

COURT FILE NUMBER 1201-06934

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

Clerk's Stamp

APPLICANTS **IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, as amended**

**AND IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, R.S.A. 2000, c. B-9**

**AND IN THE MATTER OF 1252064 ALBERTA LTD., 1330075 ALBERTA LTD. and HARVEST CAPITAL MANAGEMENT INC.**

DOCUMENT **ORDER (ASSIGNMENT OF PANAMA CLAIM AND CREATION OF PANAMA CHARGE)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
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**DATE ON WHICH ORDER WAS PRONOUNCED:** January 12, 2017

**LOCATION OF HEARING OR TRIAL:** Calgary, Alberta

**NAME OF MASTER/JUDGE WHO MADE THIS ORDER:** Justice D.B. Nixon

**UPON THE APPLICATION** (the "**Application**") of Ernst & Young Inc. (the "**Receiver**"), in its capacity as the court appointed receiver and manager of 1252064 Alberta Ltd. (the "**Debtor**") pursuant to the order issued by The Honourable Justice G. C. Hawco in the within proceedings on September 30, 2013 (the "**Receivership Order**"); **AND UPON** having read the Seventh Report of the Receiver, dated October 6, 2016 (the "**Seventh Receiver's Report**") and the Eighth Report of the Receiver, dated January •, 2017 (the "**Eighth Receiver's Report**"); **AND UPON** having read the Affidavit of Service of •, sworn •, 2017 (the "**Service Affidavit**"); **AND UPON** hearing counsel for the Receiver, and counsel present for other parties;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**DEFINITIONS**

1. All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Receivership Order.

**SERVICE**

2. The time for service of the corresponding Application, the Seventh Receiver's Report and the Eighth Receiver's Report is abridged, the Application is properly returnable today, service of the Application, the Seventh Receiver's Report and the Eighth Receiver's Report on the service list, in the manner described in the Service Affidavit is validated, good, and sufficient, and no other persons are entitled to service of the Seventh Receiver's Report, the Eighth Receiver's Report or the Application.

**APPROVAL OF ASSIGNMENT**

3. The proposed assignment of any and all claims, remedies, and causes of action (collectively, the "**Assigned Claims**") that the Debtor has or may have against Punta Gorda Holdings Corp. ("**Punta Gorda**"), or in respect of the Joint Venture Agreement, dated July 12, 2007, between the Debtor and Punta Gorda, or in respect of a real estate development in Panama on an island property commonly known as the Isla del Rey (collectively, the "**Panama Joint Venture**"), by the Debtor to Panama Holdings (1252064) Ltd. ("**Panama Holdings**"), pursuant to the Assignment Agreement, dated August 29, 2016, substantially in the form as set out in Appendix "**A**" to the Seventh Receiver's Report (the "**Assignment Agreement**") and any and all transactions contemplated therein (collectively the "**Transactions**") be and are hereby approved. The Receiver and Panama Holdings are hereby authorized and empowered to make any non-material amendments to the Assignment Agreement, as may be necessary, and, furthermore, the Receiver, for and on behalf of the Debtor, and Panama Holdings are authorized and empowered to execute and deliver all documents, deeds, and other instruments as may be necessary to complete or give effect to the Transactions.

4. The Receiver is authorized and empowered to take all actions or steps necessary to assist Panama Holdings in recovering on the Assigned Claims including, without limitation, advancing money or credit to Panama Holdings or otherwise funding Panama Holdings for the purposes of assisting Panama Holdings in recovering on the Assigned Claims.

## PANAMA CHARGE

5. The Debtor hereby indemnifies the directors and officers of Panama Holdings against obligations and liabilities that they may incur as directors and or officers of Panama Holdings after the date of this Order except to the extent that, with respect to any officer or director, such obligation or liability was incurred as a result of such officer's or director's gross negligence or wilful misconduct.

6. The directors and officers of the Panama Holdings shall be entitled to the benefit of and are hereby granted a charge (the "**Panama Charge**") over all of the Debtor's Property, which charge shall not exceed an aggregate amount of \$200,000 CDN, as security for the indemnity provided in paragraph 5 of this Order, in priority to all security interests, trusts, liens, charges, and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

## MISCELLANEOUS MATTERS

7. The Receiver and any other interested party, shall be at liberty to apply for further advice, assistance, and directions, as may be necessary, in order to give full force and effect to the terms of this Order.

8. Service of this Order by email, facsimile, registered mail, courier or personal delivery to the persons listed on the service list shall constitute good and sufficient service of this Order, and no persons other than those listed on the service list are entitled to be served with a copy of this Order.

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J.C.Q.B.A.