

**SUPERIOR COURT
(Commercial Division)**

**CANADA
PROVINCE OF QUEBEC
DISTRICT OF RICHELIEU**

N° : 765-11-002344-195

DATE : July 5, 2019

IN THE PRESENCE OF THE HONOURABLE LOUIS J. GOUIN, J.S.C.

IN THE MATTER OF THE RECEIVERSHIP OF:

MOMETAL STRUCTURES INC.,

Debtor

-and-

DELOITTE RESTRUCTURING INC.,

Petitioner/Receiver

-and-

HSBC BANK CANADA,

-and-

INVESTISSEMENT QUÉBEC,

-and-

9357-1578 QUÉBEC INC.,

-and-

ROYAL BANK OF CANADA,

-and-

ACIER PICARD INC.,

-and-

TALBOT & ASSOCIÉS

Mises-en-cause

APPROVAL AND VESTING ORDER

[1] **ON READING** the Petitioner/Receiver's Amended Motion to Authorize the Sale of Part of the Debtor's Assets (the "**Motion**"), the affidavit and the exhibits in support thereof, as well as the Report of the Receiver dated June 28, 2019 (the "**Report**");

[2] **SEEING** the service of the Motion;

[3] **SEEING** the submissions of Receiver's attorneys;

[4] **SEEING** that it is appropriate to issue an order approving the transaction (the "**Transaction**") contemplated by the asset purchase agreement (the "**Purchase Agreement**") by and between the Receiver (the "**Vendor**"), as vendor, and Talbot & Associés (the "**Purchaser**"), as purchaser, copy of which was filed under seal as Exhibit R-5 to the Motion, and vesting in the Purchaser the assets described in the Purchase Agreement (the "**Purchased Assets**") but excluding the assets described in Schedule "A" hereto (the "**Excluded Assets**");

[5] **FOR THESE REASONS:**

[A] **GRANTS** the Motion.

SERVICE

[B] **ORDERS** that any prior delay for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

[C] **PERMITS** service of this Order at any time and place and by any means whatsoever.

SALE APPROVAL

- [D] **ORDERS** and **DECLARES** that the Transaction contemplated by the Purchase Agreement, R-5, between the Vendor and the Purchaser for the Purchased Assets, and the execution of the Purchase Agreement, are hereby authorized and approved, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to but only with the consent of the Receiver, and that the said Purchase Agreement remain under seal. For greater certainty, in addition to the Excluded Assets, no immovable property shall be part of the Purchased Assets, and the following are excluded from the Purchased Assets: the alarm system, the electrical distribution systems (such as the conductor bar systems for the bridge cranes and all wires and boxes) and all bridge crane railings.

EXECUTION OF DOCUMENTATION

- [J] **AUTHORIZES** the Receiver 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 Purchase Agreement, R-5, hereto and any other ancillary document which could be required or useful to give full and complete effect thereto.

AUTHORIZATION

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

VESTING OF PURCHASED ASSETS

- [L] **ORDERS** and **DECLARES** that upon the issuance of a Receiver'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 and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Purchased Assets be

cancelled and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate.

[M] **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 Québec*.

[N] **ORDERS** and **DIRECTS** the Receiver to file with the Court a copy of the Certificate, forthwith after issuance thereof.

CANCELLATION OF SECURITY REGISTRATIONS

[O] **ORDERS** the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Certificate, to reduce the scope of the following registrations in connection with the Purchased Asset in order to allow the transfer to the Purchaser of the Purchased Assets free and clear of such registrations:

- 1) Right of ownership of Lessor in favor of HSBC Bank Canada published in the RDPRM on 2018-10-31 under registration number **18-1204387-0001**;
- 2) Right of ownership of Lessor in favor of HSBC Bank Canada registered in the RDPRM on 2018-08-21 under registration number **18-0918619-0001**;
- 3) Right of ownership of Lessor in favor of Royal Bank of Canada registered in the RDPRM on 2015-07-07 under registration number **15-0633451-0003**;
- 4) Right of ownership of Lessor in favor of Royal Bank of Canada registered in the RDPRM on 2014-09-19 under registration number **14-0872307-0002**;
- 5) Right of ownership of Lessor in favor of Royal Bank of Canada registered in the RDPRM on 2014-09-19 under registration number **14-00872307-0001**;
- 6) Right of ownership of Lessor in favor of Royal Bank of Canada registered in the RDPRM on 2017-10-06 under registration number **17-1061522-0001**;
- 7) Moveable hypothec in favor of HSBC Bank Canada registered in the RDPRM on 2018-07-19 under registration number **18-0786833-0001**;

- 8) Moveable hypothec in favor of Acier Picard Inc. registered in the RDPRM on 2018-07-03 under registration number **18-0715201-0001**;
- 9) Moveable hypothec in favor of Intact Compagnie d'assurance registered in the RDPRM on 2018-02-23 under registration number **18-0172066-0002**;
- 10) Moveable hypothec in favor of Royal Bank of Canada registered in the RDPRM on 2017-12-28 under registration number **17-1357648-0001**;
- 11) Moveable hypothec in favor of Royal Bank of Canada registered in the RDPRM on 2017-12-13 under registration number **17-1315751-0001**;
- 12) Moveable hypothec in favor of Intact Compagnie d'assurance registered in the RDPRM on 2014-11-21 under registration number **14-1093492-0001**;
- 13) Moveable hypothec in favor of Investissement Québec registered in the RDPRM on 2017-08-31 under registration number **17 0924222-0001**.

NET PROCEEDS

- [P] **ORDERS** that the net proceeds from the sale of the Purchased Assets (the "**Net Proceeds**") shall be remitted to the Receiver and shall be distributed in accordance with applicable legislation.
- [Q] **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 set out in the Purchase Agreement by the Purchaser, all Encumbrances shall attach to the Net Proceeds 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

- [R] **ORDERS** that notwithstanding:
- (a) the pendency of these proceedings;
 - (b) 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 Purchase Agreement 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 settlement, fraudulent 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 Receiver.

LIMITATION OF LIABILITY


- [S] **DECLARES** that, subject to other orders of this Court, nothing herein contained shall require the Receiver to occupy or to take control, or to otherwise manage all or any part of the Purchased Assets. The Receiver 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.
- [T] **DECLARES** that no action lies against the Receiver 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 Receiver or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph.

GENERAL

- [U] **ORDERS** that this Order does not affect the rights of the landlords pursuant to an order rendered on March 13, 2019 by Hon. Sophie Picard of this Court in court record 505-17-011152-198 in the district of Longueuil.
- [V] **ORDERS** that the Purchaser or the Receiver shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.
- [W] **ORDERS** that Exhibits R-2, R-5 and Annexes C and D of the Receiver's Report, R-3, be kept confidential and under seal until further order of this Court.
- [X] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.
- [Y] **DECLARES** that the Receiver shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the Receiver shall be the foreign representative of the Debtor. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders

and to provide such assistance to the Receiver as may be deemed necessary or appropriate for that purpose.

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



Louis J. Gouin, J.S.C.

SCHEDULE A
(EXCLUDED ASSETS)

The following assets shall be excluded from the Purchase Agreement, Exhibit R-5:

All of the furniture furnishing the reception areas of the ground floor and first floor of the Varennes building, specifically identified as lots 1A-1 and 1A-16 of lots 7 and 8 of the *Mémoire d'information confidentiel* (Annex A of the Receiver's report dated June 28, 2019, Exhibit R-3)

SCHEDULE B

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF RICHELIEU

SUPERIOR COURT
(Commercial Division)

No.: 765-11-002344-195

IN THE MATTER OF THE RECEIVERSHIP OF:

MOMETAL STRUCTURES INC.,

Debtor

-and-

DELOITTE RESTRUCTURING INC.,

Petitioner/Receiver

-and-

**THE REGISTRAR OF THE REGISTER OF
PERSONAL MOVABLE REAL RIGHTS**

Impleaded Party

CERTIFICATE OF THE RECEIVER

RECITALS:

WHEREAS pursuant to the Receivership Order rendered by the Honourable Louis-Paul Cullen on May 8, 2019, the Petitioner, Deloitte Restructuring Inc. was named Receiver to the assets of the Debtor;

WHEREAS on July •, 2019, the Court issued an Order (the "**Vesting Order**") thereby, *inter alia*, authorizing and approving the execution of an Asset Purchase Agreement (the "**APA**") by and between the Petitioner, as vendor (the "**Vendor**"), and Talbot & Associés, as purchaser (the "**Purchaser**"), with such alterations, changes, amendments, deletions or additions thereto, as may be agreed to by the parties, and vesting in the Purchaser the assets described in Schedule "A" to the APA (the "**Purchased Assets**") free and clear of any and all rights, claims, hypothecs, liens or other encumbrances; and

WHEREAS the Vesting Order contemplates the issuance of this Certificate of the Receiver once that portion of the purchase price payable upon execution of the APA, plus all applicable tax,

has been paid by the Purchaser and all other closing conditions of the APA have been satisfied or waived by the parties thereto.

THE RECEIVER CERTIFIES THE FOLLOWING:

- (a) the APA has been executed;
- (b) the portion of the purchase price payable upon the closing of the APA and all applicable tax have been paid; and
- (c) all closing conditions of the APA have been satisfied or waived by the parties thereto.

This Certificate was issued by the Receiver at Montreal on July • 2019.

DELOITTE RESTRUCTURING INC.

in its capacity as Receiver, and not in its personal capacity.

Martin Franco, CPA, CA, CIRP, LIT
Senior Vice president