

Court File No.

IN THE COURT OF KING'S BENCH OF NEW BRUNSWICK

IN BANKRUPTCY AND INSOLVENCY

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE RECEIVERSHIP OF IFOODEQUIPMENT.COM INC., D&P  
GOODER HOLDING LTD. and IBC FOOD EQUIPMENT INC.

PURSUANT TO SECTION 33 OF THE *JUDICATURE ACT*, R.S.N.B. 1973, c. J-2, RULE 41  
OF THE RULES OF COURT, N.B. REG 82-73 and SECTION 243 OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*

BETWEEN:

ROYAL BANK OF CANADA,

Applicant

-and-

IFOODEQUIPMENT.COM INC.,  
D&P GOODER HOLDING LTD., and  
IBC FOOD EQUIPMENT, INC.

Respondents

**NOTICE OF APPLICATION  
(FORM 16D)**

**AVIS DE REQUÊTE  
(FORMULE 16D)**

TO: Ifoodequipment.com Inc. and the Service List  
at Schedule "A"

DESTINATAIRE: (*l'intimé susmentionné ou autre*)

LEGAL PROCEEDINGS HAVE BEEN COM-  
MENCED BY FILING THIS NOTICE OF  
APPLICA-  
TION.

PAR LE DÉPÔT DU PRÉSENT AVIS DE RE-  
QUÊTE, UNE POURSUITE JUDICIAIRE A ÉTÉ  
EN-GAGÉE.

The applicant Royal Bank of Canada will make  
an application before the Court of King's Bench  
in Bankruptcy and Insolvency at 10 Peel Plaza,  
Saint John, New Brunswick on the 27 day of  
November 2024 at 9:30 a.m. (or p.m.) for an  
Order as set out hereunder.

Le requérant présentera une requête à la Cour  
à 10 Peel Plaza, Saint John, Nouveau-  
Brunswick le \_\_\_\_\_, 2024, à \_\_\_\_\_  
h \_\_\_\_\_ en vue d'obtenir l'ordonnance décrite ci-  
dessous.

If you wish to oppose this application you must  
appear at the hearing of the application at the

Si vous désirez contester cette requête, vous devrez  
comparaître à l'audition de la requête aux lieu, date et  
heure indiqués, soit en personne ou par l'intermédiaire

place, date and time stated, either in person or by a New Brunswick lawyer acting on your behalf.

d'un avocat du Nouveau-Brunswick chargé de vous représenter.

If you intend to appear on the hearing of the application and wish to present to the Court at that time affidavit or other documentary evidence to support your position, you must serve a copy of such evidence on the applicant or his lawyer and, with proof of such service, file it in this Court Office prior to the hearing of the application.

Si vous prévoyez comparaître à l'audition de la requête et désirez présenter à la Cour un affidavit ou une autre preuve littérale en votre faveur, vous devrez signifier copie de cette preuve au requérant ou à son avocat et la déposer, avec une preuve de sa signification, au greffe de cette Cour avant l'audition de la requête.

If you fail to appear on the hearing of the application AN ORDER WHICH MAY AFFECT YOU MAY BE MADE IN YOUR ABSENCE.

Si vous ne comparez pas à l'audition de la requête, UNE ORDONNANCE POUVANT VOUS CONCERNER POURRA ÊTRE RENDUE EN VOTRE ABSENCE.

You are advised that:

Sachez que:

- (a) you are entitled to issue documents and present evidence in the proceeding in English or French or both;
- (b) the applicant intends to proceed in ENGLISH the language; and
- (c) if you require the services of an interpreter at the hearing you must advise the clerk at least 7 days before the hearing.

- a) vous avez le droit dans la présente instance, d'émettre des documents et de présenter votre preuve en français, en anglais ou dans les deux langues;
- b) le requérant a l'intention d'utiliser la langue.....; et
- c) si vous avez besoin des services d'un interprète à l'audience, vous devez en aviser le greffier au moins 7 jours avant l'audience.

THIS NOTICE is signed and sealed for the Court of King's Bench by \_\_\_\_\_  
Clerk of the Court at Saint John, on the \_\_\_\_ day  
of \_\_\_\_\_, 2024.

CET AVIS est signé et scellé au nom de la Cour du  
Banc du Roi par \_\_\_\_\_,  
greffier de la Cour à \_\_\_\_\_,  
ce 20 \_\_\_\_\_

\_\_\_\_\_  
(clerk)

\_\_\_\_\_  
(greffier)

Sceau de  
la Cour

Court  
Seal

\_\_\_\_\_  
(address of court office)

\_\_\_\_\_  
(adresse du greffe)

Saint John Law Courts  
P.O. Box 5001  
10 Peel Plaza  
Saint John NB  
E2L 3G6

## APPLICATION

On the hearing of this Application, the Applicant, Royal Bank of Canada ("RBC"), intends to apply for the following relief:

1. an Order, if necessary, for the abridgement of time for service of this application, excusing the lack of service of this application, or excusing the lack of service of the Applicant's record on the application pursuant to Rules 1.03, 2.01, 2.02, 3.02, and 41.04 of the *Rules of Court*.
2. an Order, substantially in the form of the draft Order attached hereto as Schedule "B" (the "Draft Receivership Order") appointing Deloitte Restructuring Inc. ("Deloitte" or the "Proposed Receiver") as receiver and receiver and manager over all the assets, properties and undertakings of Ifoodequipment.com Inc. ("Ifood"), IBC Food Equipment, Inc. ("IBC") and D & P Gooder Holding Inc. ("D & P") without security, pursuant to section 33 of the Judicature Act, R.S.N.B. 1973, c J-2, Rule 41 of the *Rules of Court* and section 243 of the *Bankruptcy and Insolvency Act* (the "BIA"), with the power to do such acts and deeds set out in the Draft Receivership Order.
3. if the above Order is granted, a further Order, substantially in the form of the draft Order attached as Schedule "C" (the "Draft Sales Process Order") authorizing and approving Deloitte to proceed with the Sales Process as described in the First Report of the Proposed Receiver.
4. such further and other relief as the Applicant may advise the and this Honourable Court may allow.

The capacities of all persons who are parties to the proceeding are as follows:

5. RBC is a Schedule I bank under the *Bank Act*, S.C. 1991, c. 46, as amended, incorporated and domiciled in Canada, with its head office at 1 Place Ville-Marie, Montreal, Quebec.
6. Ifood is a body corporate incorporated pursuant to the laws of New Brunswick with a registered office in Moncton, New Brunswick.

7. IBC is a body corporate incorporated pursuant to the laws of New Brunswick with a registered office in Moncton, New Brunswick.
8. D&P is a body corporate incorporated pursuant to the laws of New Brunswick with a registered office in Moncton, New Brunswick.

The grounds to be argued are as follows:

**Ifodequipment.com Inc.**

9. On or about June 4, 2021, RBC as creditor, and Ifood as debtor entered into an agreement for a revolving demand facility in the amount of \$1,200,000.00 plus interest;
10. On or about July 15, 2021, RBC extended Ifood an Avion Visa Business Credit Card with a credit limit of \$10,000.00 plus interest;
11. As security for the loans, RBC as creditor and Ifood as debtor entered into:
  - (a) A Guarantee and Postponement of claim dated July 22, 2021, signed by D&P to the maximum sum of \$1,250,000 plus interest from date of demand at the RBC prime rate plus 5%.
  - (b) A Guarantee and Postponement of claim dated July 22, 2021, signed by IBC to the maximum sum of \$1,250,000 plus interest from date of demand at the RBC prime rate plus 5%.
  - (c) General Security Agreement (the "Ifood GSA") dated June 16, 2021, executed by Ifood. The GSA grants a charge over all the "...of the Debtor's present and after-acquired personal property".
12. The total amount of the indebtedness secured was \$1,172,305.41 as of November 20, 2023, together with accruing interest and uncollected professional fees incurred and to be incurred by Royal Bank.

13. Ifood is in default of its obligations pursuant to the loan documents outlined herein;
14. On or about November 28, 2023, RBC forwarded demands and a notice of intention to enforce security both under section the *Bankruptcy and Insolvency Act*.

**IBC Food Equipment, Inc.**

15. On or about June 4, 2021, IBC applied and was approved by RBC for a revolving demand facility in the amount of \$300,000 with interest calculated monthly, at a rate of prime plus 1.5% per annum.
16. On or about July 16, 2021, RBC extended IBC an Avion Visa Business Credit Card (the "IBC Visa") with a credit limit of \$10,000.00.
17. As security for the loans, RBC as creditor and IBC as debtor entered into:
  - (a) A Guarantee and Postponement of claim dated July 22, 2021, signed by D&P to the sum of \$310,000.00 plus interest from date of demand at the RBC prime rate plus 5%.
  - (b) A Guarantee and Postponement of claim dated July 22, 2021, signed by Ifood the sum of \$310,000.00 plus interest from date of demand at the RBC prime rate plus 5%.
  - (c) General Security Agreement (the "IBC GSA") dated June 16, 2021, executed by IBC. The IBC GSA grants a charge over all the "...of the Debtor's present and after-acquired personal property".
18. The total amount of the indebtedness secured by the security was \$305,885.15 as of November 20, 2023, together with accruing interest and uncollected professional fees incurred and to be incurred by Royal Bank.
19. IBC is in default of its obligations pursuant to the loan documents outlined herein;

20. on or about November 28, 2023, RBC forwarded demands and a notice of intention to enforce security both under the *Bankruptcy and Insolvency Act*.

**D & P Gooder Holding Inc.**

21. On or about July 21, 2021, D&P applied and was approved for two separate non-revolving demand facility agreements in the amount of \$1,000,000.00 and \$222,000.00 respectively. Interest was charged on both at the interest rate of 3.39% per annum.
22. On or about July 21, 2021, RBC extended D&P an Avion Visa Business Credit Card (the "D&P Visa") with a credit limit of \$10,000.00.
23. As security for the loan, the following was signed in favour of RBC:
- (a) A Guarantee and Postponement of claim dated July 22, 2021, signed by Ifood to the sum of \$1,222,000.00 plus interest from date of demand at the RBC prime rate plus 5%.
  - (b) A Guarantee and Postponement of claim dated July 22, 2021, signed by IBC the sum of \$1,222,000.00 plus interest from date of demand at the RBC prime rate plus 5%.
  - (c) (the "D&P GSA") dated June 16, 2021. The GSA purports to secure a charge over all the "...of the Debtor's present and after-acquired personal property".
  - (d) Collateral mortgage and assignment of rents over the parcel located at 170 Millenium Drive, Moncton, New Brunswick, described as PID No. 729129 dated August 4, 2021, in the amount of \$1,222,000, with interest at the RBC prime rate plus 5%.

24. The total amount of the indebtedness secured by the security was \$1,129,864.78 as of November 20, 2023, together with accruing interest and uncollected professional fees incurred and to be incurred by RBC.
25. D & P is in default of its obligations pursuant to the loan documents outlined herein.
26. On or about November 28, 2023, RBC forwarded demands and a notice of intention to enforce security both under section the *Bankruptcy and Insolvency Act* and the *Personal Property Security Act*.

### **Appointment of Receiver**

27. the right to seek a Court appointed receiver over the assets and undertakings of Ifood, IBC and D&P is provided in RBC's security;
28. Ifood, IBC and D&P have failed to meet their obligations as they become due;
29. Ifood, IBC and D&P have secured and unsecured creditors;
30. Deloitte has been appointed Private Receiver;
31. the appointment of a receiver is necessary and is just and convenient in the circumstances to ensure the orderly management of Ifood, IBC and D&P and/or their assets;
32. a Court appointed receiver is for the benefit of all interested parties and should be granted a charge against all of the property subject to the receivership as such is just and convenient in the circumstances;

### **Sale Process**

33. The Proposed Receiver has sought appointment as receiver and receiver manager over all of the assets, properties, and undertakings of Ifood, IBC and D&P, without security, pursuant to section 33 of the *Judicature Act, supra*, Rule 41 of the *Rules of Court, supra*, and section 243 of the *BIA*;

34. Ifood and IBC are primarily in the business of selling kitchen equipment and supplies. D&P owns real property.
35. Ifood, IBC and D&P's assets consist primarily of the following:
  - a. Inventory;
  - b. Land and buildings;
  - c. capital assets including furniture and fixtures, computer hardware and software, vehicles and other fixed assets; and
  - d. accounts receivable.

#### **Proposed Sales Process**

36. the Proposed Receiver will market the assets via advertisements in the *Globe & Mail*, *Insolvency Insider*, and a dedicated website for that purpose;
37. the proposed timeframe for the sale process would be 45 to 60 days for the open sale period with a closing to follow, subject to Court approval on any accepted offer within 30 to 45 days. The Proposed Receiver would complete appraisals of the asset classes to assess the offers, and would provide these valuations to the Court within the context of its report;
38. the Proposed Receiver has already identified several parties who may be interested in purchasing the personal and real property of Ifood, IBC and D&P;
39. the approach to be taken by the Proposed Receiver is flexible and will allow interested parties to submit a bid to acquire all or some of Ifood, IBC and D&P's assets;
40. the Proposed Receiver submits that the sale process provides a reasonable path to soliciting interest in Ifood, IBC and D&P's assets and that the timelines suggested are reasonable in



the circumstances given there is a defined market of potential purchasers with specific market knowledge of the assets to be acquired.

41. RBC intends to rely upon the following statutory provisions:

- a. the *Rules of Court*, supra, including Rule 1.02.1, 2.01, 2.02, 3.02(1), 38, 39, 41, 41.02(1), 41.06;
- b. the *Judicature Act*, supra, including section 33; and
- c. the *BIA*, supra, including sections 243, 244, 247 and 248.

42. RBC will rely upon the following documentary evidence:

- a. Affidavit of Joel Robbins
- b. Consent of Deloitte
- c. First Report of the Proposed Receiver
- d. such further and other documentary evidence as counsel may advise and this Honourable Court may permit.

**DATED** at Dartmouth, Nova Scotia, this 15 day of November 2024.



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A

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Bank of Nova Scotia  
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Department of Finance – Revenue  
Administration Division  
PO Box 3000  
Fredericton, NB E3B 1B0  
Email: [wwwfin@gnb.ca](mailto:wwwfin@gnb.ca)

Lounsbury Leasing Ltd.  
1655 Mountain Road  
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Email: [Gerry.naugler@lounsburys.com](mailto:Gerry.naugler@lounsburys.com)

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Honda Canada Finance Inc.  
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Email: [cs@honda.ca](mailto:cs@honda.ca)

Canada Revenue Agency,  
Insolvency Division  
145 Hobsons Lake Drive  
PO Box 638, Stn. Central  
Halifax, NS B3J 2T5  
Email: [devon.steele@cra-arc.gc.ca](mailto:devon.steele@cra-arc.gc.ca)

Delage Lander Financial Services  
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102-1465 North Service Rd E  
Oakville, ON L6H 1A7  
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B

Court File No.

IN THE COURT OF KING'S BENCH OF NEW BRUNSWICK

IN BANKRUPTCY AND INSOLVENCY

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE RECEIVERSHIP OF IFOODEQUIPMENT.COM INC., D&P  
GOODER HOLDING LTD. and IBC FOOD EQUIPMENT INC.

PURSUANT TO SECTION 33 OF THE *JUDICATURE ACT*, R.S.N.B. 1973, c. J-2, RULE 41  
OF THE RULES OF COURT, N.B. REG 82-73 and SECTION 243 OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*

BETWEEN:

ROYAL BANK OF CANADA,

Applicant

-and-

IFOODEQUIPMENT.COM INC.,  
D&P GOODER HOLDING LTD., and  
IBC FOOD EQUIPMENT, INC.

Respondents

### **RECEIVERSHIP ORDER**

THIS APPLICATION, made by the <sup>1</sup> Applicant, Royal Bank of Canada, for an Order pursuant to Section 33 of the *Judicature Act*, R.S. N.B. 1973, Ch. J-2, (the "**Judicature Act**"), Rule 41 of the *Rules of Court* of New Brunswick (the "**Rules**") and Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") appointing Deloitte Restructuring Inc. as receiver (in such capacities, the "**Receiver**") without security, of all<sup>2</sup> of the assets,

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<sup>1</sup> Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".

<sup>2</sup> If this is not a receivership of all of the assets of the Respondent, remove the reference to "all assets" and define or describe the specific assets under mandate, perhaps by including a schedule.

undertakings and properties of the Respondent acquired for, or used in relation to a business carried on by the Respondent, was heard this 27<sup>th</sup> Day of November 2024 at Saint John, New Brunswick.

ON READING the affidavit of Joel Robbins sworn on November \_\_\_, 2024, and the exhibits thereto and on hearing the submissions of counsel for Joshua J. Santimaw on behalf of the Applicant, and on reading the consent of Deloitte Restructuring Inc. to act as the Receiver.

### **IT IS ORDERED THAT:**

#### **SERVICE**

1. The time for service of the Notice of Application and the Application Record is hereby [abridged and] validated<sup>3</sup> so that this Application is properly returnable today and hereby dispenses with further service thereof.

#### **APPOINTMENT**

2. Pursuant to section 33 of the *Judicature Act*, Rule 41 of the *Rules of Court* and section 243(1) of the BIA, the Receiver is hereby appointed receiver [receiver manager], without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to the business carried on by the Respondent, including all proceeds thereof (the "**Property**").

#### **RECEIVER'S POWERS**

3. 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 empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - a. to take possession and control of the Property and any proceeds or receipts arising from the Property but, while the Receiver is in possession of any of the Property,

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<sup>3</sup> If service is effected in a manner other than as authorized by the New Brunswick Rules of Court in appropriate circumstances.

the Receiver must preserve and protect it;

- b. to change locks and security codes, relocate all or some of the Property to safeguard it, engage independent security personnel, take physical inventories and place insurance coverage;
- c. to manage, operate, and carry on the business of the Respondents, including the powers to enter into any agreements, incur and pay 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 Respondents;
- 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 Respondent, or any part or parts thereof;
- f. to receive and collect all monies and accounts now owed or hereafter owing to the Respondents and to exercise all remedies of the Respondents in collecting such monies, including, without limitation, to enforce any security held by the Respondents;
- g. to settle, extend or compromise any indebtedness owing to the Respondents;
- 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 Respondents, for any purpose pursuant to this Order;
- i. to undertake environmental or workers' health and safety assessments of the Property and operations of the Respondents;
- 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

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 make payment of any and all costs, expenses and other amounts that the Receiver determines, in its sole discretion, are necessary or advisable to preserve, protect or maintain the Property, including, without limitation taxes, municipal taxes, insurance premiums, repair and maintenance costs, costs or charges related to security, management fees, and any costs and disbursements incurred by any manager appointed by the Receiver;
- l. to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- m. 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 \$100,000.00, provided that the aggregate consideration for all such transactions does not exceed \$250,000.00; 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 section 59 of the Personal Property Security Act (New Brunswick) shall not be required.

- n. 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;
- o. 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;

- p. to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- q. 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 Respondent;
- r. to enter into agreements with any trustee in bankruptcy appointed in respect of the Respondent including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Respondent;

**to assign Ifoodequipment.com Inc., D&P Gooder Holding Ltd. and IBC Food Equipment, Inc. into bankruptcy for an efficient and orderly wind-down of the restructuring process;**

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

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

- 4. The Respondents, 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 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.

5. 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 Respondent, 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, subject to their right to seek a variation of this order, 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.
6. 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, subject to their right to seek a variation of this Order, 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**

7. 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 RESPONDENT OR THE PROPERTY**

8. No Proceeding against or in respect of the Respondents 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 Respondent or the Property are hereby stayed and suspended pending further Order of this Court.

## **NO EXERCISE OF RIGHTS OR REMEDIES**

9. All rights and remedies of any individual, firm, corporation, governmental body or agency or any other entity against the Respondent, 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 Respondent to carry on any business which the Respondent is not lawfully entitled to carry on, (ii) exempt the Receiver or the Respondent 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 and the related filing of an action to preserve the right of a lien holder provided that the Applicant shall not be required to file a defence to same as the further prosecution of any such claim is stayed except with the written consent of the Receiver, or leave of this Court.

## **PERSONAL PROPERTY LESSORS**

10. All rights and remedies of any Person pursuant to any arrangement or agreement to which the Respondent is a party for the lease or other rental of personal property of any nature or kind are hereby restrained except with consent of the Receiver in writing or leave of this

Court. The Receiver is authorized to return any Property which is subject to a lease from a third party to such Person on such terms and conditions as the Receiver, acting reasonably, considers appropriate and upon the Receiver being satisfied as to the interest of such Person in the applicable Property. The return of any item by the Receiver to a Person is without prejudice to the rights or claims of any other Person to the property returned or to an interest therein.

### **NO INTERFERENCE WITH THE RECEIVER**

11. Subject to Section 16 of this Order related to the Respondents' employees, 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 Respondents, without written consent of the Receiver or leave of this Court.

### **CONTINUATION OF SERVICES**

12. All Persons having oral or written agreements with the Respondents 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 Respondents, 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 the Receiver shall be entitled to the continued use of the Respondent's 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 Respondent 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.
13. The Receiver, in its sole discretion, may (but shall not be obligated to) establish accounts or payment on delivery arrangements with suppliers in its name on behalf of the Respondent 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 Respondents, or any of them, if the Receiver determines that the opening of such accounts is appropriate.

14. No creditor of the Respondents shall be under any obligation as a result this Order to advance or re-advance any monies or otherwise extend any credit to the Respondents.

#### **RECEIVER TO HOLD FUNDS**

15. All funds, monies, cheques, instruments, and other forms of payment 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**

16. All employees of the Respondents shall remain the employees of the Respondent until such time as the Receiver, on the Respondent's behalf, may terminate the employment of such employees or they resign in accordance with their employment contracts. The Receiver shall not be liable as a result of this Order for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, wages, severance pay, termination pay, vacation pay, and pension or benefit amounts, 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), 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, such amounts as may be determined in a Proceeding before a court or tribunal of competent jurisdiction.

17. Pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver may 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**") as permitted at law. 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. A prospective purchaser or bidder requesting the disclosure of personal information shall execute such documents to confirm the agreement of such Person to maintain the confidentiality of such information on terms acceptable to the Receiver. The purchaser of any Property shall be entitled to continue to use the personal information provided to it related to the Property purchased in a manner which is in all material respects identical to the permitted prior use of such information by the Respondent, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

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

18. Nothing herein contained shall require or obligate the Receiver to occupy or to take control, care, charge, occupation, possession or management (separately and/or collectively, "**Possession**") of any of the Property or any part thereof, that may 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 legislation, statute, regulation or rule of law or equity respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, *Canadian Environmental Protection Act, 1999* (Canada), the *Clean Water Act* (New Brunswick), the *Clean Environment Act* (New Brunswick), the *Clean Air Act* (New Brunswick), and the *Unsanitary Premises Act* (New Brunswick) (collectively, 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.

## LIMITATION ON LIABILITY

19. Deloitte including, without limitation, any director, officer or employee of the Receiver, shall incur no liability or obligation as a result of its appointment as the Receiver or the carrying out the provisions of this Order, or in the case of any party acting as a director, officer or employee of the Receiver so long as acting in such capacity, save and except for any gross negligence, breach of contract or actionable misconduct on the part of such party, or in respect of the Receiver's obligations under sections 81.4(5) and 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. 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

20. 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 the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge to a maximum of \$100,000.00 (the "**Administrative 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 the Administrative 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.<sup>4</sup>

21. The Receiver and its legal counsel shall pass their respective 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 Court of King's Bench in New Brunswick in accordance with the Rules.

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<sup>4</sup> Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".

22. 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, expenses 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 in accordance with the the preceding paragraph hereof.

### **RECEIVER'S INDEMNITY CHARGE**

23. The Receiver shall be entitled to and is hereby granted a charge (the “**Receiver’s Indemnity Charge**”) upon all of the Property as security for all of the obligations incurred by the Receiver including obligations arising from or incident to the performance of its duties and functions under this Order ~~[including the management, operation and carrying on of all or part of the business of any of the Respondents]~~<sup>5</sup>, the BIA or otherwise, saving only liability arising from negligence or actionable misconduct of the Receiver.

24. The Receiver's Indemnity Charge shall form a second 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 and subordinate in priority to the Administrative Charge.

### **ALLOCATION OF COSTS**

25. The Receiver shall file with the Court for its approval a report setting out the costs, fees, expenses and liability of the Receiver giving rise to the Administrative Charge, the Receiver’s Indemnity Charge and the Receiver's Borrowings Charge (as defined below) and, unless the Court orders otherwise, all such costs, fees, expenses and liability shall be paid in the following manner:

- a. Firstly, applying the costs incurred in the receivership proceedings specifically



attributable to an individual asset or group of assets against the realizations from such asset or group of assets;

- b. Secondly, applying the costs pro rata against all of the assets based on the net realization from such asset or group of assets; and
- c. Thirdly, applying non-specific costs incurred in the receivership proceedings *pro rata* against all of the assets based on the net realization from each asset or group of assets.

## FUNDING OF THE RECEIVERSHIP

26. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$350,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of making payments (including interim payments) required or permitted to be made by this Order (including, without limitation, payments of amounts secured by the Administrative Charge and the Receiver's Indemnity Charge). The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, 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 Indemnity Charge, the Administrative Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

27. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court on seven days notice to the Receiver and the Applicant.

28. The Receiver is authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

29. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

## **GENERAL**

30. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

31. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Respondent.

32. The aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States is hereby requested 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, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

33. The Receiver is hereby authorized and empowered to apply to any court, tribunal, or 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 in a representative capacity in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

34. The Applicant shall have its costs of this Application, 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 Respondent's estate with such priority and at such time as this Court may determine.

35. Any interested party may apply to this Court to vary or amend this Order upon such notice required under the *Rules of the Court*, if any, or on such notice as this Court may order.
36. Any Person affected by this Order which did not receive notice in advance of the hearing of the initial application may apply to this Court to vary or amend this Order within five (5) days of such Person being served with a copy of this Order.
37. In addition to the reports to be filed by the Receiver under the BIA or *New Brunswick Business Corporations Act*, on the application to the Court of any secured creditor, the Receiver shall file a report of its activities with the Court.
38. The Receiver shall not be discharged without notice to such secured creditors and other parties as the Court directs.

**DATED at Saint John, New Brunswick, this \_\_\_\_ day of November 2024.**

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The Honourable Mister Justice Darrell J. Stephenson  
Justice of the Court of King's Bench  
of New Brunswick

## SCHEDULE "A"

### RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

THIS IS TO CERTIFY that Deloitte, the receiver (the "**Receiver**") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Court of Queens Bench of New Brunswick (the "**Court**") dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Order**") made in an action having Court file number \_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at \_\_\_\_\_, \_\_\_\_\_.

Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.

The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Deloitte, solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_

Name:

Title:

C

Court File No.

IN THE COURT OF KING'S BENCH OF NEW BRUNSWICK

IN BANKRUPTCY AND INSOLVENCY

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE RECEIVERSHIP OF IFOODEQUIPMENT.COM INC., D&P  
GOODER HOLDING LTD. and IBC FOOD EQUIPMENT INC.

PURSUANT TO SECTION 33 OF THE *JUDICATURE ACT*, R.S.N.B. 1973, c. J-2, RULE 41  
OF THE RULES OF COURT, N.B. REG 82-73 and SECTION 243 OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*

BETWEEN:

ROYAL BANK OF CANADA,

Applicant

-and-

IFOODEQUIPMENT.COM INC.,  
D&P GOODER HOLDING LTD., and  
IBC FOOD EQUIPMENT, INC.

Respondents

**Sales and Investment Process Order**

**UPON HEARING** the submissions of counsel for the Applicant;

**AND UPON READING** the First Report of the Proposed Receiver dated November \_\_,  
2024 and the affidavit of Joel Robbins sworn on November \_\_, 2024

**AND UPON** Enrico Scaglione appearing on behalf of the Respondents;

**AND UPON** it appearing that appropriate notice of the within Application has been  
provided to all interested parties; and

**AND UPON** the Proposed Receiver having applied for an Order authorizing and approving  
the Proposed Receiver to proceed with the Sales Process as described in the First Report of the  
Proposed Receiver dated November \_\_ 2024

**IT IS HEREBY ORDERED THAT:**

**SERVICE**

1. The time for service of the Notice of Application and supporting documentation is hereby validated so that this Motion is properly returnable today and hereby dispenses with further service thereof;
2. The Sales Process as described by the Proposed Receiver in the First Report of the Proposed Receiver is hereby authorized and approved with the sale of any of the Respondent's assets subject to approval by this Court;
3. 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.

**DATED** at Saint John, New Brunswick, this \_\_\_\_ day of November 2024.

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Justice of the Court of Queen's Bench of  
New Brunswick in Bankruptcy and Insolvency