the transaction described in the Liquidation Proposal

All of which is respectfully submitted this 12<sup>th</sup> day of June, 2014.

**A. FARBER & PARTNERS INC.**  
**Court-appointed Receiver of**  
**Quality Meat Packers Limited and**  
**Toronto Abattoirs Limited**

*per J. Farber*  
\_\_\_\_\_

**APPENDIX "A"**

**APPOINTMENT ORDER DATED MAY 6, 2014 OF THE HONOURABLE  
MR. JUSTICE BROWN**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE MR. ) TUESDAY, THE 6<sup>TH</sup> DAY  
)  
JUSTICE D. M. BROWN ) OF MAY, 2014

**QUALITY MEAT PACKERS HOLDINGS LIMITED**

Applicant

- and -

**QUALITY MEAT PACKERS LIMITED AND  
TORONTO ABATTOIRS LIMITED**

Respondents

**ORDER**

**THIS MOTION** made by the Applicant, Quality Meat Packers Holdings Limited (“**QMP Holdings**”), for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing A. Farber & Partners Inc. (“**Farber**”) as receiver (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Quality Meat Packers Limited and Toronto Abattoirs Limited (the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of David Schwartz sworn on May 2, 2014 and the Exhibits thereto and the Second Report of Farber in its capacity as Proposal Trustee and proposed Receiver dated May 2, 2014 and on hearing the submissions of counsel for QMP Holdings, Farber and those other parties as appearing on the Counsel Slip, no one appearing for any other party on the service list although duly served as appears from the affidavit of service of Bobbie Jo Brinkman sworn on May 2, 2014 and on reading the consent of Farber to act as the Receiver,

**LIFT OF STAY OF PROCEEDINGS**

1. **THIS COURT ORDERS** that, to the extent necessary, the stay of proceedings pursuant to section 69(1) of the BIA shall be lifted to allow this Application to be brought.

**SERVICE**

2. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

**APPOINTMENT**

3. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, Farber is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (the "Property").

**RECEIVER'S POWERS**

4. **THIS COURT ORDERS** that 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, and protect 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 Debtors, 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 Debtors;
- (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 such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;

- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;
- (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 Debtors, 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;
- (k) to market any or all of the Property, including advertising and soliciting offers and/or auction proposals in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale and/or auction 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 \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; 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 subsection 63(4) of the Ontario *Personal Property Security Act*, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;

- (m) 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;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, 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 Debtors;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;

- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (s) 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 Debtors, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

5. **THIS COURT ORDERS** that (i) the Debtors, (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 to the Receiver upon the Receiver's request.

6. **THIS COURT ORDERS** that 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 Debtors, 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 due to statutory provisions prohibiting such disclosure.

7. **THIS COURT ORDERS** that 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**

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

**NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtors 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 Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

10. **THIS COURT ORDERS** that all rights and remedies against the Debtors, 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 this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors 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 security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

11. **THIS COURT ORDERS** that 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 Debtors, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors 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 Debtors 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 Debtors' 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 Debtors 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**

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the 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**") 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**

14. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' 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) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act* ("WEPPA").

#### **PIPEDA**

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, 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 Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. **THIS COURT ORDERS** that 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*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or 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 of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER’S LIABILITY**

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the WEPPA. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER’S ACCOUNTS**

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that 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 that 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.

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **THIS COURT ORDERS** that 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 legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **SERVICE AND NOTICE**

21. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “Protocol”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (found on the Commercial List website at [http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/#Commercial\\_List](http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/#Commercial_List)) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a

Case Website shall be established in accordance with the Protocol with the following URL:  
<http://www.farberfinancial.com/insolvency-engagements/bid/381801/Quality-Meat-Packers-Limited-and-Toronto-Abattoirs-Limited>.

22. **THIS COURT ORDERS** that the E-Service List Keeper (as defined in the Protocol) for the purpose of this proceeding shall be the Receiver.

**GENERAL**

23. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

24. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from continuing to act as trustee in bankruptcy of the Debtors.

25. **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.

26. **THIS COURT ORDERS** that the Receiver 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.

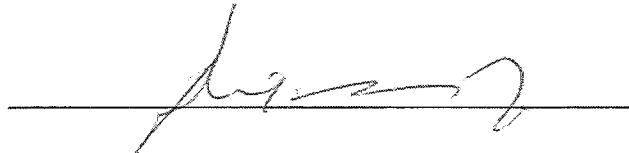
27. **THIS COURT ORDERS** that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

28. **THIS COURT ORDERS** that 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 to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

ENTERED AT THE COURT AT TORONTO  
ON 06 MAY 2014  
LE / DAUGLE RECD THE HON.



MAY 06 2014





QUALITY MEAT PACKERS HOLDINGS LIMITED

and

QUALITY MEAT PACKERS LIMITED  
AND TORONTO ABATTOIRS LIMITED

Applicant

Respondents

Court File No.: ~~CV~~14-10537-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Proceedings commenced at Toronto

RECEIVERSHIP ORDER  
(MAY 6, 2014)

**Thornton Grout Finnigan LLP**  
Barristers and Solicitors  
Toronto-Dominion Centre  
100 Wellington Street West  
Suite 3200, P.O. Box 329  
Toronto, ON M5K 1K7

**Kyla E.M. Mahar** (LSUC# 44182G)  
Tel: 416-304-0594 / Email: kmahar@tgf.ca  
Fax: 416-304-1313

Lawyers for the Applicant

**APPENDIX "B"**

**SCHEDULE OF AUCTION AND LIQUIDATION PROPOSALS  
RECEIVED**

Party	Option A		Option B		Costs/comments	Proceeds, net of auction costs but before other/occupation costs if sale for: (US\$ @ 1.1)
	Commission only		Net Minimum Guarantee			
	%	Costs	NMG	Tranche for auction costs	Sharing thereafter Receiver portion	\$3,000,000 \$2,300,000
1 TCL Asset Group		CAD			No net minimum guarantee	
1A TCL Asset Group		CAD				
2 Asset Services/Century Services		CAD				
3 Crescent Commercial Corporation		USD			Out-right purchase. No upside.	
4 Industrial Refrigerated Systems Inc.		CAD			Certain compressors only	
5 Corporate Assets Inc.		USD			Out-right purchase. No upside.	
5A Corporate Assets Inc.		USD				
6 Platinum Asset Services Inc.		CAD			They maintain right of abandonment	
6A Platinum Asset Services Inc.					No net minimum guarantee	
7 Hilco Asset Sales Canada		CAD			Net minimum guarantee allocated per agreement between RBC and Receiver of \$____ and \$____, respectively	
7A Hilco Asset Sales Canada						
7B Hilco Asset Sales Canada		CAD			No upside	
8 Mohammed Shabani					certain lab equipment and supplies	

**APPENDIX "C"**

**HILCO LIQUIDATION PROPOSAL**

# ***SALE STRATEGY PROPOSAL***

---

PRESENTED BY:



**Hilco**<sup>TM</sup>  
Asset Sales  
Canada

DEVELOPED EXCLUSIVELY FOR:

**Farber Financial Group**

For the Sale of Assets From

**Quality Meat Packers Limited  
&  
Toronto Abattoirs Limited**



Presented by

**Hilco Asset Sales Canada**

June 3, 2014

# Hilco Asset Sales Canada

June 3, 2014

Mr. John Hendriks  
Farber Financial Group  
150 York Street  
Suite 1600  
Toronto, Ontario  
M5H 3S5

VIA e-mail: [jhendriks@farberfinancial.com](mailto:jhendriks@farberfinancial.com)

Dear Mr. Hendriks

Quality Meat Packers Ltd. & Toronto Abattoirs Limited "Request for Proposal"

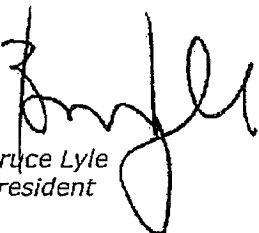
Thank you for the opportunity to submit our proposal to assist in the marketing and sale of the assets including the Machinery & Meat Processing Equipment from Quality Meat Packers Limited ("QMP") and Toronto Abattoirs Limited ("TAL") located at 2 Tecumseh Street, Toronto, Ontario.

We understand the importance of this project. We also recognize there are many details to be managed. Our commitment to serve you in a professional manner is unwavering. Hilco Asset Sales Canada offers you substantial the financial strength, broad experience, a high-caliber professional staff and unique service capabilities. We Hilco Canada and our US division, Hilco Industrial LLC will assume full and complete responsibility for all aspects of the liquidation to ensure a successful sale with maximum asset value return. We have over 60 years of experience executing more than 5,000 sale scenarios.

This proposal includes a comprehensive description of our abilities and strategy designed specifically for this project which will be run by Hilco Asset Sales Canada as the "Agent" for Farber Financial Group.

Respectfully submitted,

**Hilco Asset Sales Canada**

  
Bruce Lyle  
President

**Hilco Asset Sales Canada Corp.**

24 The East Mall, #14 • Etobicoke, Ontario, Canada M8W 4W5 • Ph: 416-252-1955 • [www.hilcocanada.com](http://www.hilcocanada.com)

# Hilco Asset Sales Canada

## Section 1 Sales Forecast

As per our on-site viewing and asset information listings supplied Exhibit "A", subject to execution of the procedures outlined herein, the assets of "QMT & TMP" should realize in the range of:

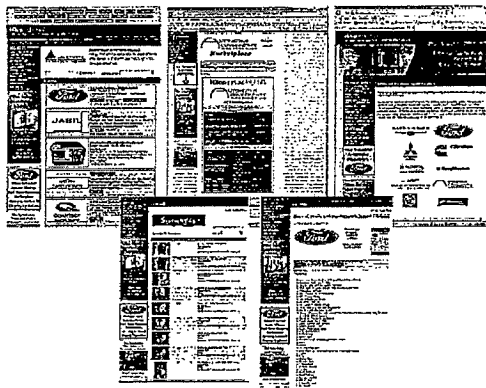
Fixed Assets Estimated Liquidation Value: [REDACTED]

## Section 2 Sales Methodology and Marketing

### **Auction Sale**

It is our recommendation that a managed theatre style **One Day Global Web-Cast Auction Sale** be utilized based upon our experience and understanding of the industry along with our knowledge of the equipment and market place that will render the maximization of gross realization potential.

Hilco Asset Sales Canada will act on behalf of Farber Financial Group as a turn-key service provider handling all aspects of site preparation, asset listing, marketing, conduct of sale, coordination of site clearance, and collection of proceeds, remittance of proceeds and taxes as well as accounting. Hilco Asset Sales Canada the responsible entity will provide consistency of service and information management to Farber Financial Group.



### **Targeted Markets**

Hilco Industrial will combine its extensive marketing database with acquired databases to notify qualified buyers and prospects of the sale both domestically and internationally. Today the databases contain qualified names of active buyers and *prospective* buyers of capital equipment worldwide. Information for the database comes from a wide range of sources, including buyers at past sales, Hilco Industrial website registrations, and acquired email lists. **To increase the likelihood of success, we must simultaneously market to strategic operational and financial buyers on a global basis.**

### **Direct Mail**

One of the most critical components of the advertising campaign is the distribution of a direct mail brochure to established industry buyers. The brochure will include photographs and detailed descriptions & specifications of the real property, major machinery and equipment presented in a format that will peak buyer interest. Hilco will produce in excess of 5,000 direct mail announcement notices to be distributed on a global basis for this project alone. Additionally, electronic or Virtual Brochures will be created for easy download from our respective websites.

# Hilco Asset Sales Canada

## Section 3 Schedule of Events and Timing

Outlined below are the sales methodologies and tasks to be performed by Hilco based on the time frame we have allotted for the disposition of the assets.

**Global Web-Cast Live Auction**

- > **INVENTORYING, GATHERING DESCRIPTIONS, CREATING DATABASE OF ALL ITEMS FOR MARKETING MATERIALS**
- > **PREPARATION FOR PUBLIC ONE DAY AUCTION SALE EVENT**
- > **CREATION OF THE "QMP & TAL" MICRO WEBSITE AND DISSEMINATION OF MARKETING MATERIALS, PROVIDE GLOBAL EXPOSURE THROUGH THE HILCO ASSET SALES CANADA, WORLD WIDE WEB NETWORK ALONG WITH NEWSPAPER, TRADE JOURNALS, DIRECT MAIL BROCHURES, EMAIL CAMPAIGNS ETC.**
- > **CONDUCT OF A THEATRE STYLE LIVE ON-LINE WEB-CAST AUCTION SALE**
- > **INVOICING, COLLECTION OF FUNDS AND REMITTANCE OF SALES PROCEEDS**
- > **ACCOUNTING AND REPORTING**

### ESTIMATED TIMELINE \*

Activity:	Duration:
Pre Marketing Preparation	[REDACTED]
Set-up of M&E	[REDACTED]
Sale Site Preparation	[REDACTED]
Live Web-Cast Auction Sale	[REDACTED]
Site Clearance	[REDACTED]
Post Sale Accounting	[REDACTED]

\* A firm timeline and calendar of events will be provided once the project has been initiated and an auction date established.



# Hilco Asset Sales Canada

## Section 4 Compensation Structure and Expenses

### Net Minimum Guarantee (NMG OPTION)

Hilco will guarantee (en-bloc) for the M&E as per our viewing and as per your asset listings supplied a net minimum guarantee amount of [REDACTED] on sale proceeds. From any gross sale proceeds generated in excess of the net minimum guaranteed amount, Hilco will retain the next [REDACTED] cover costs, such as advertising, sale set up and marketing and sales commissions. Any amount over the sum of [REDACTED] will be split [REDACTED] in favor of Farber Financial Group and [REDACTED] in favor of Hilco with a deposit of [REDACTED] upon the signing of an auction agreement, and the balance of the NMG amount payable following the final auction sale. The balance of proceeds, if any, will be payable within (30) banking days following the final sale of assets.

### BP Commission (FEE OPTION)

[REDACTED] of the proceeds generated from the sale process will be payable to Farber Financial Group. The commission payable to Hilco in respect of the sale on assets sold shall be a [REDACTED] commission fee and our BP (buyer premium) fee which is paid by the prospective purchasers of the assets. No other costs or fees will be charged to Farber Financial Group.

## Section 5 Outright Cash Buy

### BUY (CASH OPTION)

Hilco will purchase outright (en-bloc) the M&E as per our viewing and as per your asset listings supplied for the amount of [REDACTED]



# Hilco Asset Sales Canada

## Section 6 *Terms and Conditions*

### Terms and Conditions:

Our offer includes all assets as per our on-site viewing and is based on your asset listing supplied, which will be subject to a final viewing prior to closing to confirm counts and;

1) Our offer includes all asset groups including all leased assets;

2) Parties agree, and expressly acknowledge, that Hilco shall not purchase or be responsible for the removal or disposition of any environmentally hazardous chemicals, solvents, oils, or substances in and around the equipment and shall only be the agent for Farber Financial Group. Hilco will assist in the clean-up and disposal of any waste leaving the premises in a broom swept condition. All costs related to clean-up will be charged back and deducted directly from the sale proceeds and are to the account of Farber Financial Group;

3) Hilco will require the free use of and the unrestricted access to the serviced Premises, for a period of time not to exceed [REDACTED] days from the date of its occupancy for the purpose of conducting an on-site Private Sales and Public Auction Sale process;

4) Hilco will be responsible for charging, collecting and submitting the HST Sales Tax from the sale of Assets directly to the respective Governmental Departments;

5) Hilco will be entitled to retain our industry standard buyer's premium on all sales conducted by either private treaty sale or public auction;

6) The execution and delivery of a definitive liquidation services agreement between the Receiver and the Liquidator and the approval by Order of the Court, which Order shall provide that title to the Auction Assets sold by the Liquidator will be vested in the purchasers thereof;

7) This offer will remain open for further discussion or acceptance until Friday June 6<sup>th</sup> 2014 at 3 pm EST.

-----

## **APPENDIX "D"**

### **PROPOSED FORM OF LIQUIDATION SERVICES AGREEMENT**

## LIQUIDATION SERVICES AGREEMENT

THIS AGREEMENT is made as of this    day of June, 2014.

**B E T W E E N :**

**A. Farber & Partners Inc.**

in its capacity as court-appointed receiver of Quality Meat Packers Limited and  
Toronto Abattoirs Limited.,  
and not in its personal or corporate capacity

(the “**Receiver**”)

- and -

**HILCO ASSET SALES CANADA CORP.**

corporations incorporated under the laws of the Province of Ontario

(collectively the “**Liquidator**”)

**RECITALS:**

- A.** Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated May 6, 2014 (the “**Receivership Order**”), the Receiver was appointed as receiver, without security, of all of the assets, undertakings and properties of Quality Meat Packers Limited and Toronto Abattoirs Limited (the “**Debtors**”);
- B.** Pursuant to the Receivership Order, the Receiver was empowered and authorized to market any or all of the Debtors’ property, including advertising and soliciting offers in respect of the property and negotiating such terms and conditions of sale as the Receiver, in its discretion, deemed appropriate; and
- C.** The Liquidator and the Receiver have agreed to enter into this Agreement respecting the sale of the Assets by the Liquidator as agent for and on behalf of the Receiver, upon the terms and conditions hereinafter set forth.

**NOW THEREFORE IN CONSIDERATION** of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to the terms and conditions set forth below.

## ARTICLE 1 - INTERPRETATION

### 1.01 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

- (a) “**Accounts Receivable**” means all accounts, debts, dues, demands and choses in action howsoever arising that are now due, owing or accruing due to the Debtors, including, without limitation, all accounts receivable pertaining to the Business, including HST and other tax refunds receivable.
- (b) “**Additional Excluded Assets**” has the meaning ascribed thereto in Section 2.01(b).
- (c) “**Agreement**” means this agreement, including its recitals and schedules, as amended from time to time.
- (d) “**Applicable Law**” means, at any time, with respect to any Person, property, transaction or event, all applicable laws, statutes, regulations, treaties, judgments and decrees and (whether or not having the force of law) all applicable official directives, rules, consents, approvals, by-laws, permits, authorizations, guidelines, order and policies of any Governmental Authority having authority over that Person, property, transaction or event.
- (e) “**Assets**” has the meaning ascribed thereto in Section 2.01(a).
- (f) “**Auction**” has the meaning ascribed thereto in Section 2.01(c).
- (g) “**Business**” means the business formerly carried on by the Debtor, including, without limitation, the business of filling and distribution of pouch pack containers.
- (h) “**Business Day**” means any day excluding a Saturday, Sunday or statutory holiday in the Province of Ontario, and also excluding any day on which the principal chartered banks located in the City of Toronto are not open for business during normal banking hours.
- (i) “**Buyer’s Premium**” has the meaning ascribed thereto in Section 2.03.
- (j) “**Claims**” means all losses, damages, expenses, liabilities (whether accrued, actual, contingent, latent or otherwise), interest, penalties, costs, claims, complaints and demands of whatever nature or kind, including all legal fees and costs on a substantial indemnity basis.
- (k) “**Condition Date**” means the date on which all of the conditions set out in Article 6 have been satisfied or waived.
- (l) “**Court**” has the meaning set out in the recitals to this Agreement.

- (m) “**Debtors**” has the meaning set out in the recitals to this Agreement and such term shall include each Debtor as the context requires.
- (n) “**Deposit**” has the meaning ascribed thereto in Section 2.02(c).
- (o) “**Excluded Assets**” means:
  - (i) the right, title, interest or benefit, if any, of the Debtors in connection with any leased or licensed assets used in the Business and the right, title, interest or benefit, if any, of the Debtors in any lease, license or other agreement relating thereto other than, in each case, the Intellectual Property or Software and the Assets;
  - (ii) the books and records of the Debtors which do not relate to the Assets;
  - (iii) the Inventory;
  - (iv) the Accounts Receivable;
  - (v) all fixtures which are attached to any Premises;
  - (vi) all Intellectual Property; and
  - (vii) those items set out in Schedule 1.01(o)(vii), if any (the “**Designated Excluded Assets**”).
- (p) “**Expense Amount**” means \$ .
- (q) “**Force Majeure**” has the meaning ascribed thereto in Section 7.01.
- (r) “**Governmental Authority**” means:
  - (i) any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority and any subdivision of the foregoing exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory or taxing authority or power of any nature; or
  - (ii) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing.
- (s) “**Gross Proceeds**” means all proceeds of sale of the Assets collected from Sales, including the Buyer’s Premium and all Transfer Taxes.
- (t) “**Intellectual Property**” means all applications and registrations (whether domestic or foreign) for the trademarks, copyrights, patents, patent applications, industrial

designs, engineering drawings and tooling designs owned by the Debtor, all trade secrets, trade dress, trade styles or other logos owned by the Debtor and all licenses related to the foregoing.

- (u) “**Inventory**” means the Debtors’ inventory located at the Premises, if any.
- (v) “**Net Minimum Guarantee**” has the meaning ascribed thereto in Section 2.02(a).
- (w) “**Net Proceeds**” means the Gross Proceeds excluding the Buyer’s Premium and excluding all Transfer Taxes.
- (x) “**Occupancy Costs**” has the meaning ascribed thereto in Section 3.02.
- (y) “**Occupancy Period**” has the meaning ascribed thereto in Section 3.02.
- (z) “**Person**” means an individual, body corporate, sole proprietorship, partnership or trust or unincorporated association, unincorporated syndicate, unincorporated organization, or another entity, and a natural person, acting in his or her individual capacity or in his or her capacity as executor, trustee, administrator or legal representative, and any Governmental Authority.
- (aa) “**Premises**” means the real property described municipally as 2 Tecumseh St. Toronto
- (bb) “**Purchaser**” means a Person who purchases any Assets from the Liquidator and “**Purchasers**” means all of them.
- (cc) “**Receiver Indemnified Parties**” has the meaning ascribed thereto in Section 5.02.
- (dd) “**Receivership Order**” has the meaning set out in the recitals to this Agreement.
- (ee) “**Regulated Materials**” means any substance or material that is or becomes prohibited, controlled or regulated by any Governmental Authority, including, without limitation, any paints, solvents, PCB’s, asbestos, contaminants, pollutants, dangerous substances, toxic substances, designated substances, controlled products, wastes, hazardous wastes, subject wastes, regulated materials, dangerous goods or petroleum, its derivatives, by-products or other hydrocarbons, all as defined in or pursuant to Applicable Laws.
- (ff) “**Removal Deadline**” means \_\_\_\_\_ days from the date of Court Approval of this Agreement, or such later date as may be agreed to in writing by the Receiver and the Liquidator.
- (gg) “**Sales**” means, collectively, all of the sales of the Assets to the Purchasers at the Auction.
- (hh) “**Sales Process**” has the meaning set out in the recitals to this Agreement.

- (ii) “**Sales Statement**” has the meaning ascribed thereto in Section 2.04(a).
- (jj) “**Software**” means all software owned by the Debtors relating to the Business, including all versions thereof, and all related documentation, manuals, source code and object code, program files, data files, computer related data, field and data definitions and relationships, data definition specifications, data models, program and system logic, interfaces, program modules, routines, sub-routines, algorithms, program architecture, design concepts, system designs, program structure, sequence and organization, screen displays and report layouts, and all other material related to such software.
- (kk) “**Survival Date**” means the date that the Receiver is discharged in that capacity by the Court.
- (ll) “**Transfer Taxes**” has the meaning ascribed thereto in Section 2.04(b).

## 1.02 Headings

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Schedules are to Articles and Sections of and Schedules to this Agreement.

## 1.03 Extended Meanings

In this Agreement words importing the singular number only include the plural and *vice versa*, words importing any gender include all genders and the term “including” means “including without limiting the generality of the foregoing”.

## 1.04 Statutory References

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

## 1.05 Currency

All references to currency herein are to lawful money of Canada.

## 1.06 Schedules

The following are the Schedules to this Agreement:

- Schedule 1.01(o)(vii) - Designated Excluded Assets
- Schedule 2.01(a)(i) - Machinery and Equipment



## ARTICLE 2 - SALE OF ASSETS

### 2.01 Appointment of Liquidator

(a) Upon and subject to the terms and conditions hereof, the Liquidator agrees to sell as agent for and on behalf of the Receiver, and the Receiver appoints the Liquidator as its exclusive agent to sell to Purchasers, all of the right, title, benefit and interest of the Debtors, if any, in and to all of the Debtors' assets, undertakings and property located at the Premises, consisting of:

(i) all machinery and equipment, attachments and tooling and all vehicles, tools, handling equipment, furniture, furnishings, computer hardware and peripheral equipment, supplies and accessories of the Business and all relevant books, records and manuals related thereto, including, without limitation, all such items as set out in Schedule 2.01(a)(i) attached hereto;

(collectively, the "Assets") but excluding the Excluded Assets and any Additional Excluded Assets.

(b) In the event that the Receiver, through no fault of its own, is not entitled to sell any of the Assets by reason of a third party claim to any such Assets, or otherwise, the Receiver will advise the Liquidator in writing and such items will be excluded from the Assets to be sold by the Liquidator (the "Additional Excluded Assets") and the Net Minimum Guarantee shall be reduced in accordance with Section 2.02(b).

(c) The Liquidator will sell the Assets to Purchasers in accordance with the Liquidator's standard auction procedures subject to the terms of this Agreement. The sale of the Assets by the Liquidator to Purchasers shall be by way of an unreserved public webcast auction conducted at the Premises on or before July 31, 2014 (the "Auction").

(d) The Liquidator shall be entitled to use the Debtors' names or any form thereof for the purpose of the Sales.

(e) The Liquidator will not, and will have no authority to, incur any liability or obligation on behalf of the Receiver. The sole authority of the Liquidator, as agent of the Receiver, is to conduct the Sales and thereby convey to Purchasers, as agent for the Receiver, the right, title, interest and benefit, if any, of the Debtor in and to the Assets to the Purchasers.

### 2.02 Net Minimum Guarantee

(a) Subject to Sections 2.01(b) and 2.07, the Liquidator guarantees in favour of the Receiver that the Net Proceeds will not be less than \$ \_\_\_\_\_ (the "Net Minimum Guarantee").

- (b) In the event that the Receiver advises the Liquidator in accordance with Section 2.01(b) as to any Additional Excluded Assets, the Net Minimum Guarantee will be reduced by the amount allocated to such item on Schedule 2.01(a)(i) or, if no amount is so allocated, an amount equal to the fair market value of any Additional Excluded Assets.
- (c) Upon the execution of this Agreement, the Liquidator shall pay to the Receiver the sum of \$ (\_\_\_\_%) (the "**Deposit**"), which will be held by the Receiver and credited and applied against the Net Minimum Guarantee.
- (d) The Liquidator will pay to the Receiver an amount equal to the Net Minimum Guarantee (less any adjustment as provided in this Agreement), less the Deposit, not later than two Business Days after the date of the Auction.
- (e) Subject to Section 2.07, if the Auction does not take place for any reason other than the breach by the Receiver of a covenant contained in this Agreement or as a result of Force Majeure (as provided for in Section 7.01), the Deposit shall be forfeited by the Liquidator and retained by the Receiver on account of liquidated damages, but such forfeiture will not be deemed to constitute the full extent of liquidated damages payable by the Liquidator.

### **2.03 Buyer's Premium**

The Liquidator shall be entitled to charge a buyer's premium in the amount not to exceed: (i) 15% of the selling price of any Asset in addition to the price obtained for any Assets sold at the Auction; or (ii) 18% of the selling price of any Asset in addition to the price obtained for any Assets sold online (the "**Buyer's Premium**"). For greater certainty, the Buyer's Premium shall not form part of the Net Proceeds and shall not be subject to the proceeds sharing formula set out in Section 2.04(c).

### **2.04 Proceeds of Sales and Payment of Taxes**

- (a) The Liquidator will be responsible for the collection of the Gross Proceeds. The Liquidator will prepare and provide a Sales statement setting out the Gross Proceeds, itemized per piece of equipment and the amounts payable under Section 2.04(c) (the "**Sales Statement**") to the Receiver no later than seven Business Days after the date of the Auction. The Receiver shall have the right to audit the Sales Statement.
- (b) The Liquidator will collect from the Purchasers and will remit, or cause to be remitted and paid, any applicable federal and provincial sales taxes, goods and services taxes or harmonized sales taxes payable under any Applicable Law on or with respect to any of the Sales (collectively, "**Transfer Taxes**"). The Liquidator will pay the Transfer Taxes in accordance with the relevant taxing legislation when due and deliver to the Receiver evidence confirming the Liquidator's payment of, or exemption from payment of, the Transfer Taxes in form and substance reasonably acceptable to the Receiver. The Liquidator will prepare and file any affidavits or returns required in connection with the foregoing at its own cost and expense. To the extent that any Transfer Taxes are required to be paid by or are imposed upon the

Receiver, the Liquidator will reimburse to the Receiver such taxes within five Business Days of payment of such taxes by the Receiver. The Liquidator will indemnify and hold the Receiver harmless in respect of any Transfer Taxes, penalties, interest and other amounts that may be assessed against the Receiver under any Applicable Law as a result of the sale of the Assets.

- (c) Without limiting the Liquidator's liability to pay the Net Minimum Guarantee, the Net Proceeds will be paid in the following order of priority within 30 days after the auction, unless otherwise agreed in writing between the Liquidator and the Receiver:
  - (i) firstly, to the Liquidator, the Expense Amount; and
  - (ii) secondly, to the Receiver, any % of all remaining Net Proceeds after the distribution of the amounts set out above and to the Liquidator % of all such Net Proceeds.

**2.05 All Sales to be "As Is, Where Is"**

- (a) Notwithstanding any other provision of this Agreement, the Liquidator acknowledges that it has inspected the Assets and except as otherwise expressly provided in this Agreement, no representation, warranty or condition whether statutory (including under the *Sale of Goods Act* (Ontario), the *International Sale of Goods Contracts Convention Act* (Canada) and the *International Sale of Goods Act* (Ontario) or any international equivalent act which may be applicable to the subject matter pursuant to the provisions of this Agreement, including the United Nations Convention on Contracts for the International Sale of Goods, expressed or implied, oral or written, legal, equitable, conventional, collateral or otherwise will be given by the Receiver as to title, outstanding liens or encumbrances, description, fitness for purpose, merchantability, quantity, condition, quality, suitability, durability, assignability, or marketability thereof or any other matter or thing whatsoever, and all of the same are expressly excluded. The Liquidator acknowledges and agrees that it has inspected the Assets and has relied on its own investigations as to the matters set out above and in determining to enter this Agreement.
- (b) The Liquidator agrees that all Sales of the Assets to the Purchasers will be on the "as is, where is" basis in accordance with Section 2.05(a) and shall be final. The Liquidator will ensure that all advertising signs and promotional materials in connection with the Assets advise Purchasers that all sales are made on an "as is, where is" basis and are final, and the Liquidator agrees that all receipts or bills of sale will contain similar language.
- (c) The Liquidator agrees that no representation or warranty will be given by it or the Receiver to Purchasers, whether statutory, express or implied, oral or written, legal, equitable, collateral or otherwise, as to fitness for purpose, suitability, durability, marketability, condition, quantity or quality of the Assets or in respect of any other matter or thing whatsoever.

## **2.06 Obligations and Liabilities Not Assumed**

- (a) Except as provided in this Agreement or by Applicable Law, the Liquidator does not assume and shall not be liable for any obligations or liabilities of the Receiver or the Debtor whatsoever, including, without limitation, any and all environmental obligations or liabilities of the Debtor relating to the Assets or the Premises, any taxes or duties which may be or become payable by the Receiver or the Debtor including any income taxes, corporate taxes, realty taxes, source deductions or customs duties which may be or become payable by the Receiver of the Debtor resulting from or arising as a consequence of the sale of the Assets to the Purchasers (excluding for the avoidance of doubt, any Transfer Taxes as provided in Section 2.04(b)).

## **2.07 Title to the Assets and Risk of Loss**

- (a) Until sold to Purchasers, title to the Assets will remain with the Receiver, and the Assets will remain at the risk of the Receiver. In the event of any loss of or damage to some or all of the Assets prior to the sale of such Assets to Purchasers:
  - (i) where all or substantially all of the Assets are lost or damaged, for the purposes of this Agreement, the Liquidator shall have the option to: (A) accept the insurance proceeds, which shall be considered Gross Proceeds from the sale of Assets for the purpose of the calculation of the Net Minimum Guarantee and complete the transaction contemplated herein; or (B) terminate this Agreement, in which case both parties shall be released from all obligations hereunder other than the obligation of the Receiver to pay the Deposit to the Liquidator; and
  - (ii) in the event of the loss of or damage to some items of the Assets, an amount equal to the fair market value of such item shall be deducted from the Net Minimum Guarantee and such items comprising Assets shall become Excluded Assets (and, for greater certainty, the insurance proceeds of such Excluded Assets shall accrue to the benefit of the Receiver).
- (b) The Receiver will maintain first party all risk property insurance in the amount of \$ in accordance with the form and extent of coverage that the Receiver had in place as of the date of its appointment pursuant to the Receivership Order.

## **2.08 Liquidator Dealing with Assets**

The Liquidator will deal with the Assets in accordance with proper liquidation industry practices using qualified personnel to maximize realization.

## **ARTICLE 3 - POSSESSION, DELIVERY AND REMOVAL OF ASSETS**

### **3.01 Delivery of the Assets**

Following the Auction the Assets sold by the Liquidator shall be surrendered to the Purchasers at the Premises.

### **3.02 Access to the Premises and Occupancy Costs**

For the purposes of viewing and inspecting the Assets, showing the Assets to prospective purchasers and preparing for and conducting the Auction and removing the Assets, the Receiver shall provide the Liquidator and its agents, employees and representatives with unrestricted access (other than the right of the Receiver to have reasonable ongoing access) to the Premises from the date of this Agreement to the Removal Deadline (the "**Occupancy Period**"). Upon the grant of the Order of the Court as described in Section 6.01 (iii) of this Agreement and receipt of the Deposit, the Receiver shall deliver to the Liquidator keys to the Premises and the particulars of any alarm codes. During the Occupancy Period, the Receiver agrees to pay any rent and shall be responsible for the continued supply of all utilities to the Premises, including, without limitation, gas, water, heat, hydro and telephone, and for the maintenance of fire and third-party liability insurance on the Premises (the "**Occupancy Costs**").

### **3.03 Conduct of Sales at the Auction**

The Receiver acknowledges that the Liquidator intends to sell the Assets at the Auction. The Receiver hereby consents to the use by the Liquidator of the phrase "Public Auction Sale, Quality Meat Products Limited" and the use of any other trade names or trade-marks owned by the Debtors in advertisements for the Auction. The Liquidator will seek the prior consent of the Receiver to all advertising, such consent not to be unreasonably withheld or delayed.

### **3.04 Removal of Assets**

- (a) The Liquidator shall be responsible for removing the Assets from the Premises by the Removal Deadline and shall leave the Premises in an orderly and broom-swept condition following such removal including removal of any debris arising from or caused by the Auction.
- (b) The Receiver shall be entitled to be present during the removal of the Assets from the Premises.
- (c) After completion of the Auction, the Liquidator shall supervise the removal of all of the Assets from the Premises, which removal shall be done in a workmanlike manner, consistent with good industrial practice, and completed by the Removal Deadline, or such later date as may be agreed to by the Receiver and the Liquidator.
- (d) Any Asset requiring disassembling and moving will be done at the expense of the Liquidator. Should the Liquidator abandon, fail to remove or fail to cause any Assets to be removed, the Liquidator shall reimburse the Receiver for the costs incurred by

the Receiver with the preparation, removal and shipping of such Assets. The Liquidator shall have no obligation to remove or disassemble Excluded Assets or remove or dispose of any paper, materials, books, records or other similar items which are not included in the Assets from the Premises.

- (e) The Liquidator shall, at its own cost, clean any spills or oil, lubricants, grease or any other liquid remaining after removal of the Assets, as a result of any spill that occurs during the Occupancy Period, including during the removal of the Assets or any of them, which is caused by the Liquidator or its agents, employees, invitees and guests.
- (f) The Liquidator shall remedy or repair any condition resulting from the removal of Assets, including without limitation, removing or capping all electrical wires and air/water/other lines to the buss bar/nearest wall and all bolts "blown off", placing safety barriers around any pits. The Liquidator shall have no responsibility to remedy any damages or condition to the Premises existing prior to the date of its access thereto. Furthermore, the cost of the removal and disposal of any oils, lubricants or fluids contained in any of the machines comprising the Assets together with all garbage and debris located at the Premises shall be for the Receiver's account.

### **3.05 Regulated Materials**

- (a) No provision of this Agreement shall be construed so as to require the Liquidator to investigate, clean up, remove or remedy any adverse or other environmental condition existing at the Premises, or to be responsible for any environmental liabilities, or be liable for the investigation, clean up or remediation of any environmental liabilities, including any cost relating to any investigation, clean up or remediation of such environmental condition or liability or any Regulated Materials or other adverse environmental condition existing at, under, on or near the Premises, or contained in the Assets save and except to the extent that the Liquidator or its agents, employees, invitees and guests have caused such adverse or other environmental condition at, under, on or near the Premises.
- (b) Nothing in this Agreement shall oblige the Liquidator and the Liquidator shall not, in fact, be liable for any environmental obligations or liabilities which are existing obligations or liabilities of the Debtor.

## **ARTICLE 4 - REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGEMENTS**

### **4.01 Receiver's Representations and Warranties**

The Receiver represents and warrants to the Liquidator that:

- (a) the Receiver has good and sufficient power, authority and right to enter into and deliver this Agreement and to complete the transactions to be completed by the Receiver contemplated hereunder;
- (b) the Receiver has not encumbered, sold or agreed to sell any of the Assets;

- (c) the recitals to this Agreement are true and correct;
- (d) to the best of the knowledge of the Receiver, the Debtors are registered under Part IX of the *Excise Tax Act* (Canada) with registration number NTD ; and
- (e) the Receiver is not a non-resident Person within the meaning of section 116 of the *Income Tax Act* (Canada).

**4.02 Survival of Receiver's Representations, Warranties and Covenants**

- (a) The representations and warranties of the Receiver set forth in Section 4.01 will survive the completion of the transactions contemplated hereunder. However, the Receiver will not be liable to the Liquidator for any inaccuracy or misrepresentation in any representation or warranty set forth in Section 4.01 after the Survival Date.
- (b) The covenants of the Receiver set forth in this Agreement will survive the transactions contemplated hereunder and, notwithstanding such completion, will continue in full force and effect for the benefit of the Liquidator in accordance with the terms of this Agreement until the Survival Date.

**4.03 Liquidator's Representations, Warranties and Acknowledgements**

The Liquidator represents, warrants and acknowledges to the Receiver that:

- (a) the Liquidator is a corporation duly incorporated, organized and subsisting under the laws of Ontario and has all the necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder;
- (b) the Liquidator has good and sufficient power, authority and right to enter into and deliver this Agreement and to complete the transactions to be completed by the Liquidator contemplated hereunder;
- (c) this Agreement constitutes a valid and legally binding obligation of the Liquidator, enforceable against the Liquidator in accordance with its terms;
- (d) neither the entering into nor the delivery of this Agreement nor the completion of the transactions contemplated hereby by the Liquidator will result in a violation of: (i) any of the provisions of the constating documents or by-laws of the Liquidator; (ii) any agreement or other instrument to which the Liquidator is a party or by which the Liquidator is bound; or (iii) any Applicable Law;
- (e) no authorizations, consents or approvals of, or filing with or notice to, any Governmental Authority is required in connection with the execution, delivery or performance of this Agreement;
- (f) the Liquidator is registered under Part IX of the *Excise Tax Act* (Canada) with registration number (NTD: # required); and

- (g) the Liquidator acknowledges that it or its representatives have been furnished with all information regarding the Assets that the Liquidator requires to enable it to enter into this Agreement.

#### **4.04 Survival of Liquidator's Representations, Warranties and Covenants**

- (a) The representations and warranties of the Liquidator set forth in Section 4.03 will survive the completion of the transactions contemplated hereunder. However, the Liquidator will not be liable to the Receiver for any inaccuracies or misrepresentations of the representations and warranties set forth in Section 4.03 after the Survival Date.
- (b) The covenants of the Liquidator set forth in this Agreement will survive the completion of the transactions contemplated hereunder and, notwithstanding such completion, will continue in full force and effect for the benefit of the Receiver in accordance with the terms of this Agreement until the Survival Date.

### **ARTICLE 5 - OTHER COVENANTS OF LIQUIDATOR AND RECEIVER**

#### **5.01 Additional Covenants of Liquidator**

- (a) The Liquidator will, during the Occupancy Period, ensure that the Receiver has full access to the books and records of the Debtor and preserve the books and records of the Debtors, to the extent that any such books and records are located at the Premises. The Liquidator shall not dispose or destroy any of the Debtors' books and records.
- (b) The Liquidator will provide to the Receiver copies of all filings or notices to any Governmental Authority relating to the transaction contemplated by the Agreement.
- (c) The Liquidator will promptly notify the Receiver of any material fact or circumstance that would prevent it from satisfying the conditions precedent set out in this Agreement.

#### **5.02 Indemnities**

- (a) The Liquidator agrees to indemnify and save harmless the Receiver and its representatives and advisors from and against all Claims, suffered or incurred by any of them from and after the date hereof as a result of or arising directly or indirectly out of or in connection with any negligence or misconduct of the Liquidator or its employees, contractors, licencees, agents or invitees, which shall exclude the employees, contractors, licencees, agents or invitees of the Debtors or the Receiver (the "**Receiver Indemnified Parties**"), including all Claims incurred by the Receiver Indemnified Parties, directly or indirectly, as a result of the Liquidator not collecting or remitting the Transfer Taxes. The provisions of this Section 5.02 will inure to the benefit of the Receiver and its representatives and advisors and their respective successors and assigns.



**5.03 Cooperation on Tax Matters**

- (a) The Liquidator and the Receiver agree to make, execute and file with the appropriate taxing authorities all elections or purchase exemption certificates as the parties hereto agree are mutually desirable, if any, in prescribed form and within the prescribed time.
- (b) The Receiver and the Liquidator will furnish or cause to be furnished to each other, at the expense of the requesting party, as promptly as practicable, such information and assistance, and provide additional information and explanations of any material provided, relating to the Assets as is reasonably necessary for the filing of any tax returns, for the preparation of any audit, and for the prosecution or defence of any claim, suit or proceeding relating to any adjustment or proposed adjustment with respect to Transfer Taxes.

**ARTICLE 6 - CONDITIONS**

**6.01 Conditions for the Benefit of the Liquidator**

- (a) The transactions contemplated hereunder are subject to the following conditions, which are for the exclusive benefit of the Liquidator and which are to be performed or complied with at or prior to the Condition Date:
  - (i) the representations and warranties of the Receiver set forth in Section 4.01 will be true and correct with the same force and effect as if made at and as of such time;
  - (ii) the Receiver will have performed or complied with all of the terms, covenants and conditions of this Agreement to be performed or complied with by the Receiver;
  - (iii) the Court shall have granted an order approving this Agreement, in form and substance satisfactory to the Liquidator, acting reasonably;
  - (iv) no order will have been made to restrain, enjoin or prohibit the purchase and sale of all or substantially all of the Assets; and
  - (v) no material damage by fire or other hazard to all or substantially all of the Assets will have occurred from the date hereof.
- (b) In case any material term or covenant of the Receiver or material condition to be performed or complied with for the benefit of the Liquidator at or prior to the Condition Date has not been performed or complied with at or prior to the Condition Date, the Liquidator, without limiting any other right that the Liquidator has, may at its sole option acting reasonably, either:
  - (i) terminate this Agreement by notice to the Receiver, and, in such event, the Liquidator will be released from all obligations hereunder; or

- (ii) waive compliance with any such term, covenant or condition in whole or in part with respect to any such non-compliance on such terms as may be agreed upon without prejudice to any of its rights of termination in the event of the non-performance of a term, covenant or condition in whole or in part,

and, if the Liquidator terminates this Agreement pursuant to Section 6.01(b)(i), the Receiver will be released from all obligations hereunder unless the term, covenant or condition for which the Liquidator has terminated this Agreement was one that the Receiver had covenanted hereunder, to ensure had been performed or complied with.

## **6.02 Conditions for the Benefit of the Receiver**

- (a) The transactions contemplated hereunder are subject to the following conditions, which are for the exclusive benefit of the Receiver and which are to be performed or complied with at or prior to the Condition Date:
  - (i) the representations and warranties of the Liquidator set forth in Section 4.03 will be true and correct with the same force and effect as if made at and as of such time;
  - (ii) the Liquidator will have performed or complied with all of the terms, covenants and conditions of this Agreement to be performed or complied with by the Liquidator at such time;
  - (iii) the Court shall have granted an order approving this Agreement, in form and substance satisfactory to the Receiver, acting reasonably;
  - (iv) no order will have been made to restrain, enjoin or prohibit the purchase and sale of all or substantially all of the Assets; and
  - (v) no material damage by fire or other hazard to all or substantially all of the Assets will have occurred from the date hereof.
- (b) In case any material term or covenant of the Liquidator or material condition to be performed or complied with for the benefit of the Receiver at or prior to the Condition Date has not been performed or complied with at or prior to the Condition Date, the Receiver, without limiting any other right that the Receiver has, may at its sole option acting reasonably, either:
  - (i) terminate this Agreement by notice to the Liquidator, and, in such event, the Receiver will be released from all obligations hereunder; or
  - (ii) waive compliance with any such term, covenant or condition in whole or in part with respect to any such non-compliance on such terms as may be agreed upon without prejudice to any of its rights of termination in the event of non-performance of a term, covenant or condition in whole or in part,

and, if the Receiver terminates this Agreement pursuant to Section 6.02(b)(i), the Liquidator will be released from all obligations hereunder unless the term, covenant or condition for which the Receiver has terminated this Agreement was one that the Liquidator had covenanted hereunder to ensure had been performed or complied with, in which event the Liquidator will be liable to the Receiver for any Claims incurred by the Receiver, directly or indirectly, as a result of such breach. In that event, the Assets may be resold by the Receiver and all money paid by the Liquidator under this Agreement, including the Deposit, will be forfeited on account of liquidated damages, but such forfeiture will not be deemed to constitute the full extent of liquidated damages payable by the Liquidator as a result of the Receiver's termination.

### **6.03 Proceeds of Sales Made Prior to Termination**

In the event that the Agreement is terminated by either party pursuant to Article 6 or Section 2.07, and notwithstanding such termination, the Net Proceeds of any Sales made by the Liquidator prior to the date of such termination shall be immediately paid by the Liquidator to the Receiver, and the Liquidator shall be responsible for, and remit all Transfer Taxes in respect of any Sales made by the Liquidator prior to the date of such termination.

## **ARTICLE 7 - FORCE MAJEURE**

### **7.01 Force Majeure**

A failure by either party to perform any obligation under this Agreement as a result (in whole or in part) of *force majeure* will not constitute a default under this Agreement, and neither party will have any liability to the other as a result of any such failure to perform. A party who contends that its performance is excused by reason of *force majeure* must give prompt written notice to the other party specifying the condition constituting the same and use all commercially reasonable efforts to rectify such condition as soon as possible. For the purposes hereof, *force majeure* means any of the following: lightning, storms, earthquakes, floods, droughts, fires, explosions, shortages of labour, strikes, protests, lock-outs or other labour disturbances (whether or not under a party's control), acts of war or terrorism, riots, or any other action taken by any Person in connection therewith, expropriation, action of any government or governmental body or court, acts of God or any other cause, whether similar to or dissimilar from the foregoing, beyond the reasonable control of the party seeking to take advantage of *force majeure* and affecting performance by such party.

### **7.02 Assistance**

The Liquidator and the Receiver will co-operate with each other in a commercially reasonable manner in the event of any labour disruption or *force majeure* that interferes with the sale of the Assets or the ability of the Liquidator to perform its obligations hereunder with a view to alleviating such interference.

## ARTICLE 8 - GENERAL

### 8.01 Further Assurances

Each of the Receiver and the Liquidator shall from time to time execute and deliver all such further documents and instruments and do all acts and things as the other party may, at such requesting party's cost, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

### 8.02 Time of the Essence

Time shall be of the essence of this Agreement.

### 8.03 Benefit of the Agreement

This Agreement shall inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and permitted assigns of the parties hereto.

### 8.04 Fees and Commissions

Except as expressly provided herein, each of the Receiver and the Liquidator will pay its respective legal and accounting costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses whatsoever and howsoever incurred and will indemnify and save harmless the other from and against any Claim for any broker's, finder's or placement fee or commission alleged to have been incurred as a result of any action by it in connection with the transactions under this Agreement.

### 8.05 Entire Agreement

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement.

### 8.06 Amendments and Waiver

No modification of or amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by both of the parties hereto and no waiver of any breach of any term or provision of this Agreement shall be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, shall be limited to the specific breach waived.

### 8.07 Assignment

This Agreement may not be assigned by either party hereto without the prior written consent of the other party.

### **8.08 Notices**

Any demand, notice or other communication to be given in connection with this Agreement shall be given in writing and shall be given by personal delivery, by registered mail or by electronic means of communication addressed to the recipient as follows:

To the Receiver:

A. Farber & Partners Inc.  
150 York Street  
Toronto, ON M5H 3S5

With a copy to:

Aird & Berlis LLP  
181 Bay Street, Suite 1800  
Toronto, ON M5H 2T6

Attention: Robb English  
Email: [renglish@airdberlis.com](mailto:renglish@airdberlis.com)

To the Liquidator:

Hilco Asset Sales Canada Corp.  
24 The East Mall #14  
Etobicoke, ON M8W 4W5

Attention:  
Email:

or to such other address, individual or electronic communication number as may be designated by notice given by either party to the other. Any demand, notice or other communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the fourth Business Day following the deposit thereof in the mail and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day. If the party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such demand, notice or other communication shall not be mailed but shall be given by personal delivery or by electronic communication.

### **8.09 Counterparts**

This Agreement may be executed in several counterparts and all counterparts when taken together shall comprise one and the same instrument, and facsimile or other electronic copies of signatures shall be treated as originals for all purposes.

#### **8.10 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

#### **8.11 Attornment**

For the purpose of all legal proceedings this Agreement will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Agreement. The Receiver and the Liquidator each attorns to the jurisdiction of the courts of the Province of Ontario.

#### **8.12 Severability**

If any provision of this Agreement or any document delivered in connection with this Agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision will not affect the validity or enforceability of any other provision of this Agreement, all of which will be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction will not affect such provision validity or enforceability in any other jurisdiction.

#### **8.13 Acknowledgement of the Liquidator**

The Liquidator acknowledges that A. Farber & Partners Inc. has entered into this Agreement solely in its capacity as court-appointed receiver of the Debtor and not in its personal or corporate capacity.

#### **8.14 Confidentiality**

The Liquidator and the Receiver shall keep confidential this Agreement and all information and documents which may have been or may hereafter be exchanged between them or their representatives or may have been retained by the Liquidator or the Receiver, except for such information and documents as are available to the public, required to be disclosed by applicable law or court order, or as required to be disclosed by the Receiver under Applicable Law. The Receiver will redact the economic terms of the transactions contemplated herein from any material to be filed with the Court and shall use its commercially reasonable efforts to obtain a sealing order for any unredacted versions.

**IN WITNESS WHEREOF** the parties have executed this Agreement as of the date first written above.

**A. FARBER & PARTNERS INC.**

By:

\_\_\_\_\_  
John Hendriks

**HILCO ASSET SALES CANADA CORP.**

By:

\_\_\_\_\_  
Name:

Title:

**SCHEDULE 1.01(o)(vii)**  
**DESIGNATED EXCLUDED ASSETS**

Nil.



**SCHEDULE 2.01(a)(i)**  
**MACHINERY, EQUIPMENT AND INVENTORY**

See attached.

18399944.1