

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

B E T W E E N:

BANK OF MONTREAL

Applicant

- and -

INGENIOUS PACKAGING GROUP ULC

Respondent

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION
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**

**MOTION RECORD
Motion for Approval and Vesting Order
Returnable July 24, 2018**

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Barristers & Solicitors
Bay Adelaide Centre
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Lawyers for Deloitte Restructuring Inc., in its
capacity as proposed court-appointed Receiver

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2. Form of Approval and Vesting Order
3. Comparison of Form of Approval and Vesting Order to Model Approval and Vesting Order

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Court File No.: CV-18-601960-00CL

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

B E T W E E N:

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AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*,
R.S.O. 1990, c. C.43, AS AMENDED**

**NOTICE OF MOTION
Motion for Approval and Vesting Order
Returnable July 24, 2018**

Deloitte Restructuring Inc. (“**Deloitte**”), in its capacity as proposed Court-appointed receiver (the “**Receiver**”) of the assets, undertakings and properties (the “**Property**”) of Ingenious Packaging Group ULC (“**Debtor**”) pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”) and Section 101 of the *Courts of Justices Act* (Ontario) (“**CJA**”), will make a motion before a Judge of the Ontario Superior Court of Justice (Commercial List) (the “ **Court**”) on July 24, 2018, at 10:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario,

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

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THE MOTION IS FOR:

1. an Order (the “**Approval and Vesting Order**”), substantially in the form attached at Tab 2 of the Motion Record, *inter alia*:¹
 - (a) approving the going concern sale transaction of substantially all of the business and assets of the Debtor (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Asset Purchase Agreement**”) among the Debtor, Ingenious Packaging, Inc. (the “**Purchaser**”) and the Receiver;
 - (b) authorizing and directing the Receiver to execute the Asset Purchase Agreement and to complete the Transaction in accordance with the terms of the Asset Purchase Agreement and the Approval and Vesting Order, including the distribution of the proceeds of the Transaction as contemplated pursuant to the Asset Purchase Agreement;
 - (c) vesting, on the closing of the Transaction and the delivery of the Receiver’s Certificate (as defined in the proposed Approval and Vesting Order), all of the Debtor’s right, title and interest in and to the Purchased Assets in the Purchaser, free and clear of all encumbrances other than certain permitted encumbrances as set out in the draft Approval and Vesting Order;
 - (d) authorizing the Receiver to act as escrow agent pursuant to the Asset Purchase Agreement;

¹ Capitalized terms used and not defined herein have the meanings given to them in the Asset Purchase Agreement.

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- (e) sealing the confidential supplement (the “**Confidential Supplement**”) to the Pre-Filing Report of the Receiver (the “**Pre-Filing Report**”) until the closing of the Transaction, or upon further of this Court; and
 - (f) granting ancillary relief in connection with the completion of the Transaction; and
2. such further and other relief as this Court deems appropriate.

THE GROUNDS FOR THE MOTION ARE:

Background

3. Bank of Montreal (“**BMO**”) is party to a credit agreement dated July 6, 2015 (as amended, modified or restated from time to time, the “**Credit Agreement**”) entered into by, among others, the Debtor, as a borrower, certain affiliates of the Debtor, as loan parties, BMO and the other lenders from time to time party thereto, as first-ranking secured lenders (the “**Secured Lenders**”), and BMO, as administrative agent for the Secured Lenders.
4. The Debtor is in default of its secured obligations under the Credit Agreement and BMO, in its capacity as administrative agent under the Credit Agreement, has brought an application on behalf of itself and the other Secured Lenders for an order (the “**Receivership Order**”) appointing Deloitte as the Receiver of the Debtor.
5. If the Receivership Order is granted and Deloitte is appointed as the Receiver, Deloitte, in its capacity as Receiver, will concurrently bring this motion seeking approval of the Transaction and the granting of the Approval and Vesting Order.

The Transaction

6. In response to its financial difficulties and during a period of forbearance granted by the Secured Lenders, the Debtor retained Mesirow Financial Inc. (“**Mesirow**”) in February 2018 to conduct a sales and marketing process (the “**Sales Process**”) to identify a potential value-maximizing transaction for the sale of the Debtor and its business and assets as a going concern. Mesirow commenced the Sale Process in March 2018 by contacting potential strategic and financial buyers to advise them of the opportunity.
7. Following an extensive process involving due diligence, management presentations, and the receipt and evaluation of letters of intent received in the Sale Process, it was determined by the Debtor, with the advice and recommendation of Mesirow, that the bid submitted by the Purchaser, an affiliate of Resource Label Group, represented the best available option for the Debtor in the circumstances.
8. The Debtor and the Purchaser, with the oversight of Deloitte, negotiated the terms of the Transaction and entered into the Asset Purchase Agreement on July 20, 2018. Deloitte executed the Asset Purchase Agreement for certain limited purposes (including holding the Purchaser’s deposit) and its authority and obligations under the Asset Purchase Agreement are subject to the granting of the Receivership Order and the Approval and Vesting Order.
9. The Transaction provides for the acquisition by the Purchaser of substantially all of the business and assets of the Debtor on a going concern basis and maximizes the value of the Debtor in the circumstances. The Transaction preserves the employment of

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substantially all of the Debtor's employees, results in the payment or assumption of material trade and ordinary course obligations, and enables the continued operation of the business for the benefit of a broad range of stakeholders.

Approval of the Transaction

10. As a result of the current business and financial circumstances of the Debtor, it is necessary to complete the Transaction expeditiously to preserve value and ensure that business operations can continue without disruption.
11. The Transaction is supported by BMO on behalf of the Secured Lenders, who will suffer a deficiency on the amounts owed to them under the Credit Agreement.
12. The proposed Receiver is of the view that:
 - (a) the Transaction represents the best available alternative to preserve and maximize value and achieve a going concern outcome for the benefit of a broad range of stakeholders, including employees, customers and suppliers;
 - (b) the consideration offered under the Asset Purchase Agreement provides reasonable and fair value for the Purchased Assets;
 - (c) the marketing process was efficacious and appropriate in the circumstances and further marketing is not expected to produce a superior transaction capable of being implemented in the near term; and
 - (d) the business is experiencing significant liquidity and business challenges and there is a material risk that delay in completion of the Transaction could erode the

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value of the business to the detriment of the Secured Lenders and other stakeholders of the Debtor. The economic realities necessitate approval of the Transaction at this time.

13. In the proposed Receiver's business judgment, the approval and completion of the Transaction at this time is in the best interests of the Debtor and its stakeholders.

Other

14. The Confidential Supplement contains an unredacted copy of the Asset Purchase Agreement, which contains commercially-sensitive information including the Purchase Price.
15. The sealing of the Confidential Supplement until the closing of the Transaction or further order of the Court is necessary to preserve the integrity of the process and the value of the Debtor and is appropriate in the circumstances.
16. The grounds as more particularly set out in the Pre-Filing Report.
17. The provisions of the BIA and the CJA.
18. Rules 1.04, 2.03, 3.02, 16 and 38 of the *Rules of Civil Procedure*, R.R.O. 1990. Reg. 194, as amended.
19. Such further and other grounds as counsel may advise and this Court may permit.

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THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. the Affidavit of Michael Silverman sworn July 20, 2018;
2. the Affidavit of Jack Kane sworn July 20, 2018;
3. the Pre-Filing Report, to be filed;
4. the Confidential Supplement, to be filed on a confidential basis; and
5. such further and other material as counsel may advise and this Court may permit.

Dated: July 20, 2018

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Lawyers for the Deloitte Restructuring Inc., in its
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**APPLICATION PURSUANT TO SECTION 243(1) OF THE BANKRUPTCY AND
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Court File No.: CV-18-601960-00CL

BANK OF MONTREAL
Applicant

- and - **INGENIOUS PACKAGING GROUP ULC**
Respondent

<p>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceeding commenced at Toronto</p>
<p>NOTICE OF MOTION (Motion Returnable July 24, 2018)</p>
<p>GOODMANS LLP Barristers & Solicitors 333 Bay Street, Suite 3400 Toronto, Canada M5H 2S7</p> <p>Brendan O'Neill LSO#: 43331J boneill@goodmans.ca</p> <p>Bradley Wiffen LSO#: 64279L bwiffen@goodmans.ca</p> <p>Andrew Harmes LSO#: 73321A aharmes@goodmans.ca</p> <p>Tel: (416) 979-2211 Fax: (416) 979-1234</p> <p>Lawyers for Deloitte Restructuring Inc., in its capacity as proposed Court-appointed Receiver</p>

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Court File No. CV-18-601960-00CL

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

THE HONOURABLE)	TUESDAY, THE 24 TH
)	
JUSTICE)	DAY OF JULY, 2018

B E T W E E N:

BANK OF MONTREAL

Applicant

- and -

INGENIOUS PACKAGING GROUP ULC

Respondent

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION
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**

APPROVAL AND VESTING ORDER

THIS MOTION, made by Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Ingenious Packaging Group ULC (the "**Debtor**") for an order (i) approving the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement (the "**Asset Purchase Agreement**") between the Debtor, the Receiver and Ingenious Packaging, Inc. (the "**Purchaser**") dated July 20, 2018, a redacted copy of which is appended to the Pre-Filing Report of the Receiver dated July ●, 2018 (the "**Pre-Filing Report**") and an unredacted copy of which is appended to the Confidential Supplement to the Pre-Filing Report dated July ●, 2018 (the

"**Confidential Supplement**"), (ii) authorizing and directing the Receiver to execute the Asset Purchase Agreement and to implement the Transaction in accordance with the terms of the Asset Purchase Agreement and this Order, including, without limitation, the distributions contemplated thereby, and (iii) vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Asset Purchase Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Confidential Supplement, the Pre-Filing Report, the affidavit of Jack Kane sworn July 20, 2018 and the affidavit of Michael Silverman sworn July 20, 2018 and on hearing the submissions of counsel for the Receiver, Bank of Montreal, the Debtor and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that any defined terms used herein, unless otherwise defined in this Order, shall have the meanings ascribed to them in the Asset Purchase Agreement.
3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and that the Receiver is hereby authorized and directed to execute the Asset Purchase Agreement, with such minor amendments as the Receiver may deem necessary or desirable, and to complete the Transaction in accordance with the terms of the Asset Purchase Agreement and this Order, including, without limitation, the distributions contemplated thereby. The Receiver and the Debtor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
4. **THIS COURT ORDERS** that the Receiver, in accordance with the terms of the Asset Purchase Agreement, is hereby authorized and empowered to act as escrow agent (in such capacity, the "**Escrow Agent**") for the purposes of holding the Adjustment Escrow Amount deposited by the Purchaser in immediately available funds with the Escrow Agent to secure any obligation of the Debtor due to an adjustment of the Purchase Price and to perform its obligations

under the Escrow Agreement. The Receiver shall have no liability as Escrow Agent or in connection with the Escrow Agreement except for any liability arising from its gross negligence or wilful misconduct.

5. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Asset Purchase Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of this Court dated July 24, 2018; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Personal Property Security Act* (British Columbia), or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**"), with the exception of those charges, security interests or claims evidenced by the registrations pursuant to the *Personal Property Security Act* (Ontario) and the *Personal Property Security Act* (British Columbia) set out in Schedule B hereto (the "**Permitted Encumbrances**"), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets, except for the Permitted Encumbrances, are hereby expunged and discharged as against the Purchased Assets.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets 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, with such proceeds to be distributed in accordance with the terms of the Asset Purchase Agreement.

7. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

8. **THIS COURT ORDERS** that (a) immediately upon the Closing of the Transaction, the Receiver or the Debtor are hereby authorized and permitted to execute and file articles of amendment or such other documents or instruments as may be required to change the legal name of the Debtor in accordance with the Asset Purchase Agreement, and such articles, documents or other instruments shall be deemed to be duly authorized, valid and effective and shall be accepted by the registrar (as defined in the *Business Corporations Act* (British Columbia)) or other official without the requirement (if any) of obtaining director, shareholder or other approval pursuant to any federal or provincial legislation; and (b) upon the official change of the legal name of the Debtor, the name of the Debtor in the within title of proceedings shall be deleted and replaced with the new legal name of the Debtor, and any document filed thereafter in these proceedings (other than the Receiver's Certificate) shall be filed using such revised title of proceedings.

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

10. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

11. **THIS COURT ORDERS** that the Confidential Supplement, including all appendices thereto, be and is hereby sealed and its contents shall not form part of the public record until the Closing of the Transaction, or upon further order of this Court.

12. **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.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-18-601960-00CL

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

B E T W E E N:

BANK OF MONTREAL

Applicant

- and -

INGENIOUS PACKAGING GROUP ULC

Respondent

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION
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**

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Ontario Superior Court of Justice [Commercial List] (the "**Court**") dated July 24, 2018, Deloitte Restructuring Inc. was appointed as receiver and manager (the "**Receiver**") of the undertaking, property and assets of Ingenious Packaging Group ULC (the "**Debtor**").

B. Pursuant to an Order of the Court dated July 24, 2018, the Court approved the asset purchase agreement made as of July 20, 2018 (the "**Asset Purchase Agreement**") between the Receiver, the Debtor and Ingenious Packaging, Inc. (the "**Purchaser**") and provided for the

vesting in the Purchaser of the Debtor's right, title and interest in and to the assets described in the Asset Purchase Agreement (the "**Purchased Assets**"), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in sections 14 and 15 of the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction with the Purchaser has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Asset Purchase Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Asset Purchase Agreement;
2. The conditions to Closing as set out in sections 14 and 15 of the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction with the Purchaser has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

Deloitte Restructuring Inc., in its capacity as court-appointed receiver and manager of the undertaking, property and assets of Ingenious Packaging Group ULC and not in its personal or corporate capacity

Per: _____
 Name:
 Title:

Schedule B – Permitted Encumbrances

Personal Property Security Act (Ontario)

	<u>Debtor</u>	<u>Secured Party(ies)</u>	<u>File No. / Registration No.</u>	<u>Date/ Expiry Date</u>	<u>Collateral Classification</u>	<u>Collateral Description</u>
1.	TAPP LABEL	Fujifilm Canada Inc.	737460567 / 20180321 1407 1462 5212	March 21, 2018/ March 21, 2023 (5 years)	Equipment	Equipment: FLH85Z Plate Processor S/N 94199-0649 Fuji Asset# 501027, Chiller S/N 111289011 Fuji Asset# 501028
2.	TAPP LABEL LTD.	E.I Dupont Canada Company	710013645 / 20150916 1947 1531 2598	September 16, 2015 / September 16, 2025 (10 years)	Equipment	Equipment: Cyrel (R) Fast TD1000 Flexographic Plate Making System Serial # TD1180529

Personal Property Security Act (British Columbia)

	<u>Secured Party(ies)</u>	<u>Debtor(s)</u>	<u>Registration Number (Registration Period)</u>	<u>General Collateral Description</u>
1.	E.I. Dupont Canada Company	Tapp Label Technologies Inc.	Regn No.: 523930G Regn Date: January 3, 2012 Expiry Date: January 3, 2022	<u>General Collateral:</u> E.I. Dupont Canada Company have loaned (1) Cyrel Fast TD1000 thermal processor, serial number TD1180604, to Tapp Label Technologies Inc. under a bailment arrangement. Tapp Label Technologies Inc. does not have any right, interest or title to the equipment. The equipment is the property of E.I. Dupont Canada Company.
2.	E.I. Dupont Canada Company	Tapp Label Company, LLC (Tapp Label – Vancouver North)	Regn No.: 718745I Regn Date: July 13, 2015 Expiry Date: July 13, 2025	<u>General Collateral:</u> Cyrel (R) Fast TD1000 flexographic plate making system – serial number TD1180758 Value: \$125,000 USD

**APPLICATION PURSUANT TO SECTION 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**

Court File No.: CV-18-601960-00CL

BANK OF MONTREAL - and - **INGENIOUS PACKAGING GROUP ULC**
Applicant Respondent

<p style="text-align: center;">ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceeding commenced at Toronto</p>	
<p style="text-align: center;">APPROVAL AND VESTING ORDER</p>	
<p>GOODMANS LLP Barristers & Solicitors 333 Bay Street, Suite 3400 Toronto, Canada M5H 2S7</p> <p>Brendan O'Neill LSO#: 43331J boneill@goodmans.ca</p> <p>Bradley Wiffen LSO#: 64279L bwiffen@goodmans.ca</p> <p>Andrew Harmes LSO#: 73321A aharmes@goodmans.ca</p> <p>Tel: (416) 979-2211 Fax: (416) 979-1234</p> <p>Lawyers for Deloitte Restructuring Inc., in its capacity as Court-appointed Receiver</p>	

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Revised: January 21, 2014

Court File No. CV-18-601960-00CL

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

THE HONOURABLE)	WEEKDAY <u>TUESDAY</u> , THE # <u>24TH</u>
)	
JUSTICE)	DAY OF MONTH <u>JULY</u> , 20YR <u>2018</u>

B E T W E E N:

~~PLAINTIFF~~

Plaintiff

BANK OF MONTREALApplicant

- and -

~~DEFENDANT~~

Defendant

INGENIOUS PACKAGING GROUP ULCRespondent

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION
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

APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR]~~Ingenious Packaging Group ULC (the "Debtor") for an order (i) approving the sale

transaction (the "**Transaction**") contemplated by an ~~agreement of asset~~ purchase and ~~sale~~ agreement (the "**Sale Asset Purchase Agreement**") between the Debtor, the Receiver and [NAME OF PURCHASER] Ingenious Packaging, Inc. (the "**Purchaser**") dated ~~[DATE] and July~~ 20, 2018, a redacted copy of which is appended to the Pre-Filing Report of the Receiver dated ~~[DATE] (the "Report"), and July~~ •, 2018 (the "Pre-Filing Report") and an unredacted copy of which is appended to the Confidential Supplement to the Pre-Filing Report dated July •, 2018 (the "Confidential Supplement"), (ii) authorizing and directing the Receiver to execute the Asset Purchase Agreement and to implement the Transaction in accordance with the terms of the Asset Purchase Agreement and this Order, including, without limitation, the distributions contemplated thereby, and (iii) vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Asset Purchase Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the ~~Report~~ Confidential Supplement, the Pre-Filing Report, the affidavit of Jack Kane sworn July 20, 2018 and the affidavit of Michael Silverman sworn July 20, 2018 and on hearing the submissions of counsel for the Receiver, ~~[NAMES OF OTHER PARTIES APPEARING]~~ Bank of Montreal, the Debtor and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ sworn [DATE] service filed[†]:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that any defined terms used herein, unless otherwise defined in this Order, shall have the meanings ascribed to them in the Asset Purchase Agreement.

[†]~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

3. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved,² and ~~the execution of the Sale Agreement by that~~ the Receiver³ is hereby authorized and ~~approved~~ directed to execute the Asset Purchase Agreement, with such minor amendments as the Receiver may deem necessary. ~~The Receiver is or desirable, and to complete the Transaction in accordance with the terms of the Asset Purchase Agreement and this Order, including, without limitation, the distributions contemplated thereby. The Receiver and the Debtor are~~ hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

4. THIS COURT ORDERS that the Receiver, in accordance with the terms of the Asset Purchase Agreement, is hereby authorized and empowered to act as escrow agent (in such capacity, the "Escrow Agent") for the purposes of holding the Adjustment Escrow Amount deposited by the Purchaser in immediately available funds with the Escrow Agent to secure any obligation of the Debtor due to an adjustment of the Purchase Price and to perform its obligations under the Escrow Agreement. The Receiver shall have no liability as Escrow Agent or in connection with the Escrow Agreement except for any liability arising from its gross negligence or wilful misconduct.

5. ~~2-~~THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver²'s certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Asset Purchase Agreement ~~[and listed on Schedule B hereto]~~⁴ shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and

² ~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

³ ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

⁴ ~~To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

whether secured, unsecured or otherwise (collectively, the "Claims"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of ~~the Honourable Justice [NAME]~~this Court dated ~~[DATE]; July 24, 2018;~~ and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Personal Property Security Act* (British Columbia), or any other personal property registry system; ~~and (iii) those Claims listed on Schedule C hereto~~ (all of which are collectively referred to as the "Encumbrances", ~~which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D)~~, with the exception of those charges, security interests or claims evidenced by the registrations pursuant to the *Personal Property Security Act* (Ontario) and the *Personal Property Security Act* (British Columbia) set out in Schedule B hereto (the "Permitted Encumbrances"), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets, except for the Permitted Encumbrances, are hereby expunged and discharged as against the Purchased Assets.

~~3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION} of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

6. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased

~~⁵The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

~~⁶Elect the language appropriate to the land registry system (Registry vs. Land Titles).~~

~~⁷The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, 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, with such proceeds to be distributed in accordance with the terms of the Asset Purchase Agreement.

7. ~~5.~~ **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

8. ~~6.~~ **THIS COURT ORDERS** that (a) immediately upon the Closing of the Transaction, the Receiver or the Debtor are hereby authorized and permitted to execute and file articles of amendment or such other documents or instruments as may be required to change the legal name of the Debtor in accordance with the Asset Purchase Agreement, and such articles, documents or other instruments shall be deemed to be duly authorized, valid and effective and shall be accepted by the registrar (as defined in the *Business Corporations Act* (British Columbia)) or other official without the requirement (if any) of obtaining director, shareholder or other approval pursuant to any federal or provincial legislation; and (b) upon the official change of the legal name of the Debtor, the name of the Debtor in the within title of proceedings shall be deleted and replaced with the new legal name of the Debtor, and any document filed thereafter in these proceedings (other than the Receiver's Certificate) shall be filed using such revised title of proceedings.

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, ~~including personal information of those employees listed on Schedule "●" to the Sale Agreement.~~ The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

10. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

~~⁸This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

11. ~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario)~~ that the Confidential Supplement, including all appendices thereto, be and is hereby sealed and its contents shall not form part of the public record until the Closing of the Transaction, or upon further order of this Court.

12. ~~9. 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.

Schedule A ~~—~~ Form of Receiver²'s Certificate

Court File No. ~~_____~~ CV-18-601960-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

~~PLAINTIFF~~

Plaintiff

BANK OF MONTREAL

Applicant

- and ~~—~~

~~DEFENDANT~~

Defendant

INGENIOUS PACKAGING GROUP ULC

Respondent

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION
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

RECEIVER²'S CERTIFICATE

RECITALS

A. Pursuant to an Order ~~of the Honourable [NAME OF JUDGE]~~ of the Ontario Superior Court of Justice [Commercial List] (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ July 24, 2018, Deloitte Restructuring Inc. was appointed as ~~the~~ receiver and

manager (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR]~~Ingenious Packaging Group ULC (the ~~"Debtor"~~).

B. Pursuant to an Order of the Court dated ~~[DATE]~~July 24, 2018, the Court approved the ~~agreement of asset purchase and sale agreement~~ made as of ~~[DATE OF AGREEMENT]~~July 20, 2018 (the "~~Sale Asset Purchase Agreement~~") between the Receiver ~~-, the Debtor~~ and ~~[NAME OF PURCHASER]~~Ingenious Packaging, Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the assets described in the Asset Purchase Agreement (the "Purchased Assets"), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in ~~section~~ sections 14 and 15 of the ~~Sale Asset Purchase Agreement~~ have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction with the Purchaser has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the ~~Sale Asset Purchase Agreement~~.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the ~~Sale Asset Purchase Agreement~~;
2. The conditions to Closing as set out in ~~section~~ sections 14 and 15 of the ~~Sale Asset Purchase Agreement~~ have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction with the Purchaser has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

~~{NAME OF RECEIVER}~~Deloitte Restructuring Inc., in its capacity as ~~Receiver~~court-appointed receiver and manager of the undertaking, property and assets of ~~{DEBTOR}~~Ingenious Packaging Group ULC and not in its personal or corporate capacity

Per:

_____ Name:

Title:

Schedule B — ~~Purchased Assets~~

~~Schedule C — Claims to be deleted and expunged from title to Real Property~~

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real**

Personal Property Security Act (Ontario)

(unaffected by the Vesting Order)

	<u>Debtor</u>	<u>Secured Party(ies)</u>	<u>File No. / Registration No.</u>	<u>Date/ Expiry Date</u>	<u>Collateral Classification</u>	<u>Collateral Description</u>
1.	<u>TAPP LABEL</u>	<u>Fujifilm Canada Inc.</u>	<u>737460567 / 20180321 1407 1462 5212</u>	<u>March 21, 2018 / March 21, 2023 (5 years)</u>	<u>Equipment</u>	<u>Equipment: FLH85Z Plate Processor S/N 94199-0649 Fuji Asset# 501027, Chiller S/N 111289011 Fuji Asset# 501028</u>
2.	<u>TAPP LABEL LTD.</u>	<u>E.I Dupont Canada Company</u>	<u>710013645 / 20150916 1947 1531 2598</u>	<u>September 16, 2015 / September 16, 2025 (10 years)</u>	<u>Equipment</u>	<u>Equipment: Cyrel (R) Fast TD1000 Flexographic Plate Making System Serial # TD1180529</u>

Personal Property Security Act (British Columbia)

	<u>Secured Party(ies)</u>	<u>Debtor(s)</u>	<u>Registration Number (Registration Period)</u>	<u>General Collateral Description</u>
1.	<u>E.I. Dupont Canada Company</u>	<u>Tapp Label Technologies Inc.</u>	<u>Regn No.: 523930G Regn Date: January 3, 2012 Expiry Date: January 3, 2022</u>	<u>General Collateral: E.I. Dupont Canada Company have loaned (1) Cyrel Fast TD1000 thermal processor, serial number TD1180604, to Tapp Label Technologies Inc. under a bailment arrangement. Tapp Label Technologies Inc. does not have any right, interest or title to the equipment. The equipment is the property of E.I. Dupont Canada Company.</u>
2.	<u>E.I. Dupont Canada Company</u>	<u>Tapp Label Company, LLC (Tapp Label – Vancouver North)</u>	<u>Regn No.: 718745I Regn Date: July 13, 2015 Expiry Date: July 13, 2025</u>	<u>General Collateral: Cyrel (R) Fast TD1000 flexographic plate making system – serial number TD1180758 Value: \$125,000 USD</u>

APPLICATION PURSUANT TO SECTION 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

Court File No.: CV-18-601960-00CL

BANK OF MONTREAL
Applicant

- and -

INGENIOUS PACKAGING GROUP ULC
Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceeding commenced at Toronto

**MOTION RECORD OF THE RECEIVER
(Motion Returnable July 24, 2018)**

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Lawyers for Deloitte Restructuring Inc., in its capacity
as proposed court-appointed Receiver