

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF TERREBONNE
No. 700-11-017950-181

DATE: January 25, 2018

PRESIDING : M^c Annick Gagnon
 Registraire C.S.T.

IN THE MATTER OF THE NOTICE OF INTENTION OF:

CONCEPT GOURMET DU VILLAGE INC.

Debtor/Applicant

-and-

DELOITTE RESTRUCTURING INC.

Trustee

-and-

GOURMET DU VILLAGE (USA) INC.

-and-

THE REGISTRAR OF THE REGISTER OF PERSONAL AND MOVABLE REAL RIGHTS

Impleaded Parties

APPROVAL AND VESTING ORDER

- [1] **ON READING** the *Application for the Issuance of an Approval and Vesting Order* (the "**Application**") filed by the Debtor/Applicant, Concept Gourmet du Village Inc. (the "**Debtor**"), the affidavit and the exhibits filed in support thereof, as well as the Report of Deloitte Restructuring Inc. (the "**Trustee**") dated January 24, 2018 (the "**Report**");
- [2] **SEEING** the notification of the Application;

- [3] **SEEING** the submissions of all the parties present at the hearing on the Application;
- [4] **SEEING** that it is appropriate to issue an order approving the sale and other transactions (collectively, the "**Transaction**") contemplated by the Offer (the "**Offer**") entered into by and between Debtor, as vendor (the "**Vendor**"), and MSRF Inc. ("**MSRF**"), as purchaser, a copy of which was filed, *under seal*, as Exhibit P-3 to the Application, and vesting in MSRF or in a legal entity to be designated by MSRF (the "**Purchaser**") the assets described in the Offer as detailed in **Schedule "A"** annexed to this Order (the "**Purchased Assets**");

WHEREFORE THE COURT:

- [5] **GRANTS** the Application;

SERVICE

- [6] **ORDERS** that any prior delay for the presentation of this Application is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further notification/service thereof;
- [7] **PERMITS** notification of this Order at any time and place and by any means whatsoever;

SALE APPROVAL

- [8] **ORDERS AND DECLARES** that the Transaction, as well as the assignment of claims which is to occur between Gourmet du Village (USA) Inc. and the Vendor prior to the closing of the Transaction pursuant to the draft Assignment of Claims Agreement filed as Exhibit P-9 to the Application, are valid and hereby approved, and the execution of the Offer by the Vendor is hereby authorized and approved, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed by the Vendor and the Purchaser;

EXECUTION OF DOCUMENTATION

- [9] **AUTHORIZES** the Vendor and the Purchaser to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the Offer (Exhibit P-3) and any other ancillary document which could be required or useful to give full and complete effect thereto, including the execution of the Assignment of Claims Agreement filed as Exhibit P-9 to the Application, subject to non-substantial modifications, changes, amendments, deletions or additions thereto as may be agreed by Vendor and Purchaser and to execute all other agreements, contracts, deeds or other documents and do all other things necessary to give full and complete effect to the Transaction;

AUTHORIZATION

[10] **ORDERS and DECLARES** that this Order shall constitute the only authorization required by the Vendor to proceed with the Transaction and that no shareholder or regulatory approval, if applicable, shall be required in connection therewith;

VESTING OF PURCHASED ASSETS

[11] **ORDERS and DECLARES** that upon the issuance of a Trustee's certificate substantially in the form appended as **Schedule "B"** hereto (the "**Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, charges, hypothecs, deemed trusts, judgments, writs of seizure or execution, notices of sale, contractual rights relating to the Purchased Assets, encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**"), including without limiting the generality of the foregoing all Encumbrances created by order of this Court and all charges, or security evidenced by registration, publication or filing pursuant to the *Civil Code of Québec* in movable / immovable property, excluding however, the permitted encumbrances and restrictive covenants listed on **Schedule "C"** hereto (the "**Permitted Encumbrances**") and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Purchased Assets, other than the Permitted Encumbrances, be cancelled and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate;

[12] **DECLARES** that upon issuance of the Certificate, the Transaction shall be deemed to constitute and shall have the same effect as a sale under judicial authority as per the provisions of the *Code of Civil Procedure* and a forced sale as per the provisions of the *Civil Code of Quebec*;

[13] **ORDERS and DIRECTS** the Trustee to file with the Court a copy of the Certificate, forthwith after issuance thereof;

CANCELLATION OF SECURITY REGISTRATIONS

[14] **ORDERS** the Registrar of the Quebec Personal and Movable Real Rights, upon presentation of the required form with a true copy of this Order and the Certificate, to radiate and discharge all rights registered as against the Purchased Assets, including the following registrations, in order to allow the transfer to the Purchaser of the Purchased Assets free and clear of such registrations:

Deed	Number	Date	Secured Party
Hypothec	08-0032931-0005	January 21, 2008	Banque Royale du Canada
Amendment to Hypothec	11-0389832-0002	May 27, 2011	Banque Royale du Canada
Hypothec	09-0382718-0001	June 26, 2009	Financement Agricole Canada

Conservation of Hypothec	11-0428760-0001	June 9, 2011	Financement Agricole Canada
Renewal of Hypothec	14-0456112-0001	May 23, 2014	Financement Agricole Canada
Hypothec	10-0331815-0001	May 25, 2010	Investissement Québec
Hypothec	11-0854189-0004	November 4, 2011	Banque Royale du Canada
Assignment of Rank	11-0885510-0003	November 16, 2011	Banque Royale du Canada
Hypothec	16-0519260-0036	June 1, 2016	Meridian Onecap Credit Corp.
Assignment of a universality of claims and rights	16-101-8892-0001	October 18, 2016	Meridian Onecap Limited Partnership

NET PROCEEDS

- [15] **ORDERS** that the net proceeds from the sale of the Purchased Assets (the "**Net Proceeds**") shall be remitted to the Trustee and shall be distributed in accordance with applicable legislation;
- [16] **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the Net Proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that upon payment of the Purchase Price (as defined in the Offer) by the Purchaser, all Encumbrances except for the Permitted Encumbrances shall attach to the Net Proceeds as allocated by the Purchaser in the Offer with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale;

VALIDITY OF THE TRANSACTION

- [17] **ORDERS** that notwithstanding:
- (i) the pendency of these proceedings;
 - (ii) any petition for a receiving order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ("**BIA**") and any order issued pursuant to any such petition; or
 - (iii) the provisions of any federal or provincial legislation;

the vesting of the Purchased Assets contemplated in this Order, as well as the execution of the Offer pursuant to this Order, are to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be

a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Vendor, the Purchaser or the Trustee;

LIMITATION OF LIABILITY

- [18] **DECLARES** that nothing herein contained shall require the Trustee to occupy or to take control, or to otherwise manage all or any part of the Purchased Assets. The Trustee shall not, as a result of this Order, be deemed to be in possession of any of the Purchased Assets within the meaning of environmental legislation, the whole pursuant to the terms of the BIA;
- [19] **DECLARES** that no action lies against the Trustee by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Trustee or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph;

ADMINISTRATION CHARGE

- [20] **ORDERS** that Applicant shall pay the reasonable fees and disbursements of the Trustee, the Trustee's legal counsels, if any, the Applicant's legal counsels and other advisors, directly related to the Sale Process (as defined in the Application), the Transaction, these proceedings and the Applicant's restructuring, as applicable, whether incurred before or after this Order, and shall provide each with a reasonable retainer in advance on account of such fees and disbursements, if so requested.
- [21] **DECLARES** that the Trustee, the Trustee's legal counsels, if any, the Applicant's legal counsels and the Trustee's and the Applicant's respective advisors, as security for the professional fees and disbursements incurred both before and after the issuance of this Order and directly related to the Sale Process (as defined in the Application), the Transaction, these proceedings and the Applicant's insolvency proceedings, as applicable, be entitled to the benefit of and are hereby granted a charge and security in the assets of the Applicant, including the Purchased Assets (or the proceeds resulting from the sale thereof in accordance with this Order) to the extent of the aggregate amount of \$25,000 for the Applicant's legal counsel, and \$25,000 for the Trustee and the Trustee's legal counsel, for a total amount of \$50,000 (collectively, the "**Administration Charge**").
- [22] **DECLARES** that the Administration Charge shall attach, as of the date of this Order, to all present and future assets of the Applicant, including the Purchased Assets (or the proceeds resulting from the sale thereof in accordance with this Order), notwithstanding any requirement for the consent of any party to any such charge or to comply with any condition precedent. The Administration Charge shall rank in priority to any and all Encumbrances and that the Applicant shall not grant any Encumbrances in or against any of its assets, including the Purchased Assets (or the proceeds resulting from the sale thereof in accordance with this Order), that rank in priority to, or *pari passu* with, the Administration Charge, unless the Applicant obtains the prior written consent of the Trustee and the prior approval of the Court.

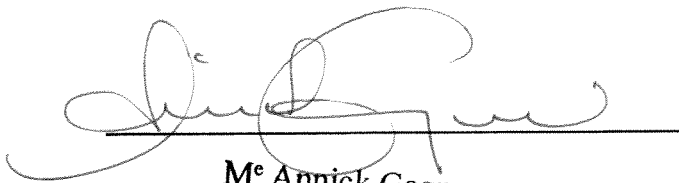
- [23] **DECLARES** that the Administration Charge and the rights and remedies of the beneficiaries of such Charge, as applicable, shall be valid and enforceable as against all assets of the Applicant, including the Purchased Assets (or the proceeds resulting from the sale thereof in accordance with this Order), and against all persons, including, without limitation, any trustee in bankruptcy, receiver, receiver and manager or interim receiver of the Applicant, for all purposes, and shall not otherwise be limited or impaired in any way by: (i) these proceedings and the declaration of insolvency made herein; (ii) any petition for a receiving order filed pursuant to the BIA in respect of the Applicant or any receiving order made pursuant to any such petition or any assignment in bankruptcy made or deemed to be made in respect of the Applicant; or (iii) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any agreement, lease, sub-lease, offer to lease or other arrangement which binds the Applicant (a "**Third Party Agreement**"), and notwithstanding any provision to the contrary in any Third Party Agreement:
- (i) the creation of the Administration Charge shall not create or be deemed to constitute a breach by the Applicant of any Third Party Agreement to which it is a party; and
 - (ii) any of the beneficiaries of the Administration Charge shall have no liability to any Person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation of the Administration Charge; and
 - (iii) the granting of the Administration Charge, do not and will not constitute a settlement, a fraudulent preference, a fraudulent conveyance or any other challengeable or reviewable transaction or conduct meriting an oppression remedy under any applicable law.
- [24] **RESERVES** however the right of the Vendor's secured creditors to review the amounts charged by the beneficiaries of the Administration Charge, and to challenge, if deemed appropriate, the payment of such amounts.

GENERAL

- [25] **ORDERS** that the Purchaser shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances;
- [26] **ORDERS** that the Exhibits P-3, P-6, P-7 and P-8, as well as the confidential annexes to the Report, be kept confidential and under seal until the earlier of (a) seventy-five (75) days after the closing of the Transaction; or (b) further order of this Court;
- [27] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada;
- [28] **REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order;

[29] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever;

THE WHOLE WITHOUT COSTS.

A handwritten signature in black ink, appearing to read 'Annick Gagnon', is written over a solid horizontal line. The signature is fluid and cursive.

M^e Annick Gagnon
Registraire C.S.T.

SCHEDULE "A"
"PURCHASED ASSETS"

All assets of Concept Gourmet du Village Inc., including, without limitation, the assets described below :

Account Receivable

- all accounts receivable with third parties of whatsoever nature, kind or description (the "**Accounts Receivable**") including, without limiting the generality, of the foregoing all accounts receivables of Gourmet du Village (USA) Inc., which have been assigned to Concept Gourmet du Village Inc. in accordance with this Order;

Inventory

- all inventories, finished goods, goods-in-transit, work-in-progress, raw materials, operating supplies, shipping supplies, maintenance items and advertising materials, in each case on hand, in transit, ordered but not delivered, warehoused or wherever situated;

Capital assets

- all machinery, spare parts, tools, test equipment, computers, furniture and leasehold improvements;

Other assets

- all prepaid expenses incurred in the ordinary course of business;
- copies books and records, files and documentation, in whatever form;
- all written and oral contracts, agreements, commitments and orders in favour of the Concept Gourmet du Village Inc., except for real property leases, insurance policies, and such other agreements which do not have a material impact on the Business;
- the list of all customers and suppliers;
- all of the goodwill in any form; and
- all intellectual property rights of any form or nature, including, without limitation, trademarks, trade dress, trade names, telephone numbers, domain names and web sites related to Concept Gourmet du Village Inc. and/or the Business. For greater certainty, such trademarks shall include the following: "Snowman Poop", "Gourmet du Village", "Reindeer Noses" and "Naughty or Nice".

The Purchased Assets shall not include:

- Cash and Cash Equivalents: All cash on hand, cash equivalents and bank deposits (other than prepaid expenses and Accounts Receivable);
- Amounts owed by the Tax authorities: All amounts that may be due to the Debtor from Canada Revenue Agency, Revenu Québec or any other tax authority;
- Equity: any shares or other equity or debt securities or other interest in any Person;
- All immovable property, if any.

SCHEDULE "B"
DRAFT CERTIFICATE OF THE TRUSTEE

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF TERREBONNE

SUPERIOR COURT
Commercial Division

No.

IN THE MATTER OF THE NOTICES OF
INTENTION TO MAKE A PROPOSAL OF:

CONCEPT GOURMET DU VILLAGE INC.

Applicant

-and-

DELOITTE INC.

Trustee

-and-

THE REGISTRAR OF THE REGISTER OF
PERSONAL MOVABLE REAL RIGHTS

Impleaded Party

CERTIFICATE OF THE TRUSTEE

RECITALS:

WHEREAS on January 25, 2018, the Applicant, Concept Gourmet du Village Inc. (the "Debtor"), filed a *Notice of Intention to Make a Proposal* (the "NOIs"), pursuant to the *Bankruptcy and Insolvency Act* (the "Act");

WHEREAS pursuant to the terms of the NOIs, Deloitte Restructuring Inc., was named Trustee in respect of the Debtor; and

WHEREAS on January 25, 2018, the Court issued an Order (the "Vesting Order") thereby, *inter alia*, authorizing and approving the execution of an Offer to Purchase dated December

15, 2017 (the "Offer") by and between the Debtor, as vendor (the "Vendor") and MSRF Inc. ("MSRF"), as purchaser (the "Purchaser"), as well as all the transactions contemplated therein (the "Transaction"), with such alterations, changes, amendments, deletions or additions thereto, as may be agreed to by the parties, and vesting in MSRF or in a legal entity to be designated by MSRF (the "Purchaser") the assets described in the Offer as detailed in Schedule "A" annexed to the Vesting Order (the "Purchased Assets");

WHEREAS the Vesting Order contemplates the issuance of this Certificate of the Trustee once the (a) the Purchase Price (as defined in the Offer) has been paid by the Purchaser; and (b) all the conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

THE TRUSTEE CERTIFIES THE FOLLOWING:

- (a) the Transaction has been executed;
- (b) the Purchase Price (as defined in the Offer) payable upon the closing of the Transaction and all applicable taxes have been paid; and
- (c) all conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

This Certificate was issued by the Trustee at _____ on _____ 2018.

DELOITTE RESTRUCTURING INC. in its capacity as
Trustee, and not in its personal capacity.

Name: _____

Title: _____

SCHEDULE "C"
PERMITTED ENCUMBRANCES

NIL.